

Virgin Islands Code Annotated

TITLE TWENTY-THREE Internal Security and Public Order (Chs. 1 — 19)

Chapter 10. Virgin Islands Territorial Emergency Management Act (Subchs. I — IV)

Subchapter I. Emergencies and Major Disasters (§§ 1001 — 1016)

§ 1001. Short title

This chapter shall be cited as “The Virgin Islands Territorial Emergency Management Act of 2009”.

§ 1002. Purposes

(a) The purposes of this chapter are to:

(1) Reduce vulnerability of the people and communities of this Territory to damage, injury, and loss of life and property resulting from natural or man-made catastrophes;

(2) Clarify and strengthen the roles of the governor and territorial agencies in prevention of, preparation for, response to and recovery from emergencies or major disasters resulting from natural or man-made catastrophes;

(3) Prepare for prompt and efficient rescue, care and treatment of persons victimized or threatened by emergencies or major disasters;

(4) Provide a setting conducive to the rapid and orderly start of recovery, restoration and rehabilitation of persons and property affected by emergencies or major disasters;

(5) Authorize and provide for cooperation in the prevention of, preparation for, response to, and recovery from emergencies and major disasters, including the coordination of such activities with those of other jurisdictions;

(6) Provide an emergency and major disaster management system;

(7) Assist in prevention of emergencies or major disasters caused or aggravated by inadequate planning for the regulation of public and private facilities and land use;

(8) Provide an efficient and effective 911 Emergency Communication system designed to meet individual circumstances throughout the Virgin Islands;

(9) Prepare and execute a comprehensive plan and program for emergency management in the Virgin Islands; and

(10) Assist the Territorial government with respect to coordinating those functions related to homeland security and to establish standards and procedures for addressing threats to homeland security and for protecting life, public health, property and infrastructure in the event of terrorist attacks.

(b) It is further declared to be the purpose of this chapter and policy of the Government of the Virgin Islands to ensure and provide clear direction, coordination and support of all agencies directly and indirectly involved in the preparedness and response readiness of the entire Territory, including efficient distribution of all federal assets made available as well as for training personnel in all aspects of emergency management.

§ 1003. Limitations

Nothing in this chapter shall be construed to:

(1) 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 an emergency or major disaster;

(2) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but territorial and jurisdictional emergency or major disaster plans shall rely upon such forces as activated by the Governor for performance of functions related to emergencies or major disasters;

(3) Limit, modify, or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him under the Constitution of the United States, the Revised Organic Act of the Virgin Islands of 1954, as amended, federal laws made applicable to the Virgin Islands, or the statutes and common law of the Virgin Islands, independent of, or in conjunction with, any provisions of this chapter; or

(4) Transcend the authority or jurisdiction of the Federal Government.

§ 1004. Definitions

(a) Except as provided in subsection (b), as used throughout this chapter:

(1) “emergency” means the imminent threat or occurrence of any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, explosion, or other emergency including an emergency occasioned by a threat to homeland security in any part of the Territory which, in the determination of the Governor or the Director requires an integrated and coordinated emergency response from various Territorial Government agencies to save lives and protect public property, public health and safety or to avert or lessen the threat of a major disaster, which may require an emergency declaration by the President or other Federal assistance, but does not cause damage of such severity and magnitude that the Governor requests major disaster assistance from the President pursuant to the Stafford Act.

(2) “major disaster” means the imminent threat or occurrence of any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, explosion, or other catastrophe including a catastrophe occasioned by a threat to homeland security in any part of the Territory which, in the determination of the governor or the Director requires a coordinated emergency response from various Territorial Government agencies and which causes damage

of sufficient severity and magnitude for the Governor to request major disaster assistance from the President pursuant to the Stafford Act, to supplement the efforts and available resources of the Territorial Government and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) “state of emergency” means a public declaration by the Governor to mitigate, prepare for, respond to, or recover from an emergency or major disaster. Such public declaration shall be in the form of an executive order or proclamation pursuant to section 1005 of this chapter.

(4) “Director” means the Director of VITEMA, who shall also serve as the Territorial Coordinating Officer.

(5) “VITEMA” means the Virgin Islands Territorial Emergency Management Agency.

(6) “VITEMP” means the Virgin Islands Territorial Emergency Management Plan.

(7) “Stafford Act” means the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. Law 100-707, as may be amended, any successor act thereto, or other federal laws applicable to emergency management.

(8) “FEMA” means to the Federal Emergency Management Agency.

(9) “VITEMHS Council” means the council established under section 1007 of this title.

(10) “VING” means the Virgin Islands National Guard established under Chapter 19 of this title.

(11) “SAA” means the State Administrative Agent eligible to receive grants from the United States Department of Homeland Security, who shall be selected by the Director, and approved by the Governor.

(12) “EOC” means emergency operation center.

(13) “Homeland security” means the development, coordination, and implementation of a Territorial policy to secure the people and property of the Virgin Islands from terrorist threats or attacks. The term includes efforts to detect, prepare for, prevent, protect against, share intelligence where applicable, respond to, and recover from terrorists' attacks within the Virgin Islands.

