

# **VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT LAWS**



**2017 EDITION**

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## **19VAC10. Department of Emergency Management**

### **VAC AGENCY NO. 10**

#### **AGENCY SUMMARY**

The Department of Emergency Management is authorized to promulgate plans and programs in preparation for, response to, and recovery from emergencies/disasters (natural or man-made) and for emergency management of resources; to coordinate and administer emergency/disaster mitigation preparedness, response and recovery programs and emergency resource management plans and programs with federal, state, and local government agencies and other groups; to provide guidance to state agencies and local governments in designing emergency/disaster programs and plans; and to assist state agencies and political subdivisions in establishing and operating training and public information programs and education regarding emergency services and disaster preparedness activities. The department is responsible for development of state hazard-specific contingency plans for oil and hazardous materials, radiological emergency response, hurricane preparedness, and terrorism consequence management. Code of Virginia, Title 44, Chapters 3.2 through 3.5; see also Executive Orders No. 1 (2011).

The department coordinates the state's participation in the Emergency Management Assistance Compact that provides mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state. Code of Virginia, Title 44, Chapter 3.2.

The department is directed to maintain a register of shippers of hazardous radioactive materials and monitor the transportation within the Commonwealth of those materials. Code of Virginia, Title 44, Chapter 3.3.

The department has the duty of assisting in the development, approval of and testing of radiological emergency response plans for localities adjacent to nuclear generating facilities and of managing the Radiological Emergency Preparedness Fund to support activities of state agencies and local governments in establishing, maintaining and operating plans and programs for radiological emergency response around nuclear power stations. Code of Virginia, Title 44, Chapter 3.4.

The department is authorized to coordinate the development of hazardous materials training programs and hazardous materials emergency response programs and plans with state and local government agencies and related groups and administer the implementation of the Virginia Hazardous Materials Emergency Response Program. The department provides staff support for the Virginia Hazardous Materials Emergency Response Advisory Council. Code of Virginia, Title 44, Chapter 3.5.

The department is authorized to coordinate search and rescue functions of the department; to coordinate with local, state and federal agencies involved in search and rescue; to coordinate the activities of search and rescue organizations involved in search and rescue; to maintain a register of search and rescue certifications, training and responses; to establish a memorandum of understanding with the Virginia Search and Rescue Council and its respective member agencies regarding search and rescue efforts; to

provide on-scene search and rescue coordination when requested by an authorized person; to provide specialized search and rescue training to police, fire-rescue, EMS, emergency managers, volunteer search and rescue responders, and others; to gather and maintain statistics on search and rescue in the Commonwealth; to compile, maintain, and make available an inventory of search and rescue resources available in the Commonwealth. Code of Virginia, Title 44, Chapter 3.2.

The department operates under the supervision of the Secretary of Public Safety and Homeland Security but during a declared emergency reverts to direct operational control of the Governor. The department operates the State Emergency Operations Center 24 hours a day, seven days a week. The department's principal office is at 10501 Trade Court, Richmond, VA 23236. Internet address:  
<http://www.vaemergency.gov/>

The department has issued various plans providing for emergency operations, disaster assistance, and resource management. These are distributed to state agencies and local governments and are available for public inspection in the agency's office or in the office of the Coordinator of Emergency Management of each county or city in the Commonwealth.

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## Secretary of Public Safety and Homeland Security

### **§ 2.2-221. Position established; agencies for which responsible; additional powers and duties.**

A. (Effective until January 15, 2018) The position of Secretary of Public Safety and Homeland Security (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Department of Alcoholic Beverage Control, Department of Corrections, Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic Science, Virginia Parole Board, Department of Emergency Management, Department of Military Affairs, Department of State Police, Department of Fire Programs, and the Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

A. (Effective January 15, 2018) The position of Secretary of Public Safety and Homeland Security (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: the Virginia Alcoholic Beverage Control Authority, Department of Corrections, Department of Juvenile Justice, Department of Criminal Justice Services, Department of Forensic Science, Virginia Parole Board, Department of Emergency Management, Department of Military Affairs, Department of State Police, Department of Fire Programs, and Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other state executive agency to the Secretary, or reassign any agency listed above to another Secretary.

B. The Secretary shall by reason of professional background have knowledge of military affairs, law enforcement, public safety, or emergency management and preparedness issues, in addition to familiarity with the structure and operations of the federal government and of the Commonwealth.

Unless the Governor expressly reserves such power to himself, the Secretary shall:

1. Work with and through others, including federal, state, and local officials as well as the private sector, to develop a seamless, coordinated security and preparedness strategy and implementation plan.
2. Serve as the point of contact with the federal Department of Homeland Security.
3. Provide oversight, coordination, and review of all disaster, emergency management, and terrorism management plans for the state and its agencies in coordination with the Virginia Department of Emergency Management and other applicable state agencies.
4. Work with federal officials to obtain additional federal resources and coordinate policy development and information exchange.
5. Work with and through appropriate members of the Governor's Cabinet to coordinate working relationships between state agencies and take all actions necessary to ensure that available federal and state resources are directed toward safeguarding Virginia and its citizens.
6. Designate a Commonwealth Interoperability Coordinator to ensure that all communications-related preparedness federal grant requests from state agencies and localities are used to enhance interoperability.

The Secretary shall ensure that the annual review and update of the statewide interoperability strategic plan is conducted as required in § 2.2-222.2. The Commonwealth Interoperability Coordinator shall establish an advisory group consisting of representatives of state and local government and constitutional offices, broadly distributed across the Commonwealth, who are actively engaged in activities and functions related to communications interoperability.

7. Serve as one of the Governor's representatives on regional efforts to develop a coordinated security and preparedness strategy, including the National Capital Region Senior Policy Group organized as part of the federal Urban Areas Security Initiative.

8. Serve as a direct liaison between the Governor and local governments and first responders on issues of emergency prevention, preparedness, response, and recovery.

9. Educate the public on homeland security and overall preparedness issues in coordination with applicable state agencies.

10. Serve as chairman of the Secure and Resilient Commonwealth Panel.

11. Encourage homeland security volunteer efforts throughout the state.

12. Coordinate the development of an allocation formula for State Homeland Security Grant Program funds to localities and state agencies in compliance with federal grant guidance and constraints. The formula shall be, to the extent permissible under federal constraints, based on actual risk, threat, and need.

13. Work with the appropriate state agencies to ensure that regional working groups are meeting regularly and focusing on regional initiatives in training, equipment, and strategy to ensure ready access to response teams in times of emergency and facilitate testing and training exercises for emergencies and mass casualty preparedness.

14. Provide oversight and review of the Virginia Department of Emergency Management's annual statewide assessment of local and regional capabilities, including equipment, training, personnel, response times, and other factors.

15. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available for that purpose.

16. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, real property, or personal property for the benefit of the Commonwealth, and receive and accept from the Commonwealth or any state, any municipality, county, or other political subdivision thereof, or any other source, aid or contributions of money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made.

17. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out these requirements subject to the conditions upon which the aid, grants, or contributions are made.



18. Make grants to local governments, state and federal agencies, and private entities with any funds of the Secretary available for such purpose.

19. (Effective January 15, 2018) Provide oversight and review of the law-enforcement operations of the Alcoholic Beverage Control Authority.

20. Take any actions necessary or convenient to the exercise of the powers granted or reasonably implied to this Secretary and not otherwise inconsistent with the law of the Commonwealth.

**§ 2.2-222.2. Additional duties related to review of statewide interoperability strategic plan; state and local compliance.**

The Secretary through the Commonwealth Interoperability Coordinator shall ensure that the annual review and update of the statewide interoperability strategic plan is accomplished and implemented to achieve effective and efficient communication between state, local, and federal communications systems.

All state agencies and localities shall achieve consistency with and support the goals of the statewide interoperability strategic plan by July 1, 2015, in order to remain eligible to receive state or federal funds for communications programs and systems.

**§ 2.2-222.3. Secure and Resilient Commonwealth Panel; membership; duties; compensation; staff.**

A. The Secure and Resilient Commonwealth Panel (the Panel) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Panel shall consist of 36 members as follows: three members of the House of Delegates, one of whom shall be the Chairman of the House Committee on Militia, Police and Public Safety, and two nonlegislative citizens to be appointed by the Speaker of the House of Delegates; three members of the Senate of Virginia, one of whom shall be the Chairman of the Senate Committee on General Laws and Technology, and two nonlegislative citizens to be appointed by the Senate Committee on Rules; the Lieutenant Governor; the Attorney General; the Executive Secretary of the Supreme Court of Virginia; the Secretaries of Commerce and Trade, Health and Human Resources, Technology, Transportation, Public Safety and Homeland Security, and Veterans and Defense Affairs; the State Coordinator of Emergency Management; the Superintendent of State Police; the Adjutant General of the Virginia National Guard; and the State Health Commissioner, or their designees; two local first responders; two local government representatives; two physicians with knowledge of public health; five members from the business or industry sector; and two citizens from the Commonwealth at large. Except for appointments made by the Speaker of the House of Delegates and the Senate Committee on Rules, all appointments shall be made by the Governor. The Public Safety Subcommittee of the Senate Finance Committee shall appoint one ex officio member who is either a member of such subcommittee or a member of the Senate Finance Committee staff. The Public Safety Subcommittee of the House Appropriations Committee shall appoint one ex officio member who is either a member of such subcommittee or a member of the House Appropriations Committee staff. Additional ex officio members may be appointed to the Panel by the Governor. Legislative members shall serve terms coincident with their terms of office or until their successors shall qualify. Nonlegislative citizen members shall serve for terms of four years. Ex officio members shall serve at the pleasure of the person or entity by whom they were appointed. The Secretary of Public Safety and Homeland Security shall be the chairman of the Panel.

B. The Panel shall have as its primary focus emergency management and homeland security within the Commonwealth to ensure that prevention, protection, mitigation, response, and recovery programs, initiatives, and activities, both at the state and local levels, are fully integrated, suitable, and effective in addressing risks from man-made and natural disasters. The Panel shall where necessary review, evaluate, and make recommendations concerning implementation of such initiatives. The Panel shall also make such recommendations as it deems necessary to enhance or improve the resiliency of public and private critical infrastructure to mitigate against man-made and natural disasters.

C. The Panel shall carry out the provisions of Title 3, Public Law 99-499. The Panel shall convene at least biennially to discuss (i) changing and persistent risks to the Commonwealth from threats, hazards, vulnerabilities, and consequences and (ii) plans and resources to address those risks.

D. On or before October 1 of each year, the Panel shall report to the Governor, the Senate Committee on Finance, the Senate Committee on General Laws and Technology, the House Committee on Appropriations, and the House Committee on Militia, Police and Public Safety concerning the state of the Commonwealth's emergency prevention, protection, mitigation, response, and recovery efforts and the resources necessary to implement them. Such report may, with the concurrence of the Governor, include

sensitive information, which information is excluded from disclosure in accordance with subdivisions 2, 3, 4, and 6 of § 2.2-3705.2 and which, if revealed publicly, would jeopardize or compromise security plans and procedures in the Commonwealth designed to protect (i) the public or (ii) public or private critical infrastructure. Any sensitive information presented to any committee of the General Assembly shall be discussed in a closed meeting as provided in subdivision A 19 of § 2.2-3711.

E. The Panel shall designate an Emergency Management Awareness Group (the Group) consisting of the Secretary of Public Safety and Homeland Security, the Lieutenant Governor, the Attorney General, the Executive Secretary of the Supreme Court of Virginia, and the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on General Laws and Technology to facilitate communication between the executive, legislative, and judicial branches of state government. The Group shall convene at the call of the Secretary of Public Safety and Homeland Security during a state of emergency to share critical information concerning such situation and the impact on the Commonwealth and its branches of government. The Secretary of Public Safety and Homeland Security shall (i) advise the Panel whenever the Group meets and (ii) facilitate communication between the Group and the Panel. The Secretary of Public Safety and Homeland Security shall assist, to the extent provided by law, in obtaining access to classified information for the Group when such information is necessary to enable the Group to perform its duties.

F. Members of the Panel shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

G. Staff support for the Panel and funding for the costs of expenses of the members shall be provided by the Secretary of Public Safety and Homeland Security.

H. The Secretary shall facilitate cabinet-level coordination among the various agencies of state government related to emergency preparedness and shall facilitate private sector preparedness and communication.

## **Emergency and Disaster Services Laws**

### **§ 44-146.13. Short title.**

This chapter may be cited as the "Commonwealth of Virginia Emergency Services and Disaster Law of 2000."

**§ 44-146.14. Findings of General Assembly.**

(a) Because of the ever present possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, resource shortage, or from fire, flood, earthquake, or other natural causes, and in order to insure that preparations of the Commonwealth and its political subdivisions will be adequate to deal with such emergencies, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property and economic well-being of the people of the Commonwealth, it is hereby found and declared to be necessary and to be the purpose of this chapter:

(1) To create a State Department of Emergency Management, and to authorize the creation of local organizations for emergency management in the political subdivisions of the Commonwealth;

(2) To confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the Commonwealth emergency powers provided herein; and

(3) To provide for rendering of mutual aid among the political subdivisions of the Commonwealth and with other states and to cooperate with the federal government with respect to the carrying out of emergency service functions.

(b) It is further declared to be the purpose of this chapter and the policy of the Commonwealth that all emergency service functions of the Commonwealth be coordinated to the maximum extent possible with the comparable functions of the federal government, other states, and private agencies of every type, and that the Governor shall be empowered to provide for enforcement by the Commonwealth of national emergency services programs, to the end that the most effective preparation and use may be made of the nation's resources and facilities for dealing with any disaster that may occur.

**§ 44-146.15. Construction of chapter.**

Nothing in this chapter is to be construed to:

- (1) Limit, modify, or abridge the authority of the Governor to exercise any powers vested in him under other laws of this Commonwealth independent of, or in conjunction with, any provisions of this chapter;
- (2) Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with actual or pending disaster;
- (3) Empower the Governor, any political subdivision, or any other governmental authority to in any way limit or prohibit the rights of the people to keep and bear arms as guaranteed by Article I, Section 13 of the Constitution of Virginia or the Second Amendment of the Constitution of the United States, including the otherwise lawful possession, carrying, transportation, sale, or transfer of firearms except to the extent necessary to ensure public safety in any place or facility designated or used by the Governor, any political subdivision of the Commonwealth, or any other governmental entity as an emergency shelter or for the purpose of sheltering persons;
- (4) Affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States or any personnel thereof, when on active duty; but state, local and interjurisdictional agencies for emergency services shall place reliance upon such forces in the event of declared disasters;  
or
- (5) Interfere with the course of conduct of a labor dispute except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.

## § 44-146.16. Definitions.

As used in this chapter unless the context requires a different meaning:

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon.

"Individual" shall include any companion animal. Further, whenever "person or persons" is used in Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1, it shall be deemed, when the context requires it, to include any individual;

"Disaster" means (i) any man-made disaster including any condition following an attack by any enemy or foreign nation upon the United States resulting in substantial damage of property or injury to persons in the United States and may be by use of bombs, missiles, shell fire, nuclear, radiological, chemical, or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; also any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship, or loss of life; and (ii) any natural disaster including any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, communicable disease of public health threat, or other natural catastrophe resulting in damage, hardship, suffering, or possible loss of life;

"Discharge" means spillage, leakage, pumping, pouring, seepage, emitting, dumping, emptying, injecting, escaping, leaching, fire, explosion, or other releases;

"Emergency" means any occurrence, or threat thereof, whether natural or man-made, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or natural resources and may involve governmental action beyond that authorized or contemplated by existing law because governmental inaction for the period required to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or the environment of the Commonwealth or some clearly defined portion or portions thereof;

"Emergency services" means the preparation for and the carrying out of functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, emergency resource management, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection. These functions also include the administration of approved state and federal disaster recovery and assistance programs;



"Hazard mitigation" means any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards;

"Hazardous substances" means all materials or substances which now or hereafter are designated, defined, or characterized as hazardous by law or regulation of the Commonwealth or regulation of the United States government;

"Interjurisdictional agency for emergency management" is any organization established between contiguous political subdivisions to facilitate the cooperation and protection of the subdivisions in the work of disaster prevention, preparedness, response, and recovery;

"Local emergency" means the condition declared by the local governing body when in its judgment the threat or actual occurrence of an emergency or disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; provided, however, that a local emergency arising wholly or substantially out of a resource shortage may be declared only by the Governor, upon petition of the local governing body, when he deems the threat or actual occurrence of such an emergency or disaster to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby; provided, however, nothing in this chapter shall be construed as prohibiting a local governing body from the prudent management of its water supply to prevent or manage a water shortage;

"Local emergency management organization" means an organization created in accordance with the provisions of this chapter by local authority to perform local emergency service functions;

"Major disaster" means any natural catastrophe, including any: hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm or drought, or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President of the United States is, or thereafter determined to be, of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act (P.L. 93-288 as amended) to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby and is so declared by him;

"Political subdivision" means any city or county in the Commonwealth and for the purposes of this chapter, the Town of Chincoteague and any town of more than 5,000 population that chooses to have an emergency management program separate from that of the county in which such town is located;

"Resource shortage" means the absence, unavailability or reduced supply of any raw or processed natural resource, or any commodities, goods or services of any kind that bear a substantial relationship to the health, safety, welfare and economic well-being of the citizens of the Commonwealth;

"State of emergency" means the condition declared by the Governor when in his judgment, the threat or actual occurrence of an emergency or a disaster in any part of the Commonwealth is of sufficient severity and magnitude to warrant disaster assistance by the Commonwealth to supplement the efforts and available resources of the several localities, and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby and is so declared by him.

#### **§ 44-146.17. Powers and duties of Governor.**

The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case where the executive order declares that its violation shall have such force and effect.

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and emergencies, no rule, regulation, or order issued under this section shall have any effect beyond June 30 next following the next adjournment of the regular session of the General Assembly but the same or a similar rule, regulation, or order may thereafter be issued again if not contrary to law;

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

- (3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;
- (4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;
- (5) On behalf of the Commonwealth enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;
- (6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;
- (7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, he may declare a state of emergency to exist;
- (8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;
- (9) To provide incident command system guidelines for state agencies and local emergency response organizations; and
- (10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, the Governor may direct the Comptroller of the Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship.

**§ 44-146.17:1. Transmittal to General Assembly of rules, regulations, and orders.**

The Governor shall cause copies of any order, rule, or regulation proclaimed and published by him pursuant to § 44-146.17 to be transmitted forthwith to each member of the General Assembly.

**§ 44-146.17:2. Annual statewide drill.**

The Governor shall conduct an annual statewide drill on response to a large-scale disaster including, but not limited to, electrical power outages. Such drill shall include the participation of local governments, affected state agencies, public utilities, law-enforcement agencies, and other entities as determined by the Governor. The Governor shall submit a report to the General Assembly on the results of the drill by November 30 of each year. The report shall be delivered to the chairs of the House Committee on Militia, Police and Public Safety and the Senate Committee on General Laws.

**§ 44-146.18. Department of Emergency Services continued as Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.**

A. The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management. Wherever the words "State Department of Emergency Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

B. The Department of Emergency Management shall in the administration of emergency services and disaster preparedness programs:

1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to and recover from all disasters including acts of terrorism;
2. Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry and other public and private entities deemed vital to preparedness, public safety and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;
3. Submit to the Governor and to the General Assembly, no later than the first day of each regular session of the General Assembly, an annual executive summary and report on the status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to and recover from disasters, including acts of terrorism. This report shall be made available to the Division of Legislative Automated Systems for the processing of legislative documents and reports. Information submitted in accordance with the procedures set forth in subdivision 14 of § 2.2-3705.2 shall not be disclosed unless:
  - a. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;
  - b. The agency holding the record is served with a proper judicial order; or
  - c. The agency holding the record has obtained written consent to release the information from the Department of Emergency Management;
4. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness, response and recovery programs;
5. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations and personnel as appropriate;

6. Coordinate and administer disaster mitigation, preparedness, response and recovery plans and programs with the proponent federal, state and local government agencies and related groups;
7. Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management and continuity of operations (COOP) programs, plans and systems;
8. Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;
9. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;
10. Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;
11. Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;
12. Consult with the State Council of Higher Education in the development and revision of a model institutional crisis and emergency management plan for the purpose of assisting public and private two-year and four-year institutions of higher education in establishing, operating, and maintaining emergency services and disaster preparedness activities and, as needed, in developing an institutional crisis and emergency management plan pursuant to § 23.1-804;
13. Develop standards, provide guidance and encourage the maintenance of local and state agency emergency operations plans, which shall include the requirement for a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies;
14. Prepare, maintain, coordinate or implement emergency resource management plans and programs with federal, state and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter;
15. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation, response, and recovery;
16. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as authorized by the Governor;

17. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency services intelligence pertaining to all probable hazards affecting the Commonwealth;

18. Coordinate intelligence activities relating to terrorism with the Department of State Police; and

19. Develop an emergency response plan to address the needs of individuals with household pets and service animals in the event of a disaster and assist and coordinate with local agencies in developing an emergency response plan for household pets and service animals.