(14) “Joint Terrorism Task Force” or “JTTF” means the established regional coordinating body of both federal and local law enforcement agencies under the stewardship of the Federal Bureau of Investigation for sharing of information and intelligence, as well as the coordination of resources for the mitigation of weapons of mass destruction and response to terrorism throughout the country.

(b) When the terms “emergency” or “major disaster” are used in this chapter in the context of a declaration or determination by the President, pursuant to the Stafford Act that such conditions do exist or that assistance for such conditions is required, then such terms, with respect to such declaration or that assistance for such conditions is required, then such terms, with respect to such declaration or determination only, shall not have the meanings set forth in subsection (a) of this section, but rather shall have the meanings set forth in the Stafford Act and the rules and regulations promulgated thereunder.

§ 1005. The Governor and emergencies or major disaster

(a) The Governor is responsible for meeting the dangers to the Territory and people presented by emergencies or major disaster.

(b) The Governor may cooperate with the President of the United States, the heads of the Armed Forces of the United States, the National Guard Bureau, FEMA, or the Department of Homeland Security, and with any other appropriate officers or agencies of the United States or the several States or Possessions thereof, and in connection therewith, take any measures which the Governor may deem proper to effectuate any request of the President and appropriate federal officers and agencies for any action requiring emergency management coordination and cooperation, including, but not limited to, drills, exercises, tests, and mobilization of VING. Appropriate measures may be taken to control the conduct of civilians and the movement of pedestrians and automobile or vessel traffic during, prior to, and subsequent to drills, exercises, or actual emergencies to include the evacuation of the civilian population.

(c) The Director shall serve as the principal assistant and advisor to the Governor with respect to emergency management and disaster preparedness planning for the Territory and in this capacity shall act on behalf of the Governor, as required, in coordinating and directing governmental and nongovernmental emergency service agencies. The Director shall take such actions and promulgate such rules and regulations as are consonant with federal and territorial law or policy necessary to carry out the functions assigned to him by law or by direction of the Governor. The Director shall resolve interagency issues relating to emergencies or emergency management and shall utilize VITEMA as the single territorial agency responsible to the Governor for administrative supervision of emergency management activities under this chapter. He shall render periodic reports of those activities to the Office of the Governor.

(d) A state of emergency on account of an emergency or major disaster may be declared by a proclamation of the Governor if he finds that an emergency or major disaster has occurred or that the occurrence thereof is imminent. The state of emergency shall continue until the Governor finds that the threat or danger has passed or that the response and recovery has progressed to the point that a state of emergency no longer exists, whereupon he shall terminate the state of emergency by further proclamation. No state of emergency may continue for longer than 30 days unless renewed by the Governor. The Governor may renew the initial state of emergency for one additional 30-day period. But to extend the state of emergency beyond the two 30-day periods, before the expiration of the second 30-day period, the Governor shall submit legislation to the Legislature requesting an extension of the state of emergency. The request must include the specific reasons for the extension, the time-period of the extension, and a plan of action to address the conditions that necessitate the extension of the state of emergency. All subsequent requests for an extension must be submitted to the Legislature before the expiration of the extension that is in effect. The Legislature shall consider a request for an extension of the state of emergency not later than five days after its receipt. If the Legislature fails to consider the request within the five-day period, the state of emergency is automatically extended for an additional 30 days. All proclamations issued or acts under this subsection must indicate the nature of the emergency or major disaster, the area or areas threatened the conditions which have brought it about or which make possible the termination of the state of emergency. All proclamations or acts must be disseminated promptly by means calculated to bring its contents to the attention of the general public and a copy filed with VITEMA.

(e) A proclamation of a state of emergency may activate the disaster preparation, response and recovery aspects of the territorial and inter-jurisdictional emergency and major disaster plans applicable to the area in question and, if they are so activated, the proclamation shall also authorize the deployment and use of any forces to which the plan or plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to emergencies or major disasters. The Governor may, by proclamation, also authorize alternative means for activating the Plan.

(f) During any state of emergency or major disaster the Governor shall be commander-in-chief of all forces available for emergency duty. To the greatest extent practicable, the Governor may delegate or assign command authority by orders issued at the time of the emergency or major disaster.

(g) In addition to any other powers conferred upon the Governor by law during any state of emergency, he may for the purpose of coping with the emergency, do any of the following:

(1) Suspend the provisions of any statute prescribing the procedures for conduct of territorial business, or the orders, rules, or regulations of any territorial agency.

(2) Utilize all available resources of the Territory.

(3) Transfer the direction, personnel, or functions of territorial departments and agencies or units thereof.

(4) Subject to any application requirements for compensation under section 1130 of this title, commandeer or utilize any private property.

(5) Direct and compel the evacuation of all or a part of the population from any stricken or threatened area within the Territory.

(6) Prescribe routes, modes of transportation and destinations in connection with evacuation.