The Department of Emergency Management shall ensure that all such plans, assessments, and programs required by this subsection include specific preparedness for, and response to, disasters resulting from electromagnetic pulses and geomagnetic disturbances.

C. The Department of Emergency Management shall during a period of impending emergency or declared emergency be responsible for:

1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;

2. Providing facilities from which state agencies and supporting organizations may conduct emergency operations;

3. Providing an adequate communications and warning system capable of notifying all political subdivisions in the Commonwealth of an impending disaster within a reasonable time;

4. Establishing and maintaining liaison with affected political subdivisions;

5. Determining requirements for disaster relief and recovery assistance;

6. Coordinating disaster response actions of federal, state and volunteer relief agencies;

7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure orderly and timely response to and recovery from disaster effects.

D. The Department of Emergency Management shall be provided the necessary facilities and equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various federal, state, and other agencies during a state of emergency declaration by the Governor or following a major disaster declaration by the President.

E. The Department of Emergency Management is authorized to enter into all contracts and agreements necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by law, including contracts with the United States, other states, agencies and government subdivisions of the Commonwealth, and other appropriate public and private entities.

F. The Department of Emergency Management shall encourage private industries whose goods and services are deemed vital to the public good to provide annually updated preparedness assessments to the local coordinator of emergency management on or before April 1 of each year, to facilitate overall Commonwealth preparedness. For the purposes of this section, "private industry" means companies, private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency Management to be essential to the public safety and well-being of the citizens of the Commonwealth.



G. The Department of Emergency Management shall establish a Coordinator of Search and Rescue. Powers and duties of the Coordinator shall include:

1. Coordinating the search and rescue function of the Department of Emergency Management;
2. Coordinating with local, state, and federal agencies involved in search and rescue;
3. Coordinating the activities of search and rescue organizations involved in search and rescue;
4. Maintaining a register of search and rescue certifications, training, and responses;
5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council and its respective member agencies regarding search and rescue efforts;
6. Providing on-scene search and rescue coordination when requested by an authorized person;
7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers, volunteer search and rescue responders, and others who might have a duty to respond to a search and rescue emergency;
8. Gathering and maintaining statistics on search and rescue in the Commonwealth;
9. Compiling, maintaining, and making available an inventory of search and rescue resources available in the Commonwealth;
10. Periodically reviewing search and rescue cases and developing best professional practices; and
11. Providing an annual report to the Secretary of Public Safety and Homeland Security on the current readiness of Virginia's search and rescue efforts.

Nothing in this chapter shall be construed as authorizing the Department of Emergency Management to take direct operational responsibilities from local, state, or federal law enforcement in the course of search and rescue or missing person cases.

**§ 44-146.18:1. Virginia Disaster Response Funds disbursements; reimbursements.**

There is hereby created a nonlapsing revolving fund which shall be maintained as a separate special fund account within the state treasury, and administered by the Coordinator of Emergency Management, consistent with the purposes of this chapter. All expenses, costs, and judgments recovered pursuant to this section, and all moneys received as reimbursement in accordance with applicable provisions of federal law, shall be paid into the fund. Additionally, an annual appropriation to the fund from the general fund or other unrestricted nongeneral fund, in an amount determined by the Governor, may be authorized to carry out the purposes of this chapter. All recoveries from occurrences prior to March 10, 1983, and otherwise qualifying under this section, received subsequent to March 10, 1983, shall be paid into the fund. No moneys shall be credited to the balance in the fund until they have been received by the fund. An accounting of moneys received and disbursed shall be kept and furnished to the Governor or the General Assembly upon request.

Disbursements from the fund may be made for the following purposes and no others:

1. For costs and expenses, including, but not limited to personnel, administrative, and equipment costs and expenses directly incurred by the Department of Emergency Management or by any other state agency or political subdivision or other entity, acting at the direction of the Coordinator of Emergency Management, in and for preventing or alleviating damage, loss, hardship, or suffering caused by emergencies, resource shortages, or disasters; and
2. For procurement, maintenance, and replenishment of materials, equipment, and supplies, in such quantities and at such location as the Coordinator of Emergency Management may deem necessary to protect the public peace, health, and safety and to preserve the lives and property and economic well-being of the people of the Commonwealth; and
3. For costs and expenses incurred by the Department of Emergency Management or by any other state agency or political subdivision or other entity, acting at the direction of the Coordinator of Emergency Management, in the recovery from the effects of a disaster or in the restoration of public property or facilities.

The Coordinator of Emergency Management shall promptly seek reimbursement from any person causing or contributing to an emergency or disaster for all sums disbursed from the fund for the protection, relief and recovery from loss or damage caused by such person. In the event a request for reimbursement is not paid within 60 days of receipt of a written demand, the claim shall be referred to the Attorney General for collection. The Coordinator of Emergency Management shall be allowed to recover all legal and court costs and other expenses incident to such actions for collection. The Coordinator is authorized to recover any sums incurred by any other state agency or political subdivision acting at the direction of the Coordinator as provided in this paragraph.

**§ 44-146.18:2. Authority of Coordinator of Emergency Management in undeclared emergency.**

In an emergency which does not warrant a gubernatorial declaration of a state of emergency, the Coordinator of Emergency Management, after consultation with and approval of the Secretary of Public Safety and Homeland Security, may enter into contracts and incur obligations necessary to prevent or alleviate damage, loss, hardship, or suffering caused by such emergency and to protect the health and safety of persons and property. In exercising the powers vested by this section, the Coordinator may proceed without regard to normal procedures pertaining to entering into contracts, incurring of obligations, rental of equipment, purchase of supplies and materials, and expenditure of public funds; however, mandatory constitutional requirements shall not be disregarded.

**§ 44-146.18:3. First informer broadcasters; coordination with Department of Emergency Management.**

A. For purposes of this section, unless the context requires otherwise, "first informer" means the critical radio or television personnel of a radio or television broadcast station engaged in (i) the process of broadcasting; (ii) the maintenance or repair of broadcast station equipment, transmitters, and generators; or (iii) the transportation of fuel for generators of broadcast stations.

B. Unless it is shown to endanger public safety or inhibit recovery efforts, or is otherwise prohibited by state or federal law, state and local government agencies shall permit first informer radio or television personnel with proper identification cards to access their broadcasting station within any area declared a state emergency area by the Governor for the purpose of provision of news, public service and public safety information and repairing or resupplying their facility or equipment.

First informer identification cards shall be issued by the Virginia Association of Broadcasters. A list of those first informers who have been issued identification cards shall be furnished to the Virginia Department of Emergency Management and the Secretary of Veterans and Defense Affairs by the Virginia Association of Broadcasters prior to December 30 of each year.

C. Nothing in this section shall be construed to limit or impair the right or ability of any news organization or its personnel to gather and report the news.

**§ 44-146.19. Powers and duties of political subdivisions.**

A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by the Department of Emergency Management and be responsible for local disaster mitigation, preparedness, response and recovery. Each political subdivision shall maintain in accordance with state disaster preparedness plans and programs an agency of emergency management which, except as otherwise provided under this chapter, has jurisdiction over and services the entire political subdivision.

B. Each political subdivision shall have a director of emergency management who, after the term of the person presently serving in this capacity has expired and in the absence of an executive order by the Governor, shall be the following:

1. In the case of a city, the mayor or city manager, who shall appoint a coordinator of emergency management with consent of council;
2. In the case of a county, a member of the board of supervisors selected by the board or the chief administrative officer for the county, who shall appoint a coordinator of emergency management with the consent of the governing body;
3. A coordinator of emergency management shall be appointed by the council of any town to ensure integration of its organization into the county emergency management organization;
4. In the case of the Town of Chincoteague and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall appoint a coordinator of emergency services with consent of council;
5. In Smyth County and in York County, the chief administrative officer for the county shall appoint a director of emergency management, with the consent of the governing body, who shall appoint a coordinator of emergency management with the consent of the governing body.

C. Whenever the Governor has declared a state of emergency, each political subdivision within the disaster area may, under the supervision and control of the Governor or his designated representative, control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

D. The director of each local organization for emergency management may, in collaboration with (i) other public and private agencies within the Commonwealth or (ii) other states or localities within other states,

develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements.

E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all local agencies and shall establish a chain of command, and a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies. Every four years, each local and interjurisdictional agency shall conduct a comprehensive review and revision of its emergency operations plan to ensure that the plan remains current, and the revised plan shall be formally adopted by the locality's governing body. In the case of an interjurisdictional agency, the plan shall be formally adopted by the governing body of each of the localities encompassed by the agency. Each political subdivision having a nuclear power station or other nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear accidents at such station or facility.

F. All political subdivisions shall provide an annually updated emergency management assessment to the State Coordinator of Emergency Management on or before July 1 of each year.

G. By July 1, 2005, all localities with a population greater than 50,000 shall establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of an emergency or threatened disaster. The governing body of the locality, in consultation with its local emergency management organization, shall amend its local emergency operations plan that may include rules for the operation of its alert and warning system, to include sirens, Emergency Alert System (EAS), NOAA Weather Radios, or other personal notification systems, amateur radio operators, or any combination thereof.

H. Localities that have established an agency of emergency management shall have authority to require the review of, and suggest amendments to, the emergency plans of nursing homes, assisted living facilities, adult day care centers, and child day care centers that are located within the locality.

**§ 44-146.20. Joint action by political subdivisions.**

If two or more political subdivisions find that disaster operation plans and programs would be better served by interjurisdictional arrangements in planning for, preventing, or responding to disaster in that area, then direct steps may be taken as necessary, including creation of an interjurisdictional relationship, a joint emergency operations plan, mutual aid, or such other activities as necessary for planning and services. Any political subdivision may provide or receive assistance in the event of a disaster or emergency, pursuant to this chapter, under the provisions of any local mutual aid agreement or by the Statewide Mutual Aid program if agreed to by resolution of the governing body. The action of the governing body may include terms and conditions deemed necessary by the governing body for participation in the program. The governing body may withdraw from participation in the Statewide Mutual Aid program by adoption of a resolution or ordinance upon a finding that participation is no longer in the public interest. The locality shall immediately notify the State Coordinator of Emergency Services of the adoption of a participation or withdrawal resolution.

**§ 44-146.21. Declaration of local emergency.**

A. A local emergency may be declared by the local director of emergency management with the consent of the governing body of the political subdivision. In the event the governing body cannot convene due to the disaster or other exigent circumstances, the director, or in his absence, the deputy director, or in the absence of both the director and deputy director, any member of the governing body may declare the existence of a local emergency, subject to confirmation by the governing body at its next regularly scheduled meeting or at a special meeting within 45 days of the declaration, whichever occurs first. The governing body, when in its judgment all emergency actions have been taken, shall take appropriate action to end the declared emergency.

B. A declaration of a local emergency as defined in § 44-146.16 shall activate the local Emergency Operations Plan and authorize the furnishing of aid and assistance thereunder.

C. Whenever a local emergency has been declared, the director of emergency management of each political subdivision or any member of the governing body in the absence of the director, if so authorized by the governing body, may control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster, and proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and other expenditures of public funds, provided such funds in excess of appropriations in the current approved budget, unobligated, are available. Whenever the Governor has declared a state of emergency, each political subdivision affected may, under the supervision and control of the Governor or his designated representative, enter into contracts and incur obligations necessary to combat such threatened or actual disaster beyond the capabilities of local government, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law pertaining to public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

D. No interjurisdictional agency or official thereof may declare a local emergency. However, an interjurisdictional agency of emergency management shall provide aid and services to the affected political subdivision authorizing such assistance in accordance with the agreement as a result of a local or state declaration.

E. None of the provisions of this chapter shall apply to the Emergency Disaster Relief provided by the American Red Cross or other relief agency solely concerned with the provision of service at no cost to the citizens of the Commonwealth.



**§ 44-146.22. Development of measures to prevent or reduce harmful consequences of disasters; disclosure of information.**

A. In addition to disaster prevention measures included in state, local and interjurisdictional emergency operations plans, the Governor shall consider, on a continuing basis, hazard mitigation or other measures that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority, state agencies, including, but not limited to, those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, critical infrastructure protection, land use and land-use planning, and construction standards, shall make studies of disaster prevention. The Governor, from time to time, shall make recommendations to the General Assembly, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

B. The Governor or agencies acting on his behalf may receive information, voluntarily submitted from both public and nonpublic entities, related to the protection of the nation's critical infrastructure sectors and components that are located in Virginia or affect the health, safety, and welfare of the citizens of Virginia. Information submitted by any public or nonpublic entity in accordance with the procedures set forth in subdivision 14 of § 2.2-3705.2 shall not be disclosed unless:

1. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;
2. The agency holding the record is served with a proper judicial order; or
3. The agency holding the record has obtained the written consent to release the information from the entity voluntarily submitting it.

**§ 44-146.23. Immunity from liability.**

A. Neither the Commonwealth, nor any political subdivision thereof, nor federal agencies, nor other public or private agencies, nor, except in cases of willful misconduct, public or private employees, nor representatives of any of them, engaged in any emergency services activities, while complying with or attempting to comply with this chapter or any rule, regulation, or executive order promulgated pursuant to the provisions of this chapter, shall be liable for the death of, or any injury to, persons or damage to property as a result of such activities. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workers' Compensation Act (§ 65.2-100 et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. For the purposes of the immunity conferred by this subsection, representatives of public or private employees shall include, but shall not be limited to, volunteers in state and local services who are persons who serve in a Medical Reserve Corps (MRC) unit or on a Community Emergency Response Team (CERT).

B. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, of emergency access or of other uses relating to emergency services shall, together with his successors in interest, if any, not be liable for negligently causing the death of, or injury to any person on or about such real estate or premises or for loss of or damage to the property of any person on or about such real estate or premises during such actual or impending disaster.

C. If any person holds a license, certificate, or other permit issued by any state, or political subdivision thereof, evidencing the meeting of qualifications for professional, mechanical, or other skills, the person, without compensation other than reimbursement for actual and necessary expenses, may render aid involving that skill in the Commonwealth during a disaster, and such person shall not be liable for negligently causing the death of, or injury to, any person or for the loss of, or damage to, the property of any person resulting from such service.

D. No person, firm or corporation which gratuitously services or repairs any electronic devices or equipment under the provisions of this section after having been approved for the purposes by the State Coordinator shall be liable for negligently causing the death of, or injury to, any person or for the loss of, or damage to, the property of any person resulting from any defect or imperfection in any such device or equipment so gratuitously serviced or repaired.

E. Notwithstanding any law to the contrary, no individual, partnership, corporation, association, or other legal entity shall be liable in civil damages as a result of acts taken voluntarily and without compensation in the course of rendering care, assistance, or advice with respect to an incident creating a danger to person, property, or the environment as a result of an actual or threatened discharge of a hazardous substance, or in preventing, cleaning up, treating, or disposing of or attempting to prevent, clean up, treat, or dispose of any such discharge, provided that such acts are taken under the direction of state or local authorities responding to the incident. This section shall not preclude liability for civil damages as a result of gross negligence, recklessness or willful misconduct. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or

under the Workers' Compensation Act (§ 65.2-100 et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. The immunity provided by the provisions of this paragraph shall be in addition to, not in lieu of, any immunities provided by § 8.01-225.

F. No individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, fraternal organization, religious organization, charitable organization, or any other legal or commercial entity and any successor, officer, director, representative, or agent thereof, who, without compensation other than reimbursement for actual and necessary expenses, provides services, goods, real or personal property, or facilities:

1. Pursuant to a Governor-declared emergency or during a formal exercise or training of the State Department of Emergency Management or a responsible county or city emergency management entity; and
2. At the request and direction of the State Department of Emergency Management or a county or city employee whose responsibilities include emergency management;

shall be liable for the death of or injury to any person or for the loss of, or damage to, the property of any person where such death, injury, loss, or damage was proximately caused by the circumstances of the actual emergency or its subsequent conditions, or the circumstances of the formal exercise or training if such formal exercise or training simulates conditions of an actual emergency. This subsection shall not preclude liability for civil damages as a result of gross negligence, recklessness, or willful misconduct. The immunities of this subsection shall not extend to any manufacturer or to any retailer or distributor substantially involved in the manufacture or design of any product or good. The provisions of this subsection shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workers' Compensation Act (§ 65.2-100 et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. The immunity provided by this subsection shall be in addition to, and not in lieu of, any immunities provided by § 8.01-225.

**§ 44-146.24. Cooperation of public agencies.**

In carrying out the provisions of the chapter, the Governor, the heads of state agencies, the local directors and governing bodies of the political subdivisions of the Commonwealth are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the Commonwealth and the political subdivisions thereof to the maximum extent practicable consistent with state and local emergency operation plans. The officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the State Department of Emergency Management upon request.

**§ 44-146.26. Duties of emergency management organizations.**

It shall be the duty of every organization for emergency management established pursuant to this chapter and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the Governor under authority of this chapter. Each organization shall have available for inspection at its office all such orders, rules and regulations.

**§ 44-146.27. Supplementing federal funds; assistance of federal agencies; acceptance of gifts and services; appropriations by local governing bodies.**

A. If the federal government allots funds for the payment of a portion of any disaster programs, projects, equipment, supplies or materials or other related costs, the remaining portion may be paid with a combination of state and local funds available for this purpose and consistent with state emergency management plans and program priorities.

B. Whenever the federal government or any agency or officer thereof offers to the Commonwealth, or through the Commonwealth to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant or loan for purposes of emergency services, the Commonwealth, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its local director or governing body, may accept such offer and agree to the terms of the offer and the rules and regulations, if any, of the agency making the offer, including, but not limited to, requirements to hold and save the United States free from damages and to indemnify the federal government against any claims arising from the services, equipment, supplies, materials, or funds provided. Upon such acceptance, the Governor or local director or governing body of such political subdivision may authorize any officer of the Commonwealth or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the Commonwealth or such political subdivision, in accordance with the terms of the agreement, and subject to the rules and regulations, if any, of the agency making the offer.

C. Whenever any person, firm or corporation offers to the Commonwealth or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant or loan, for purposes of emergency management, the Commonwealth, acting through the Governor, or such political subdivision, acting through its local director or governing body, may accept such offer and upon such acceptance the Governor or local director or governing body of such political subdivision may authorize any officer of the Commonwealth or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the Commonwealth or such political subdivision, and subject to the terms of the offer.

D. The governing bodies of the counties, cities and towns are hereby authorized to appropriate funds for expenditure by any local or regional organization for emergency management established pursuant to this chapter and for local or regional disaster service activities.

**§ 44-146.28. Authority of Governor and agencies under his control in declared state of emergency.**

(a) In the case of a declaration of a state of emergency as defined in § 44-146.16, the Governor is authorized to expend from all funds of the state treasury not constitutionally restricted, a sum sufficient. Allotments from such sum sufficient may be made by the Governor to any state agency or political subdivision of the Commonwealth to carry out disaster service missions and responsibilities. Allotments may also be made by the Governor from the sum sufficient to provide financial assistance to eligible applicants located in an area declared to be in a state of emergency, but not declared to be a major disaster area for which federal assistance might be forthcoming. This shall be considered as a program of last resort for those local jurisdictions that cannot meet the full cost.

The Virginia Department of Emergency Management shall establish guidelines and procedures for determining whether and to what extent financial assistance to local governments may be provided.