(7) Control ingress and egress to and from an effected area, the movement of persons within the area and the occupancy of premises, including barges, boats, ships and other watercraft therein.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles, or any other materials deemed to be critical for the health and safety of the people of the Territory of the Virgin Islands.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Through the Commissioner of Licensing and Consumer Affairs, take action necessary to freeze and maintain costs of goods and services to the public at a price level existing immediately prior to the Governor's proclamation of the state of emergency. Such price freeze shall include, but not be limited to, food items, water, beverages, health and medical care products, fuel, rents, construction goods and services, clothing, furnishings, and such other goods and services as are deemed appropriate under the circumstances presented.

(11) Take any other action he deems necessary.

(h) The Legislature may limit or modify the powers granted to the Governor in subsections (b) and (g) in any act passed pursuant to subsection (d).

§ 1006. Creation of the Virgin Islands Territorial Emergency Management Agency; duties; Director

(a) VITEMA shall have one Director, one Assistant Director, and such Deputy Directors or Associate Directors as determined necessary, with the approval of the Governor, in order for VITEMA to effectively and efficiently meet its mandates.

(b) The Director shall be the executive head of VITEMA and shall be responsible for coordinating the entire emergency management program for the Territory. The Director shall maintain liaison with emergency management agencies and organizations of states, of the federal government, of national organizations and of neighboring territories and countries.

(c) VITEMA, under the direction of the Director, shall prepare and maintain VITEMP, which shall consist of one territorial administrative plan, an emergency operations plan for each island, and such other plans as are appropriate. VITEMP shall provide for:

1. Prevention and minimization of injury and damage caused by an emergency or major disaster;
2. Prompt and effective response to an emergency or major disaster;
3. Emergency relief; identification of areas particularly vulnerable to an emergency or major disaster;
4. Coordination with local officials in designing local action plans;
5. Establishment of procedures for the construction of temporary or permanent projects designed to protect against or mitigate danger, damage, or loss from hurricane, flood, conflagration, or other emergency or major disaster;
6. Preparation and distribution to the appropriate territorial and local officials of information regarding federal, territorial and private assistance programs;
7. Organization of manpower and chains of command;
8. Coordination of federal, territorial, private and local emergency activities;
9. Coordination of VITEMP with applicable federal programs, FEMA, territorial programs, other jurisdictions and private industries;
10. Establishment of administrative procedures for enforcing compliance with federal and territorial standards to achieve the objectives of emergency management planning;
11. Establishment of emergency management programs which address all hazards, including, but not limited to, terrorist threats or other actions to which the Virgin Islands community is particularly vulnerable and providing specific technical information concerning the use of equipment and special methods by which such hazards may be addressed; and
12. Establishment of procedures for assisting special needs persons during an emergency.

(d) In preparing and maintaining VITEMP, VITEMA shall seek the advice and assistance of FEMA, other federal agencies, volunteer organizations and other disaster preparedness agencies and other community leaders.

(e) VITEMP or any part thereof and a listing of the resources to be utilized in implementing the Plan may be incorporated in regulations of VITEMA. The VITEMA Council shall promulgate rules and regulations, subject to approval of the Governor, necessary to carry out the purposes of this chapter.

(f) The Territorial Public Assistance Unit (the “Unit”), previously placed under the Office of Management and Budget pursuant to Executive Order 371-1997, is hereby placed under VITEMA, which shall incorporate the Unit into VITEMA in a manner as may be found to be appropriate by the Director to carry out the duties and responsibilities of the Unit.

§ 1007. Virgin Islands Territorial Emergency Management and Homeland Security Council

(a) There is established the Virgin Islands Territorial Emergency Management and Homeland Security Council (“VITEMHS Council”) to be composed of the following persons:

(1) Director of VITEMA, who shall serve as Chairman; and

(2) Any commissioners of the departments within the executive branch of the Government who are named to the VITEMHS Council by Executive Order of the Governor, or their designees, including the Attorney General of the Virgin Islands; and

(3) Any directors of the agencies and bureaus within the executive branch of the Government who are named to the VITEMHS Council by Executive Order of the Governor, or their designees; and

(4) The Adjutant General of VING, or his designee; and

(5) The executive directors or equivalent position of, or their designees, the following semiautonomous agencies, instrumentalities, or public corporations of the Government:

(A) Virgin Islands Water and Power Authority;

(B) Virgin Islands Port Authority;

(C) West Indian Company, Ltd.;

(D) Virgin Islands Economic Development Authority;

(E) Virgin Islands Waste Management Authority;

(F) Virgin Islands Housing Finance Authority;

(G) Virgin Islands Public Services Commission;

(H) Government Employees Retirement System;

(I) Virgin Islands Public Finance Authority;

(J) University of the Virgin Islands;

(K) Virgin Islands Government Hospitals and Health Facilities Corporation;

(L) Schneider Regional Medical Center; and

(M) Juan F. Luis Hospital;

(6) The chief executive officer or equivalent position of, or the designees, any corporation or other business entity that operates in the Virgin Islands a public utility regulated by the Public Services Commission pursuant to title 30, Virgin Islands Code, and of any private emergency responder entity operating in the Territory; and

(7) Private sector entities, including, but not limited to, the chambers of commerce, hotel associations, and other entities, which may be invited to serve on the EMC by the Governor in consultation with the Director.