The guidelines and procedures shall include, but not be limited to, the following:

- (1) Participants may be eligible to receive financial assistance to cover a percentage of eligible costs if they demonstrate that they are incapable of covering the full cost. The percentage may vary, based on the Commission on Local Government's fiscal stress index. The cumulative effect of recent disasters during the preceding twelve months may also be considered for eligibility purposes.
- (2) Only eligible participants that have sustained an emergency or disaster as defined in § 44-146.16 with total eligible costs of four dollars or more per capita may receive assistance except that (i) any town with a total population of less than 3,500 shall be eligible for disaster assistance for incurred eligible damages of \$15,000 or greater and (ii) any town with a population of 3,500 or more, but less than 5,000 shall be eligible for disaster assistance for incurred eligible damages of \$20,000 or greater and (iii) any town with a population of 5,000 or greater with total eligible costs of four dollars or more per capita may receive assistance. No site or facility may be included with less than \$1,000 in eligible costs. However, the total cost of debris clearance may be considered as costs associated with a single site.
- (3) Eligible participants shall be fully covered by all-risk property and flood insurance policies, including provisions for insuring the contents of the property and business interruptions, or shall be self-insured, in order to be eligible for this assistance. Insurance deductibles shall not be covered by this program.
- (4) Eligible costs incurred by towns, public service authorities, volunteer fire departments and volunteer emergency medical services agencies may be included in a county's or city's total costs.
- (5) Unless otherwise stated in guidelines and procedures, eligible costs are defined as those listed in the Public Assistance component of Public Law 93-288, as amended, excluding beach replenishment and snow removal.
- (6) State agencies, as directed by the Virginia Department of Emergency Management, shall conduct an on-site survey to validate damages and to document restoration costs.

(7) Eligible participants shall maintain complete documentation of all costs in a manner approved by the Auditor of Public Accounts and shall provide copies of the documentation to the Virginia Department of Emergency Management upon request.

If a jurisdiction meets the criteria set forth in the guidelines and procedures, but is in an area that has neither been declared to be in a state of emergency nor been declared to be a major disaster area for which federal assistance might be forthcoming, the Governor is authorized, in his discretion, to make an allotment from the sum sufficient to that jurisdiction without a declaration of a state of emergency, in the same manner as if a state of emergency declaration had been made.

The Governor shall report to the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the House Finance Committee within thirty days of authorizing the sum sufficient pursuant to this section. The Virginia Department of Emergency Management shall report annually to the General Assembly on the local jurisdictions that received financial assistance and the amount each jurisdiction received.

(b) Public agencies under the supervision and control of the Governor may implement their emergency assignments without regard to normal procedures (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials and expenditures of public funds.

(c) Allotments may be made by the Governor from a sum sufficient to provide financial assistance to Virginia state agencies and political subdivisions responding to a declared state of emergency in another state as provided by § 44-146.17, whether or not a state of emergency is declared in the Commonwealth pursuant to § 44-146.16.

(d) Allotments may be made by the Governor from a sum sufficient for the deployment of personnel and materials for the Virginia National Guard and the Virginia Defense Force to prepare for a response to any of the circumstances set forth in subdivisions A 1 through A 5 of § 44-75.1, whether or not a state of emergency is declared in the Commonwealth pursuant to § 44-146.16. However, preparation authorized by this subsection shall be limited to the deployment of no more than 300 personnel, and shall be limited to no more than five days, unless a state of emergency is declared.



**§ 44-146.28:1. Compact enacted into law; terms.**

The Emergency Management Assistance Compact is hereby enacted into law and entered into by the Commonwealth of Virginia with all other states legally joining therein, in the form substantially as follows:

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

ARTICLE I. PURPOSE AND AUTHORITIES.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II. GENERAL IMPLEMENTATION.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III. PARTY STATE RESPONSIBILITIES.

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;
2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;
3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;
4. Assist in warning communities adjacent to or crossing the state boundaries;
5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;
6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and
7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and
3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

#### ARTICLE IV. LIMITATIONS.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

#### ARTICLE V. LICENSES AND PERMITS.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

#### ARTICLE VI. LIABILITY.

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

#### ARTICLE VII. SUPPLEMENTARY AGREEMENTS.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

#### ARTICLE VIII. COMPENSATION.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

#### ARTICLE IX. REIMBURSEMENT.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

#### ARTICLE X. EVACUATION.

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

#### ARTICLE XI. IMPLEMENTATION.

A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

#### ARTICLE XII. VALIDITY.

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

#### ARTICLE XIII. ADDITIONAL PROVISIONS.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under § 1385 of Title 18 of the United States Code.

**§ 44-146.28:2. Disaster relief assistance by out-of-state businesses and employees.**

A. As used in this section, unless the context requires a different meaning:

"Critical infrastructure" means real and personal property and equipment owned or used to provide public utility or communications services, including communications networks, electric generation facilities, transmission and distribution systems, gas distribution systems, lines, poles, pipes, structures, towers, water and sewage pipelines and systems, and related support facilities, buildings, offices, and equipment.

"Declared disaster or emergency" means a disaster or emergency as defined in § 44-146.16 for which a state of emergency as defined in § 44-146.16 has been declared for the Commonwealth by the Governor or by an official authorized by federal law to make such declarations.

"Disaster-related or emergency-related work" means repairing, renovating, installing, building, or rendering services or other activities necessary to mitigate damage to critical infrastructure resulting from a declared disaster or emergency during the disaster response period. "Disaster-related or emergency-related work" does not include (i) any activities that an out-of-state business or an out-of-state employee is paid to perform by the Commonwealth, a locality in the Commonwealth, or a registered business in Virginia or (ii) the sale of goods by an out-of-state business or an out-of-state employee to the Commonwealth, a locality in the Commonwealth, or a registered business in the Commonwealth.

"Disaster response period" means a period that begins 10 days prior to the first day of the declared disaster or emergency and extends for a period of 60 days after the end of the declared disaster or emergency, or any longer period as declared by the Governor.

"Out-of-state business" means a business entity (i) whose services are requested by a registered business, the Commonwealth, or a local government for purposes of performing disaster-related or emergency-related work in the Commonwealth; (ii) that, except for declared disaster-related or emergency-related work, has no presence in and conducts no business in the Commonwealth; and (iii) that had not obtained from the State Corporation Commission a certificate of authority or registration to transact business in the Commonwealth and had no registrations or tax filings or nexus in the Commonwealth other than disaster-related or emergency-related work during the tax year immediately preceding the declared disaster or emergency. A business entity that otherwise meets the definition of an out-of-state business maintains that status even though it is affiliated with a registered business if such affiliation is solely through common ownership.

"Out-of-state employee" means an employee who, except for disaster-related or emergency-related work during the disaster response period, does not work in the Commonwealth.

"Registered business" means a domestic or foreign business entity that is listed in the business entity records maintained in the office of the clerk of the State Corporation Commission, provides public utility or communications services, and was in existence or had obtained from the State Corporation Commission a certificate of authority or registration to transact business in the Commonwealth prior to the declared disaster or emergency.

B. Except as provided in subsection C:

1. Disaster-related or emergency-related work performed by an out-of-state business within the Commonwealth shall not be considered in determining and shall not result in (i) any requirement that the business file, remit, or pay any state or local taxes or fees, including any filing required for a unitary or combined group of which the out-of-state business may be a part, or (ii) any requirement that the business or its out-of-state employees be licensed or registered in any manner by the Commonwealth or local governments. These taxes, fees, and registration requirements include but are not limited to fees assessed and collected, and authorizations or registrations issued by the State Corporation Commission; unemployment insurance premiums; income taxes; state registration fees; local business, professional, and occupational taxes; and collection of sales and use tax; and

2. Disaster-related or emergency-related work performed by an out-of-state employee shall not be considered to have established such person's residency or a presence in the Commonwealth that would require that person or that person's employer to file and pay income taxes or to be subject to tax withholdings or to file and pay any other state or local tax or fee during the disaster response period. However, nothing in this section shall be construed to affect or alter the responsibility of the out-of-state employee, or that person's employer, to file and pay income taxes or be subject to tax withholdings in the employee's home state on income earned in the Commonwealth during the disaster response period.

C. The provisions of this section shall not apply to any applicable transaction taxes and fees, including motor fuels taxes, sales and use taxes, transient occupancy taxes, and car rental taxes or fees, based on purchases, leases, or consumption in the Commonwealth.

D. The provisions of this section shall not apply to any out-of-state business or out-of-state employee for any period of presence or transaction of business in the Commonwealth after the disaster response period ends.

## Public Safety

### **§ 9.1-801. (Effective July 1, 2018) Public safety officer defined.**

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the Virginia Lottery; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.



**§ 9.1-400. Title of chapter; definitions.**

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

(Effective until January 15, 2018)"Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

(Effective January 15, 2018)"Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position

is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. "Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or disability if

the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

"LODA Health Benefit Plans" means the separate health benefits plans established pursuant to § 9.1-401.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"Participating employer" means any employer that is a state agency or is a political subdivision of the Commonwealth that did not make an election to become a nonparticipating employer.

"VRS" means the Virginia Retirement System.

**§ 52-47. Virginia Fusion Intelligence Center established.**

The Governor shall establish, organize, equip, staff, and maintain a multiagency fusion intelligence center to receive and integrate terrorist-related intelligence and information. The Department of State Police shall operate the facility, as directed by the Governor and in cooperation with the Department of Emergency Management and other such state and local agencies and private organizations as the Governor may deem appropriate. The fusion center shall collect, analyze, disseminate, and maintain such information to support local, state, and federal law-enforcement agencies, and other governmental agencies and private organizations in preventing, preparing for, responding to, and recovering from any possible or actual terrorist attack.

## Conservation and Sea Level Rise

### **§ 10.1-659. Flood protection programs; coordination.**

The provisions of this chapter shall be coordinated with federal, state and local flood prevention and water quality programs to minimize loss of life, property damage and negative impacts on the environment. This program coordination shall include but not be limited to the following: flood prevention, flood plain management, small watershed protection, dam safety, and soil conservation programs of the Department of Conservation and Recreation; the construction activities of the Department of Transportation which result in hydrologic modification of rivers, streams and flood plains; the water quality, Chesapeake Bay Preservation Area criteria, stormwater management, erosion and sediment control, and other water management programs of the State Water Control Board; forested watershed management programs of the Department of Forestry; the statewide building code and other land use control programs of the Department of Housing and Community Development; the habitat management programs of the Virginia Marine Resources Commission; the hazard mitigation planning and disaster response programs of the Department of Emergency Management; the fish habitat protection programs of the Department of Game and Inland Fisheries; the mineral extraction regulatory program of the Department of Mines, Minerals and Energy; the flood plain restrictions of the Virginia Waste Management Board; and local government assistance programs of the Virginia Soil and Water Conservation Board. The Department shall also coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply with the planning, subdivision of land and zoning provisions of Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The Department shall cooperate with other public and private agencies having flood plain management programs, and shall coordinate its responsibilities under this article and any other law. These activities shall constitute the Commonwealth's flood prevention and protection program.

**§ 10.1-609.1. Installation of IFLOWS gauges.**

A soil and water conservation district responsible for the maintenance and operation of a flood control dam shall be permitted to install Integrated Flood Observing and Warning Systems (IFLOWS) gauges and associated equipment, or a device approved by the Department of Emergency Management, while awaiting funds to make structural modifications to correct emergency spillway capacity deficiencies in the dam, identified by the Board in a report issued pursuant to § 10.1-609, when any of the following conditions exist: (i) funds are not available to make such structural modifications to the dam, (ii) the completion of such structural modifications requires the acquisition of additional property or easements by exercise of the power of eminent domain, or (iii) funds for the IFLOWS equipment or an equivalent device have been appropriated by the General Assembly. Installation of IFLOWS gauges or similar devices shall not affect the regulated status of the dam under the Virginia Dam Safety Act (§ 10.1-604 et seq.). Any IFLOWS gauges and associated equipment shall be installed in a manner approved by the Department of Emergency Management and shall be operated and maintained by the Department of Emergency Management.

**§ 10.1-604. Definitions.**

As used in this article, unless the context requires a different meaning:

"Board" means the Soil and Water Conservation Board.

**§ 10.1-611. Dam safety coordination.**

The Board shall coordinate all impoundment safety activities in the Commonwealth, which shall include, but not be limited to: (i) the maintenance of an inventory of all impoundment structures and of all other similar structures that are not regulated under this article to the extent the Board deems necessary; (ii) the maintenance of a repository for record drawings of all such structures to the extent the Board deems necessary; (iii) the maintenance of an inventory of safety inspection reports for each such structure to the extent the Board deems necessary; and (iv) the maintenance of a secondary repository for all dam safety emergency action plans, which are primarily filed with the Department of Emergency Management. The Board shall consult with the Department of Emergency Management in its planning for impoundment safety and shall provide technical assistance in the preparation, updating, and execution of dam safety emergency action plans. It shall establish uniform maintenance-of-records requirements and uniform inspection standards to be applied to all impounding structures in the Commonwealth and to be recommended for all other similar structures. It may inspect or cause to be inspected state-owned or state-licensed dams on a cost-reimbursable basis at the request of the state agency owning the state-owned dam or of the licensor of the state-licensed dam.

**§ 15.2-2223.3. Comprehensive plan shall incorporate strategies to combat projected sea-level rise and recurrent flooding.**

Beginning July 1, 2015, any locality included in the Hampton Roads Planning District Commission shall incorporate into the next scheduled and all subsequent reviews of its comprehensive plan strategies to combat projected relative sea-level rise and recurrent flooding. Such review shall be coordinated with the other localities in the Hampton Roads Planning District Commission. The Department of Conservation and Recreation, the Department of Emergency Management, the Marine Resources Commission, Old Dominion University, and the Virginia Institute of Marine Science shall provide technical assistance to any such locality upon request. Where federal regulations as effective July 1, 2015 require a local hazard mitigation plan for participation in the Federal Emergency Management Agency (FEMA) National Flood Insurance Program, such a plan may also be incorporated into the comprehensive plan. For a locality not participating in the FEMA Community Rating System, the comprehensive plan may include an action plan and time frame for such participation.

Note: As of 2017, the localities included in the Hampton Roads Planning District Commission are: Chesapeake, Franklin, Gloucester County, Hampton, Isle of Wight County, James City County, Newport News, Norfolk, Poquoson, Portsmouth, Smithfield, Southampton County, Suffolk, Surry County, Virginia Beach, Williamsburg, and York County.

<http://www.hrpdcva.gov/page/locality-profiles/>



## **Education**

### **§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.**

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The completed walk-through checklist shall be made available upon request to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available upon request to the chief law-enforcement officer of the locality the results of such audits.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall provide copies of such plans to the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, and the emergency management official of the locality. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

**§ 23.1-804. Institutional crisis and emergency management plan.**

A. The governing board of each public institution of higher education shall develop, adopt, and keep current a written crisis and emergency management plan. The plan shall (i) require the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund to be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01 and (ii) include current contact information for both agencies. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims.

B. Every four years, each public institution of higher education shall conduct a comprehensive review and revision of its crisis and emergency management plan to ensure that the plan remains current, and the revised plan shall be adopted formally by the governing board. Such review shall also be certified in writing to the Department of Emergency Management. The institution shall coordinate with the local emergency management organization, as defined in § 44-146.16, to ensure integration into the local emergency operations plan.

C. The chief executive officer of each public institution of higher education shall annually (i) review the institution's crisis and emergency management plan; (ii) certify in writing to the Department of Emergency Management that he has reviewed the plan; and (iii) make recommendations to the institution for appropriate changes to the plan.

D. Each public institution of higher education shall annually conduct a functional exercise in accordance with the protocols established by the institution's crisis and emergency management plan and certify in writing to the Department of Emergency Management that such exercise was conducted.

## **Transportation**

### **§ 46.2-920. Certain vehicles exempt from regulations in certain situations; exceptions and additional requirements.**

A. The driver of any emergency vehicle, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;
2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard to the safety of persons and property;
3. Park or stop notwithstanding the other provisions of this chapter;
4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property;
5. Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection;
6. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going to the left of the stopped or slow-moving vehicle either in a no-passing zone or by crossing the highway centerline; or
7. Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, stopped or slow-moving vehicles, by going off the paved or main traveled portion of the roadway on the right. Notwithstanding other provisions of this section, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.

B. The exemptions granted to emergency vehicles by subsection A in subdivisions A1, A3, A4, A5, and A6 shall apply only when the operator of such vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary. The exemption granted under subdivision A 2 shall apply only when the operator of such emergency vehicle displays a flashing, blinking, or alternating emergency light or lights as provided in §§ 46.2-1022 and 46.2-1023 and either (a) sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals or (b) slows the vehicle down to a speed reasonable for the existing conditions, yields right-of-way to the driver of another vehicle approaching or entering the intersection from another direction or, if required for safety, brings the vehicle to a complete stop before proceeding with due regard for the safety of persons and property. In addition, the exemptions granted to emergency vehicles by subsection A shall apply only when there is in force and effect for such vehicle either (i) standard motor vehicle liability insurance covering injury or death to any person in the sum of at least \$100,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one

person, to a limit of \$300,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$20,000 because of injury to or destruction of property of others in any one accident or (ii) a certificate of self-insurance issued pursuant to § 46.2-368. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this section shall release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation.

C. For the purposes of this section, the term "emergency vehicle" shall mean:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer (i) in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation or (ii) in response to an emergency call;
2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;
3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;
4. Any emergency medical services vehicle designed or used for the principal purpose of providing emergency medical services where human life is endangered;
5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;
6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer;
7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights under the provisions of § 46.2-1029.2; and
8. Any Virginia National Guard Civil Support Team vehicle when responding to an emergency.

D. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer may disregard speed limits, while having due regard for safety of persons and property, (i) in testing the accuracy of speedometers of such vehicles, (ii) in testing the accuracy of speed measuring devices specified in § 46.2-882, or (iii) in following another vehicle for the purpose of determining its speed.

E. A Department of Environmental Quality vehicle, while en route to an emergency and with due regard to the safety of persons and property, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. These Department of Environmental Quality vehicles shall not be required to sound a siren or any device to give automatically intermittent signals, but shall display red or red and white warning lights when performing such maneuvers.

F. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer while conducting a funeral escort, wide-load escort, dignitary escort, or any other escort necessary for the safe movement of vehicles and pedestrians may, without subjecting himself to criminal prosecution:

1. Disregard speed limits, while having due regard for safety of persons and property;
2. Proceed past any steady or flashing red signal, traffic light, stop sign, or device indicating moving traffic shall stop if the speed of the vehicle is sufficiently reduced to enable it to pass a signal, traffic light, or device with due regard for the safety of persons and property;
3. Park or stop notwithstanding the other provisions of this chapter;
4. Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property; or
5. Pass or overtake, with due regard for the safety of persons and property, another vehicle.

Notwithstanding other provisions of this section, vehicles exempted in this subsection may sound a siren or any device to give automatically intermittent signals.

**§ 46.2-1023. Flashing red or red and white warning lights.**

Fire apparatus, forest warden vehicles, emergency medical services vehicles, vehicles of the Department of Emergency Management, vehicles of the Department of Environmental Quality, vehicles of the Virginia National Guard Civil Support Team when responding to an emergency, vehicles of county, city, or town Departments of Emergency Management, vehicles of the Office of Emergency Medical Services, animal warden vehicles, and vehicles used by security personnel of the Huntington Ingalls Industries, Bassett-Walker, Inc., the Winchester Medical Center, the National Aeronautics and Space Administration's Wallops Flight Facility, and, within those areas specified in their orders of appointment, by special conservators of the peace and policemen for certain places appointed pursuant to §§ 19.2-13 and 19.2-17 may be equipped with flashing, blinking, or alternating red or red and white combination warning lights of types approved by the Superintendent. Such warning lights may be of types constructed within turn signal housings or motorcycle headlight housings, subject to approval by the Superintendent.

**§ 46.2-1078.1. Use of handheld personal communications devices in certain motor vehicles; exceptions; penalty.**

A. It is unlawful for any person to operate a moving motor vehicle on the highways in the Commonwealth while using any handheld personal communications device to:

1. Manually enter multiple letters or text in the device as a means of communicating with another person; or
2. Read any email or text message transmitted to the device or stored within the device, provided that this prohibition shall not apply to any name or number stored within the device nor to any caller identification information.