(b) Each member of the VITEMHS Council shall attend all council meetings.

(c) The VITEMHS Council shall:

(1) Plan for and coordinate the federal and territorial emergency management programs with FEMA and any other federal or territorial agencies, or other appropriate public or private entities.

(2) Assist the Territorial Coordinating Officer in responding to the Federal Coordinating Officer, or other appropriate federal agents or officers, in the event the President approves a request from the Governor for an emergency declaration or major disaster declaration;

(3) Provide goals and objectives to the Director for implementing VITEMP; and

(4) Work with the Director and all other government agencies, to establish standards for the operations and activities of the Government related to homeland security efforts, as set forth in subchapter II of this Chapter.

(d) Each entity made a member of the VITEMA Council shall designate an Emergency Services Coordinator (“ESC”) and notify the Director of the person's name and telephone number. The person designated to serve as an ESC may not be a person named or designated to serve on the VITEMA Council. The person designated as an ESC shall be responsible to coordinate the respective entity's policies and resources as required by VITEMP. The head of each entity on the VITEMA Council shall give written authority to the ESC enabling that person to obtain and provide the support specified in VITEMP and provide a copy of said written authority to the Director.

§ 1008. Financing

(a) It is the intent of the Legislature and declared to be the policy of the Territory that funds to meet emergencies or major disasters shall always be available.

(b) A Disaster Contingency Fund (“DCF”) is established in the Treasury of the Virgin Islands which shall receive monies appropriated thereto by the Legislature and any federal grants or loans made available to

the Virgin Islands in the event of major disaster or emergency. Local monies deposited into the DCF may also be used as matching funds for any federal grants under the Stafford Act.

(c) It is the legislative intent that for the purposes stated in this chapter the funds regularly appropriated to territorial agencies shall be utilized prior to the use of monies in the DCF. If the Governor finds that the demands placed upon these funds in coping with the particular emergency or major disaster are unreasonably great, he may make funds available from the Disaster Contingency Fund. If monies available from the Fund are insufficient, and if the Governor finds that other sources of money to cope with the emergency or major disaster are not available or are insufficient, the Governor may transfer and expend monies borrowed for a term not to exceed two years from the Federal Government, bond proceeds, or other Treasury sources.

(d) Notwithstanding any other provision of law to the contrary, the Governor is authorized to expend from any monies in the Disaster Contingency Fund such sums as he deems necessary to meet the expenses of public agencies directly associated with an emergency or major disaster to meet such expenses for such emergency or major disaster. The Governor shall not exercise any authority under this subsection until and unless he has declared in writing the nature of the emergency or major disaster. Within 60 days after exercising any authority under this subsection, the Governor shall notify the Legislature in writing of all expenses and obligations made pursuant to this subsection.

(e) The Governor may accept, on behalf of the Virgin Islands, for emergency management purposes, from the Federal Government or any agency (public or private), services, equipment, supplies, materials or funds by way of gift, loan or grant. Donated funds shall be deposited into the Disaster Contingency Fund. All federal funds received by VITEMA as reimbursement to said agency for expenditures, pursuant to appropriations from the General Fund shall be forwarded by the Director of VITEMA to the Commissioner of Finance for deposit into the General Fund. Funds being reimbursed to the Emergency Response and Management Fund shall be deposited into said fund.

(f) Nothing contained in this section shall be construed to limit the Governor's authority to apply for, administer and expend grants, gifts, or payments in aid of the prevention of, preparation for, response to, or recovery from emergencies and major disaster.

§ 1009. Mutual aid agreements

The Governor may, on behalf of the Virgin Islands, enter into reciprocal aid agreements or compacts with neighboring countries, subject to applicable federal law. Such mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other emergency supplies; engineering services; emergency housing; fire fighting services and equipment, rescue, transportation, and construction services and equipment; personnel necessary to provide or conduct these services; and such other supplies, equipment, facilities, personnel and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, fire fighting, and police units and health units; and on such terms and conditions as deemed necessary.

§ 1010. Hazard mitigation

(a) In addition to measures regarding disasters preparedness as included in the Plan, the Governor and the Director shall consider on a continuing basis steps that could be taken to mitigate hazards that cause an

emergency or major disaster. At the Governor's direction, and pursuant to any other authority and competence they have, territorial agencies, including but not limited to those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards, shall make hazard mitigation studies and provide financial resources and manpower to implement hazard mitigation actions. From time to time the Governor shall make recommendations to the Legislature, and other appropriate public and private entities as may facilitate hazard mitigation or risk reduction measures.

(b) The Department of Planning and Natural Resources shall advise VITEMA concerning structures and other facilities which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the hazards.

(c) If the Director believes on the basis of the studies or other competent evidence that:

(1) An area is susceptible to any emergency or major disaster of catastrophic proportions;

(2) The existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster; and

(3) That changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of disaster preparedness planning; he shall specify needed changes to the Governor and those agencies with jurisdiction over the area and subject matter. If the Governor and said agencies upon review of the recommendations find that the changes are necessary, appropriate rules and regulations or executive orders may be promulgated in the manner provided by law to implement those changes.

(d) The Governor, at the same time that he makes his recommendations pursuant to subsection (c) of this section, may by executive order suspend the standard of control which are determined to be inadequate to protect the public safety and put in place temporary standards or controls in effect. The temporary standards or controls shall remain in effect until the appropriate rules and regulations or executive orders to be issued under subsection (c) hereof are promulgated according to law, but, in any event, may not be effective for more than 90 days. During the time it is in effect, the temporary standard or control contained therein shall be administered and given full effect by all relevant agencies of the Territory to which it applies.

§ 1011. Compensation

(a) Each person within this Territory shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the Territory and the public successfully to meet emergencies or major disasters. This obligation includes appropriate personal service and use or restriction on the use of property in time of emergency or major disaster. This chapter neither increases nor decreases these obligations but recognizes their existence under the United States Constitution, the Revised Organic Act, and statutes and common law of this Territory. Compensation for services or for the taking or use of property shall be made consistent with the United States Constitution, the Revised Organic Act, and statutes and common law of this Territory.

(b) No personal services may be compensated by the Territory or any subdivision or agency thereof, except pursuant to law.

(c) Compensation for property shall be paid only if the property was commandeered or otherwise used in coping with an emergency or major disaster and its use or destruction was ordered by the Governor or a member of the emergency or major disaster forces of this Territory.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim therefore with the appropriate territorial agency in the form and manner the agency provides.

(e) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the agency, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this Territory following insofar as possible the procedures set forth in Chapter 19 of title 28 of this Code.

(f) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a fire break, or to the release of water or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

§ 1012. Communications

VITEMA shall be responsible for coordinating rapid and efficient communications during emergencies or major disasters. VITEMA shall operate the EOCs wherein federal and territorial departments and agencies, and private sector entities are integrated into a comprehensive territorial emergency communications system or network. In studying the character and feasibility of any system or its several parts VITEMA shall evaluate the possibility of multipurpose use thereof for general territorial purposes. VITEMA shall make recommendations to the Governor as appropriate.

§ 1013. Temporary housing for victims of an emergency or major disaster and site acquisition and preparation

(a) Whenever there exists an emergency or major disaster under the laws of this Territory, or the President has declared an emergency or a major disaster, as defined by the Stafford Act to exist in this Territory, the Governor is authorized:

(1) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by victims of an emergency or major disaster.

(2) To acquire, temporarily or permanently, by purchase, lease, or otherwise, sites necessary for the installation of temporary housing units for victims of an emergency or major disaster, and to do all things required to prepare such site to receive and utilize temporary housing units. For this purpose, the Governor may utilize any funds available from federal funds, appropriations made by the Legislature, or from any other source, and, where necessary, the credit of the Government of the Virgin Islands on such terms as he deems appropriate, having due regard for current debt transactions of the Territory.

(3) Under such executive orders as he shall prescribe, to suspend temporarily or modify for not to exceed 60 days any public health, safety, zoning, transportation or other requirement of law or regulation within

this Territory when by executive order he deems such suspension or modification essential to provide temporary housing for victims of an emergency or major disaster. Pursuant to this section, the Governor's action is subject to judicial and Legislative review but shall not be subject to temporary stay pending litigation.

(b) Nothing contained in this section shall be construed to limit the Governor's authority to apply for, administer, and expend any grants, gifts, or payments in aid of disaster prevention, preparedness, response, or recovery.

§ 1014. Disaster loans to the Government of the Virgin Islands

Whenever the President has declared a "major disaster" as defined by the Stafford Act to exist in the Territory, the Governor is authorized:

(a) Upon his determination that the Government of the Virgin Islands will suffer a substantial loss of tax and other revenues from a major disaster and has a need for financial assistance to perform its governmental functions, to apply to the federal government or non-governmental financial institutions, on behalf of the Government of the Virgin Islands, for a loan; and to receive and disburse the proceeds of any approved loan.

(b) To determine the amount needed by the Government of the Virgin Islands to restore or resume its governmental functions, and to certify the same to the federal government or non-governmental financial institutions.

§ 1015. Debris and wreckage removal in emergencies and major disasters

(a) Whenever there exists an emergency or major disaster under the laws of this Territory, or the President has declared an emergency or major disaster, as defined by the Stafford Act, to exist in this Territory, the Governor is authorized:

(1) Notwithstanding any other provision of law, through the use of the departments, agencies and instrumentalities of the Government of the Virgin Islands, to clear or remove debris and wreckage which may threaten public health or safety from publicly or privately owned land or water.