B. The provisions of this section shall not apply to:

1. The operator of any emergency vehicle while he is engaged in the performance of his official duties;
2. An operator who is lawfully parked or stopped;
3. The use of factory-installed or aftermarket global positioning systems (GPS) or wireless communications devices used to transmit or receive data as part of a digital dispatch system; or
4. Any person using a handheld personal communications device to report an emergency.

C. A violation of this section is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250.

For the purposes of this section, "emergency vehicle" means:

1. Any law-enforcement vehicle operated by or under the direction of a federal, state, or local law-enforcement officer;
2. Any regional detention center vehicle operated by or under the direction of a correctional officer responding to an emergency call or operating in an emergency situation;
3. Any vehicle used to fight fire, including publicly owned state forest warden vehicles, when traveling in response to a fire alarm or emergency call;
4. Any emergency medical services vehicle designed or used for the principal purpose of emergency medical services where human life is endangered;
5. Any Department of Emergency Management vehicle or Office of Emergency Medical Services vehicle, when responding to an emergency call or operating in an emergency situation;
6. Any Department of Corrections vehicle designated by the Director of the Department of Corrections, when (i) responding to an emergency call at a correctional facility, (ii) participating in a drug-related investigation, (iii) pursuing escapees from a correctional facility, or (iv) responding to a request for assistance from a law-enforcement officer; and



7. Any vehicle authorized to be equipped with alternating, blinking, or flashing red or red and white secondary warning lights pursuant to § 46.2-1029.2.

D. Distracted driving shall be included as a part of the driver's license knowledge examination.

**§ 46.2-1212.1. Authority to provide for removal and disposition of vehicles and cargoes of vehicles involved in accidents.**

A. As a result of a motor vehicle accident or incident, the Department of State Police and/or local law-enforcement agency in conjunction with other public safety agencies may, without the consent of the owner or carrier, remove:

1. A vehicle, cargo, or other personal property that has been (i) damaged or spilled within the right-of-way or any portion of a roadway in the primary state highway system and (ii) is blocking the roadway or may otherwise be endangering public safety; or

2. Cargo or personal property that the Department of Transportation, the Department of Emergency Management, or the fire officer in charge has reason to believe is a hazardous material, hazardous waste, or regulated substance as defined by the Virginia Waste Management Act (§ 10.1-1400 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1808 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.), if the Department of Transportation or applicable person complies with the applicable procedures and instructions defined either by the Department of Emergency Management or the fire officer in charge.

B. The Department of Transportation, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1, the Department of State Police, the Department of Emergency Management, local law-enforcement agencies and other local public safety agencies and their officers, employees, and agents, and towing and recovery operators operating under the lawful direction of a law-enforcement officer or the Department of Transportation shall not be held responsible for any damages or claims that may result from the failure to exercise any authority granted under this section provided they are acting in good faith.

C. The owner and carrier, if any, of the vehicle, cargo, or personal property removed or disposed of under the authority of this section shall reimburse the Department of Transportation, individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in 46.2-920.1, the Department of State Police, the Department of Emergency Management, local law-enforcement agencies, and local public safety agencies for all costs incurred in the removal and subsequent disposition of such property.

## **Miscellaneous Code Sections**

### **§ 38.2-324. Disclosure of property damage information.**

Nothing in this title shall prohibit an insurer or its agent from disclosing information obtained from policyholders or other persons regarding claims or reports of property damage resulting from a natural disaster, as defined in clause (ii) of the definition of "disaster" in § 44-146.16, to the Director of the Department of Emergency Management or his designees or other state officials, to federal officials, or to local government officials of the locality where the damage occurred; provided that the disclosures (i) do not identify persons whose property is damaged or the address thereof and (ii) include only aggregated data that relates to the assessment of damage from a natural disaster, including, but not limited to, the number of claims, estimates of the dollar amount of damage, and types of damage, for a specified geographic area, such as a census tract or zip code area.

## **§ 54.1-2500. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Health Professions.

"Department" means the Department of Health Professions.

## **§ 54.1-2506.1. Submission of required information.**

A. The Department is authorized to require individuals applying for initial licensure, certification, or registration, and individuals who are licensed, certified, or registered by a health regulatory board to provide information in addition to that which is required to determine the individual's qualifications. Such additional information shall include identification of the individual's self-designated specialties and subspecialties; credentials and certifications issued by professional associations, institutions and boards; and locations of each practice site, number of hours spent practicing at each practice site location, and demographic information. The Department, in consultation with the health regulatory boards, may establish criteria to identify additional data elements deemed necessary for workforce and health planning purposes. Such information shall be collected and maintained by the Department for workforce and health planning purposes in cooperation with agencies and institutions of the Commonwealth and shall be released by the Department only in the aggregate without reference to any person's name or other individual identifiers; however, the Department may release any information that identifies specific individuals for the purpose of determining shortage designations and to qualified personnel if pertinent to an investigation, research, or study, provided a written agreement between such qualified personnel and the Department, which ensures that any person to whom such identities are divulged shall preserve the confidentiality of those identities, is executed. Prior to collecting any information described in this section from individuals, the Department shall first attempt to obtain from other sources information sufficient for workforce planning purposes.

B. For the purpose of expediting the dissemination of public health information, including notice about a public health emergency, the Department is authorized to require certain licensed, certified or registered persons to report any email address, telephone number and facsimile number that may be used to contact such person in the event of a public health emergency or to provide information related to serving during a public health emergency. In the event of an animal health emergency, the Department shall provide to the State Veterinarian the email addresses, telephone numbers and facsimile numbers that may be used to contact licensed veterinarians.

Such email addresses, telephone numbers and facsimile numbers shall not be published, released or made available for any other purpose by the Department, the Department of Health, or the State Veterinarian.

The Director, in consultation with the Department of Health and the Department of Emergency Management, shall adopt regulations that identify those licensed, certified or registered persons to which the requirement to report shall apply and the procedures for reporting.

**§ 56-484.13. 9-1-1 Services Board; membership; terms; compensation.**

A. The E-911 Services Board, formerly the Wireless E-911 Services Board, is hereby continued as the 9-1-1 Services Board. The Board shall exercise the powers and duties conferred in this article.

B. The 9-1-1 Services Board shall:

1. Support and assist PSAPs in the provision of 9-1-1 operations and services, including through provision of funding and development of best practices;

2. Plan, promote, and assist in the statewide development, deployment, and maintenance of an emergency services IP network that will support future 9-1-1 and other public safety applications and technologies; and

3. Consult and coordinate with PSAPs, state and local public bodies in the Commonwealth, public bodies in other states, CMRS providers, VoIP service providers affiliated with cable companies, and other entities as needed in the exercise of the Board's powers and duties.

C. The Board shall consist of 16 members as follows: the Director of the Virginia Department of Emergency Management, who shall serve as chairman of the Board; the Comptroller, who shall serve as the treasurer of the Board; the Chief Information Officer; and the following 13 members to be appointed by the Governor: one member representing the Virginia State Police; one member representing a local exchange carrier providing E-911 service in Virginia; one member representing VoIP service providers affiliated with cable companies and authorized to transact business in Virginia; two members representing wireless service providers authorized to do business in Virginia; three county, city, or town PSAP directors or managers representing diverse regions of Virginia; one Virginia sheriff; one chief of police; one fire chief; one emergency medical services manager; and one finance officer of a county, city, or town.

D. The Commonwealth Interoperability Coordinator shall serve as an advisor to the Board in the exercise of the powers and duties conferred in this article so as to ensure, among other matters, that enhanced wireless emergency telecommunications services and technologies are compliant with the statewide interoperability strategic plan.

E. All members appointed by the Governor shall serve five-year terms. The CIO and the Comptroller shall serve terms coincident with their terms of office. No gubernatorial appointee shall serve more than two consecutive terms.

F. A majority of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its chairman.

G. Members of the Board shall serve without compensation; however, members of the Board shall be reimbursed for expenses as provided in §§ 2.2-2813 through 2.2-2826.

H. The Division shall provide staff support to the Board. The Geographic Information Network Division created in § 2.2-2026 and the Virginia Department of Transportation shall provide such technical advice as the Board requires.

### **§ 56-586.1. Electric energy emergencies.**

A. As used in this section, "electric energy emergency" means an unplanned interruption in the generation or transmission of electricity resulting from a hurricane, ice storm, windstorm, earthquake or similar natural phenomena, or from a criminal act affecting such generation or transmission, act of war or act of terrorism, which interruption is (i) of such severity that minimum levels of reliable service cannot be maintained using resources practicably obtainable from the market and (ii) so imminently and substantially threatening to the health, safety or welfare of residents of this Commonwealth that immediate action of state government is necessary to prevent loss of life, protect the public health or safety, and prevent unnecessary or avoidable damage to property.

B. The Governor is authorized, after finding that an electric energy emergency exists and that appropriate federal and state agencies and appropriate reliability councils cannot adequately address such emergency, to declare an electric energy emergency by filing a written declaration with the Secretary of the Commonwealth. The declaration shall state the counties and cities or utility service areas of the Commonwealth in which the declaration is applicable, or its statewide application. A declared electric energy emergency shall go into immediate effect upon filing and continue in effect for the period prescribed in the declaration, but not more than thirty days. At the end of the prescribed period, the Governor may issue another declaration extending the emergency. The Governor shall terminate such declaration as soon as the basis for such declaration no longer exists.