(2) To accept funds from the federal government or private sources and utilize such funds for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(b) Whenever the Governor provides for clearance of debris or wreckage pursuant to subsection (a) of this section, employees of the designated departments, agencies and instrumentalities of the Government of the Virgin Islands, or individuals appointed by the Governor of the Virgin Islands, are authorized to enter upon private land or waters and perform any tasks necessary to the removal or clearance operation, and the owner of the boat or other private property shall indemnify the Government of the Virgin Islands against any claim arising from such removal including cost of removal, except where the Government is reimbursed for such claims and costs from other sources.

(c) Except in cases of willful misconduct, gross negligence, or bad faith, any employee or agent of the Government of the Virgin Islands complying with orders of the Governor and performing duties pursuant thereto under this section shall not be liable for death of or injury to persons or damage to property.

§ 1016. Territorial financial participation in grants to victims of emergencies and major disasters

(a) Whenever the President has declared an emergency or major disaster, as defined by the Stafford Act to exist in this Territory, the Governor is authorized:

(1) Upon his determination that financial assistance is essential to meet necessary expenses or serious needs to individuals or families adversely affected by such emergency or major disaster, and related thereto, that cannot be otherwise adequately met from other means of assistance, to accept a grant by the federal government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant.

(2) To enter into an agreement with the federal government or any officer or agency thereof, pledging the Government of the Virgin Islands to participate in the funding of the financial assistance authorized in paragraph (1) of this subsection, in an amount not to exceed 25 percent thereof and, if territorial funds are not otherwise available to the Governor, to accept an advance of the territorial share from the federal government to be repaid when the Government of the Virgin Islands is able to do so.

(b) All federal grants received pursuant to this section, and all local matching funds related thereto, shall be deposited in the General Disaster Relief Fund created by title 33, section 3041, Virgin Islands Code, and shall be disbursed therefrom in accordance with that section.

Subchapter II. Homeland Security (§§ 1031 — 1033)

§ 1031. Homeland Security within VITEMA

(a) VITEMA shall have jurisdiction over all matters of Homeland security.

(b) The Director, in consultation with the VITEMHS Council and all other government agencies, shall establish standards for the operations and activities of the Government related to homeland security efforts.

§ 1032. Responsibilities and duties of the Director

(a) The Director shall appoint, with the approval of the Governor, a Homeland Security Advisor. The Homeland Security Advisor may also serve as the SAA at the discretion of the Director.

(b) The Director shall be a member of the Homeland Security Council and a member of the Joint Terrorism Task Force.

(c) The Director has the authority and duty, or may designate to the Advisor for Homeland Security, to:

(1) Develop, in coordination with the VITEMHS Council and required participating or stakeholder, first-responder agencies, a comprehensive plan and program for homeland security, not inconsistent with federal law, including a plan for the security of critical infrastructure licensed or regulated by agencies of the federal government. The plans and programs must be integrated and coordinated with federal and territorial plans. The completed plan and strategy must be forwarded to the EMC within 30 days after approval by the Department of Homeland Security's Office for Domestic Preparedness;

- (2) Assist in the utilization of the services and facilities of departments, offices and agencies of the Government for homeland security issues;
- (3) Assist local law enforcement agencies, and departments as may be reasonable and necessary for the purpose of securing compliance with this chapter and with the orders, rules, and regulations made under this chapter;
- (4) Receive intelligence information from federal authorities relating to homeland security and ensure that, to the extent allowed by law, all appropriate and necessary intelligence and law enforcement information regarding homeland security is disseminated to and exchanged among appropriate executive departments responsible for homeland security, and where appropriate, promote the exchange of such information with other U.S. jurisdictions and private entities;
- (5) Promote, schedule, conduct and coordinate simulated exercises designed in coordination with the VITEMHS Council. The simulated exercises must be designed to prepare the appropriate first-responder agencies and the appropriate supporting government agencies for action to be taken in the event of a terrorist threat or attack;
- (6) Assist with government efforts to achieve public health preparedness before and during terrorist events;
- (7) Engage in the exchange of information with the federal government and Territorial law enforcement agencies relating to immigration and efforts to improve the security of the borders, Territorial waters, and ports of the United States;
- (8) Coordinate with the efforts of first-responder agencies, including VITEMA, to protect the people of the Virgin Islands and the Territory's critical infrastructure from terrorist attack, including, energy, water production, transmission and distribution systems, telecommunications, public and privately-owned information systems, special public and private events, transportation hubs and networks, livestock, farms, water, and food supplies, and research institutions. Notwithstanding any other provision of this chapter, the Director may not impose security requirements on any private sector facility which are inconsistent with requirements applicable to private sector facilities under federal law or regulations;
- (9) Ensure that the local governmental agencies and authorities coordinate and cooperate with federal agencies and the Department of Homeland Security and its regional offices, and private-sector security forces responsible for the protection of critical infrastructure consistent with federal laws and regulations applicable to private-sector security forces related to homeland security issues;
- (10) Receive gifts, including, services, equipment, supplies, materials, and funds, apply for and accept grants, contributions and any other forms of assistance from the United States Government, the Government of the Virgin Islands or other public entities, or from any other source, public or private, for the purposes of homeland security, and enter into and carry out agreements in connection therewith and include in any agreement for financial assistance with the United States Government such conditions imposed pursuant to federal laws as it may consider reasonable and appropriate and which are not inconsistent with the purposes of this chapter; and to expend the proceeds of any such grants and financial assistance for the purposes of this chapter; and

(11) Promulgate necessary rules and regulations to implement and administer the program established in this chapter.

§ 1033. Additional powers of the Director which may be exercised during a declaration of emergency

When the Governor declares a state of emergency related to homeland security, the Director shall have and may exercise the following additional powers, under the direction and control of the Governor:

(a) Sell, lend, lease, give, transfer, or deliver materials and perform services for homeland security purposes on such terms and conditions as the Governor shall prescribe;

(b) Assist the Department of Agriculture and the Department of Health to employ such measures as the quarantine of persons, animals, plants, fruits, water, or food products, as may be reasonably necessary for the purpose of securing compliance with this chapter;

(c) In coordination with the Office of Highway Safety and the Police Department, with due consideration to the recommendations of other appropriate governmental agencies, formulate and execute plans and regulations for the control of traffic and the rapid and safe movement over public highways and roads of people, vehicles and materials for use in any incident response, and coordinate the activities of the departments and agencies of the Government concerned directly or indirectly with public highways and roads, in a manner that will best ensure the public safety during a threat to homeland security;

(d) Coordinate the deployment of Government employees for emergency response operations; and

(e) Exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population and achieve the purposes of this chapter.

Subchapter III. Emergency Management Assistance Compact (§§ 1051 — 1064)

§ 1051. Short title

This subchapter may be cited as the “Emergency Management Assistance Compact Act.”

§ 1052. Purposes 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 agreement, 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(s), 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 states National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

§ 1053. General implementation

Each party state entering into this compact recognizes 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 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 that 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.

§ 1054. 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 section. 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 resource shortages, civil disorders, insurgency, or enemy attack.
- (2) Review party states individual emergency plans and develop a plan that 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.

(7) Provide, to the extent authorized by law, for temporary suspension of any statutes.

(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 agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the requests shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, such as 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.

(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.

§ 1055. 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 control 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 service authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or 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(s), whichever is longer.

§ 1056. 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.

§ 1057. 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; and 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 section shall not include willful misconduct, gross negligence, or recklessness.

§ 1058. 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 instrument contains elements of a broad base common to all states, and nothing herein shall preclude any state from 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 or 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.

§ 1059. 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.

§ 1060. 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 cost 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. Section 1059 expenses shall not be reimbursable under this provision.

§ 1061. 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/service 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.

§ 1062. Implementation

(a) This compact shall become operative immediately upon its enactment into law by any two (2) states. Thereafter, this compact shall become effective as to any other state upon its 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 30 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.

§ 1063. Validity

This chapter shall be construed to effectuate the purposes stated in section 1052 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances held invalid, the constitutionality of the remainder of this chapter and the applicability thereof to other provisions and circumstances shall not be affected thereby.

§ 1064. Additional provision

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 Section 1385 of title 18, United States Code.

§ 1071. "911" Definitions

As used in this subchapter, unless the context otherwise requires:

(a) "911 Service" means the telecommunication system which provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits, "9-1-1".

(b) “Public agency” means the Government of the Virgin Islands and any agency, department, or unit thereof or special purpose district located in whole or in part within the Virgin Islands which provides or has authority to provide ambulance, firefighting, law enforcement, medical or other emergency services.

(c) “Public safety agency” means a functional division of a public agency which provides ambulance, firefighting, law enforcement, medical or other emergency services.

(d) “Private safety entity” means a private entity which provides ambulance, firefighting, law enforcement, medical or other emergency services.

(e) “Public safety answering point (PSAP)” means a communication facility operated on a 24-hour basis, assigned responsibility to receive 911 calls and, as appropriate, to directly dispatch emergency response services, or to transfer or relay emergency 911 calls to other public service agencies. It is the first point of reception by a public safety agency of a 911 call, and serves the jurisdiction in which it is located and other participating jurisdictions according to a specified operational policy.

(f) “Direct dispatch method” means the method of responding to a telephone request for emergency service whereby the PSAP decides on the proper action to be taken and dispatches the appropriate emergency service unit.

(g) “Relay method” means the method of responding to a telephone request for emergency service whereby a PSAP notes pertinent information and relays it to the appropriate public safety agency or other provider of emergency service for dispatch of an emergency service unit.

(h) “Transfer method” means the method of responding to a telephone request for emergency service whereby a PSAP transfers the call directly to the appropriate public safety agency or other provider of emergency service for dispatch of an emergency service unit.