C. During a declared electric energy emergency, the Governor is authorized, in compliance with guidelines of the Department of Emergency Services promulgated as provided in subsection G, to require any generator or any municipal electric utility that is capable of generating but (i) is not generating or (ii) is not generating at its full potential during such declared electric emergency, to generate, dispatch or sell electricity from a facility that it operates within the Commonwealth, to the Commonwealth for distribution within the areas of the Commonwealth designated in the declaration. The quantity of electricity required to be generated, dispatched or sold, and the duration of such requirements, shall be as determined by the Governor to be necessary to alleviate the electric energy emergency hardship. The Commonwealth shall compensate an entity required to generate, dispatch, or sell electricity pursuant to this subsection, and the operator of any transmission facilities over which the electricity is transmitted, in the manner provided in § 56-522, mutatis mutandis, unless otherwise provided by federal law. The Department of Environmental Quality, the State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board shall issue any temporary or emergency permit, order, or variance necessary to authorize any permit amendments or other changes needed to meet the requirements imposed under this section and the Governor may petition the President to declare a regional energy emergency under 42 U.S.C. § 7410 (f) as necessary to suspend enforcement of any provision of the federal Clean Air Act. Any increased operation required during such declared emergency shall not be counted towards the number of hours of operation allowed during the year. No civil charges or penalties shall be imposed for any violation that occurs as a result of actions taken that are necessary for the required generation, dispatch or sale during the declared electric energy emergency. The foregoing provisions shall apply to all actions the entity takes in connection with such required generation, dispatch or sale during the period of the declared emergency.

D. During a declared electric energy emergency, the Governor may use the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the Commonwealth, and of the political subdivisions thereof, to the maximum extent practicable and necessary to meet the electric energy emergency. The officers and personnel of all such departments, offices, and agencies shall cooperate with and extend such services and facilities to the Governor upon request.

E. During a declared electric energy emergency, the Governor is authorized to request the Secretary of the United States Department of Energy to invoke section 202(C) of the Federal Power Act, 16 U.S.C. § 824a (1935).

F. The General Assembly is authorized by joint resolution to terminate any declaration of an electric energy emergency. The emergency shall be terminated at the time of filing of the joint resolution with the Secretary of the Commonwealth.

G. The Department of Emergency Services, in consultation with the Commission and the Secretary of Commerce and Trade, shall establish guidelines for the implementation of the Governor's powers pursuant to subsection C that protect the public health and safety and prevent unnecessary or avoidable damage to property with a minimum of economic disruption to generators, transmitters and distributors of electricity. Such guidelines shall:

1. Define various foreseeable levels of electric energy emergencies and specify appropriate measures to be taken for each type of electric energy emergency as necessary to protect the public health or safety or prevent unnecessary or avoidable damage to property;
2. Prescribe appropriate response measures for each level of electric energy emergency; and
3. Equitably distribute the burdens and benefits resulting from the implementation of this section among other members of the affected class of persons within all geographic regions of the Commonwealth.

H. During a declared electric energy emergency, the attorney general may bring an action for injunctive or other appropriate relief in the Circuit Court of the City of Richmond to secure prompt compliance. The court may issue an ex parte temporary order without notice that shall enforce the prohibitions, restrictions or actions that are necessary to secure compliance with the guideline, order or declaration.

I. During a declared electric energy emergency, no person shall intentionally violate any guideline adopted or declaration issued pursuant to this section. Any person who violates this section is guilty of a Class 1 misdemeanor.

## **Hazardous Materials**

### **Chapter 3.3. Transportation of Hazardous Radioactive Materials.**

#### **§ 44-146.30. Department of Emergency Management to monitor transportation of hazardous radioactive materials.**

The Coordinator of the Department of Emergency Management, pursuant to regulations promulgated by the Virginia Waste Management Board, will maintain a register of shippers of hazardous radioactive materials and monitor the transportation within the Commonwealth of those hazardous radioactive materials, as defined by the Virginia Waste Management Board, which may constitute a significant potential danger to the citizens of the Commonwealth in the event of accidental spillage or release. The regulations promulgated by the Board shall not be in conflict with federal statutes, rules, or regulations. Other agencies and commissions of the Commonwealth shall cooperate with the Virginia Waste Management Board in the formulation of regulations as herein provided.



### **Chapter 3.4. Funding for State and Local Government Radiological Emergency Preparedness.**

#### **§ 44-146.31. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Department" means the Department of Emergency Management.

"Nuclear power station" means a facility producing electricity through the utilization of nuclear energy for sale to the public which is required to be licensed by the Nuclear Regulatory Commission and includes all units of the facility at a single site.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing.

#### **§ 44-146.32. One-time and annual fees.**

A. For each nuclear power station in commercial operation on July 1, 1982, the person owning the station shall pay to the Department, within ninety days of such date, a one-time fee of \$55,000.

B. For each nuclear power station commencing commercial operation after July 1, 1982, the person owning the station shall pay to the Department a one-time fee of \$55,000 not less than one year prior to the scheduled commencement of operation.

C. For each nuclear power station that on July 1 of each year is validly licensed to operate by the Nuclear Regulatory Commission, the person owning the station shall pay to the Department not later than August 1 of that year an annual fee in an amount based upon the projected annual cost of administering the state and local governments' radiological emergency preparedness programs for the station.

D. The Department shall send timely invoices for such fees to the persons responsible for their payment. However, failure of the Department to send the invoices in a timely manner shall not relieve the responsible persons of their obligation to pay such fees.

#### **§ 44-146.33. Radiological Emergency Preparedness Fund.**

All moneys received by the Department under this chapter shall be deposited in the state treasury and set apart in a special fund to be known as the "Radiological Emergency Preparedness Fund." Moneys deposited in this fund shall be expended by the Department to the extent appropriated only to support the activities of state agencies and the local governments in establishing, maintaining and operating such emergency plans, programs and capabilities to deal with nuclear accidents as are required by the Nuclear Regulatory Commission and the Federal Emergency Management Agency with respect to nuclear power stations.

### **Chapter 3.5. Virginia Hazardous Materials Emergency Response Program.**

#### **§ 44-146.34. Purpose; definitions.**

A. The purpose of this chapter is to provide for the development and implementation of a program to protect the environment and the health, safety, and welfare of the people of the Commonwealth from the threats and potential threats of accidents or incidents involving hazardous materials. This program shall be known as the Virginia Hazardous Materials Emergency Response Program.

B. As used in this chapter, unless the context requires otherwise:

"Coordinator" means the Coordinator of the Department of Emergency Management.

"Department" means the Department of Emergency Management.

"Hazardous materials" means substances or materials which may pose unreasonable risks to health, safety, property, or the environment when used, transported, stored or disposed of, which may include materials which are solid, liquid or gas. Hazardous materials may include toxic substances, flammable and ignitable materials, explosives, corrosive materials, and radioactive materials and include (i) those substances or materials in a form or quantity which may pose an unreasonable risk to health, safety, or property when transported, and which the Secretary of Transportation of the United States has so designated by regulation or order; (ii) hazardous substances as defined or designated by law or regulation of the Commonwealth or law or regulation of the United States government; and (iii) hazardous waste as defined or designated by law or regulation of the Commonwealth.

"Political subdivision" means any city or county in the Commonwealth, and for the purposes of this chapter, any town with a population of more than 5,000 which chooses to have an emergency management program separate from that of the county in which the town is located.

"Transport" or "transportation" means any movement of property by any mode and any packing, loading, unloading, or storage incidental thereto.

#### **§ 44-146.35. Powers and duties of the Department of Emergency Management.**

In carrying out the purposes set forth in this chapter the Department shall have the authority to:

1. Coordinate the development of hazardous materials training programs and hazardous materials emergency response programs and plans with state and local government agencies and related groups. Those state agencies and local government agencies shall retain the statutory responsibilities assigned elsewhere in this Code.
2. Administer the implementation of the Virginia Hazardous Materials Emergency Response Program.

#### **§ 44-146.36. Coordinator to enter into agreements with political subdivisions; immunity from liability.**

A. The Coordinator may enter into agreements with political subdivisions to provide hazardous materials emergency response within a specific geographical area of the Commonwealth on a state and political subdivision cost-sharing basis. The cost-sharing agreements shall be negotiated with political subdivisions by the Coordinator.

B. Neither the Commonwealth, nor any political subdivision thereof, nor federal agencies, nor other public or private agencies, nor public or private employees, nor representatives of any of them, engaged in any emergency services activities while complying with or attempting to comply with this chapter or any regulation or executive order promulgated pursuant to the provisions of this chapter, shall be liable for the death of or injury to any person or damage to property as a result of such activities, except where such death, injury or damage results from gross negligence, recklessness or willful misconduct. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workers' Compensation Act (§ 65.2-100 et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

**§ 44-146.37. Disbursements made from Virginia Disaster Response Fund.**

A. Disbursements for costs and expenses, including, but not limited to equipment, material, hazardous materials emergency response operations and immediate accident or incident site cleanup costs and expenses in preventing or alleviating damage, loss, hardship, or suffering caused by accidents or incident, involving hazardous materials, shall be made from the Virginia Disaster Response Fund in accordance with the provisions of § 44-146.18:1.

B. The Coordinator shall promptly seek reimbursement from any party causing or contributing to an accident or incident involving hazardous materials for all sums disbursed from the Virginia Disaster Response Fund for the protection, relief, and recovery from loss or damage caused by such party.

C. The Coordinator is also authorized to recover any sums expended by any other state agency or political subdivision for preventing or alleviating damage, loss, hardship, or suffering caused by accidents or incidents involving hazardous materials. To recover such sums the Coordinator shall provide documentation that the costs were incurred whether or not they were actually disbursed from the Virginia Disaster Response Fund.

**§ 44-146.38. Political subdivisions to appoint hazardous materials coordinator.**

Each political subdivision shall appoint a hazardous materials coordinator. In appointing the hazardous materials coordinator, political subdivisions shall consider the requisite qualifications for hazardous materials coordinators as established by the Coordinator. The hazardous materials coordinator shall coordinate the hazardous materials emergency response program within the political subdivision.

**§ 44-146.40. Joint emergency planning committee; certain localities.**

Any joint emergency planning committee serving Fairfax County and the City of Fairfax shall have the authority to require any facility within its emergency planning district to submit the information required and participate in the emergency planning provided for in Subtitle A of Title 3 of Public Law 99-499. For the purposes of this section, "facility" shall include any development or installation having an aggregate storage capacity of at least one million gallons of oil as defined in § ~~62.1-44.34:10~~, or the potential for a sudden release of 10,000 pounds or more of any other flammable liquid or gas not exempt from the provisions of § 327 of Title 3 of Public Law 99-499. This requirement shall not occur until after public notice and the opportunity to comment. The committee shall notify the facility owner or operator of any requirement to comply with this section.