(i) “VITEMA” means the Virgin Islands Territorial Emergency Management Agency established by this chapter. VITEMA is responsible for the administration of 911 service in the Virgin Islands.

(j) “Automatic number identification (ANI)” means the system capability to identify the telephone number associated with the access line from which a call originates and provide a display of that number at a PSAP.

(k) “Automatic location identification (ALI)” means the automatic display at the PSAP of the caller's telephone number, the address/location of the telephone and supplementary emergency services information of the location from which a call originates.

§ 1072. Methods of handling emergency telephone calls

911 services shall be designed to meet the individual circumstances of the Islands of St. Croix, St. John, St. Thomas, and Water Island and the public agencies participating in the 911 system. However, standardized processes between the two call centers, one on St. Croix and one on St. Thomas, will ensure optimal service and back-up capability in case of high call volumes, or the temporary incapacity of one center due to catastrophic weather or other circumstances. Every system shall be designed so that a 911 call is processed by means of one of the methods defined in section 1071 of this chapter, namely, direct

dispatch, relay, or transfer; provided, however, at least two of the specified methods shall be available for use by the PSAP receiving the call.

§ 1073. Emergency services included in system

(a) Every 911 system shall be capable of transmitting requests for ambulance, firefighting, law enforcement, medical or emergency services to a public safety agency or other government agencies that provide the requested service at the place where the call originates. A 911 system may also provide for transmittal of requests for other emergency services, such as poison control, suicide prevention, and civil defense. Conferencing capability with counseling, aid to handicapped, and other services as deemed necessary for emergency response determination may be provided by the 911 system.

(b) Any unit of any agency of the Territory which provides ambulance, firefighting, law enforcement, medical or emergency services to an area shall be part of the 911 system or systems in the area it serves. A 911 PSAP may transmit emergency response requests to private safety entities.

Automatic intrusion alarms and other automatic altering devices shall not be installed so as to cause the number 911 to be dialed in order to access directly emergency services; however, this provision shall not apply to a 911 system if the heads of all of the public safety agencies participating in the 911 system agree otherwise.

§ 1074. Pay telephone; dialing without a coin

Each telephone common carrier shall convert every pay station telephone within the area served by a 911 system to permit a caller to dial 911, and to reach an operator by dialing "0", without first inserting a coin or paying any other charge.

§ 1075. Development of technical standards

VITEMA shall promulgate rules and regulations as are just and reasonable and in the public interest to implement the provisions of this chapter.

§ 1076. Preparation of individual system plans by public agencies; implementation

Each local public agency shall designate a coordinator who shall serve as the point of contact in working with VITEMA.

(a) Public agencies and public safety agencies shall prepare tentative 911 system plans which meet the technical and operational standards established by VITEMA. Upon request by public agencies, VITEMA shall assist public agencies in developing effective 911 system plans by providing guidance as to plan content, technical assistance, and by providing advice in formulating concepts, methods and procedures to improve 911 system designs, their implementation and their operation. VITEMA shall apply for financial aid, including federal funding assistance, to develop plans for implementation and operation of their 911 systems.

(b) Plans filed pursuant to subsection (b) of this section shall conform to minimum standards established pursuant to this chapter.

§ 1077. Enforcement of compliance by judicial proceedings

The Virgin Islands Department of Justice may, at the request of VITEMA, or on its own initiative, commence judicial proceedings in a court of competent jurisdiction against any public agency or the common carrier providing telephone service to enforce the provisions of this chapter.

§ 1078. Telephone company exempt from liability for providing ANI or ALI information

(a) A common carrier serving a public agency or group of agencies which has implemented a 911 system with automatic number identification and/or automatic location identification features shall be required to provide such public agency or group of public agencies access to the telephone numbers of subscribers and the addresses associated with the numbers needed to implement these features.

(b) A common carrier shall not be liable to any person who uses the emergency number system created under this chapter for release of the information specified in subsection (a) of this section to a public agency or group of public agencies as required by subsection (a).

(c) A common carrier, its employees, agents, contractors, and affiliates shall not be held liable for any acts in the operation, administration, or maintenance of a 911 service, unless such acts are found to be of willful intent as defined in title 1, section 41, of the Virgin Islands Code.

§ 1079. Address label on pay telephone

Each common carrier providing 911 services to a public agency or group of agencies shall prominently display, on every pay station telephone within its 911 service area, the address or location of the telephone.

§ 1080. Emergency call box system

(a) VITEMA shall provide for the installment, operation, and maintenance of a system of emergency telephone call boxes along roads and highways in the Territory.

(b) The system shall:

(1) be designed to enable users to request emergency and nonemergency response services;

(2) include:

(A) wired or wireless telecommunications services; and

(B) one or more motorist assistance answering centers; and

(3) be capable of performing compatible Intelligent Transportation System (ITS) functions.

(c) The location of the emergency call boxes shall be determined by VITEMA, with the assistance of the Virgin Islands Police Department and the Department of Public Works, in accordance with the design specifications of the system.