

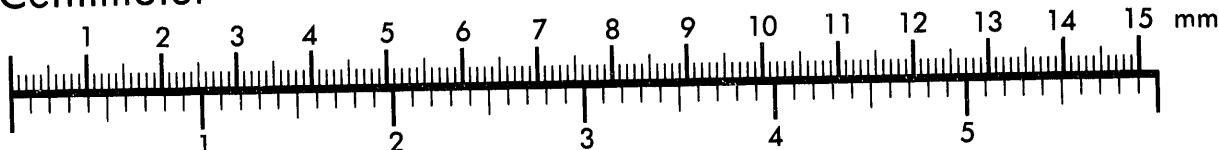


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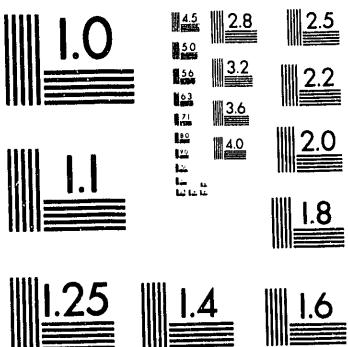
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Southern States Radiological Emergency Response Laws and Regulations

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MASTER

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INTRODUCTION

The purpose of this report is to provide a summary of the emergency response laws and regulations in place in the various states within the southern region for use by legislators, emergency response planners, the general public and all persons concerned about the existing legal framework for emergency response. SSEB expects to periodically update the report as necessary. Radiation protection regulations without emergency response provisions are not included in the summary.

The radiological emergency response laws and regulations of the Southern States Energy Compact member states are in some cases disparate. Several states have very specific laws on radiological emergency response while in others, the statutory law mentions only emergency response to "natural disasters." Some states have adopted extensive regulations on the topic; others have none. For this reason, any general overview must necessarily discuss laws and regulations in general terms. For specific state discussion, see the state-by-state breakdowns, *infra*.

RADIOLOGICAL EMERGENCY RESPONSE

Some states have incorporated provisions concerning radiological emergency response into their general emergency response laws, specifically mentioning radiological disasters and sometimes man-made disasters. A minority of states have enacted specific radiological emergency response statutes to handle this contingency. For specific discussions, see the state-by-state breakdowns *infra*.

No general radiological emergency response statute exists; however, each statute generally provides for a state agency to prepare a statewide plan for radiological emergency response or to require localities that are likely to be affected by a nuclear emergency to adopt local plans. While some statutes are concerned only with the possibility of an accident at a nuclear power plant in the state, some states have made provisions for handling a transportation accident involving nuclear materials. Others have included provisions for response if a nuclear accident in an adjoining state spreads contamination outside her borders. One factor common to most of the states with these statutes is that the costs of maintaining a radiological emergency response program are generally borne by the nuclear power industry.

STATE EMERGENCY MANAGEMENT ACTS

Each southern state has adopted an emergency management act of one kind or another. These acts, in the absence of a specific radiological emergency response statute, are the authority for the states' response in the event of a nuclear incident, as well as for natural disasters and wartime emergencies. In most cases, these acts are similar, due in part to the influence of the Example State Disaster Act of 1972 (ESDA). While all of the states in the compact have not adopted the ESDA, virtually all have used some of the ESDA's language.

Most state disaster acts have in common the following elements:

- Creation of, or designation of, a state agency responsible for coordinating the

state's emergency response. This agency is often within the office of the governor or the adjutant general. A director is usually appointed by the governor to act in specific instances, with the governor generally overseeing the agency in the absence of a specific accident. The usual powers and duties of the agency include the responsibility for preparing and maintaining a state disaster plan and responding to an emergency.

- The governor is usually vested with special emergency powers activated in the event an emergency occurs or there is an imminent threat of its occurrence. These emergency powers usually include the power to:

- declare the existence of an emergency;
- issue executive orders, proclamations and regulations having the full force and effect of law;
- suspend state regulatory statutes prescribing the procedures for conducting of state business if strict compliance with the statute would in any way prevent, hinder or delay necessary action in coping with the emergency;
- use all available resources of the state and its political subdivisions to cope with the emergency;
- transfer the direction, personnel or functions of state departments or agencies for the purpose of performing emergency services;
- commandeer any private property necessary to cope with the emergency;
- direct and compel the evacuation of the stricken area, if necessary;
- suspend or limit the sale, dispensation or transportation of alcoholic beverages, firearms, explosives and combustibles; and
- control ingress and egress to and from the emergency site.

- Funding is usually provided by state government, although a few states provide for funding by the nuclear power industry through direct assessments.

- Most states require that counties and, sometimes cities establish local emergency management agencies to provide emergency response for the locality. As an alternative, local governments are sometimes permitted to form interjurisdictional emergency management agencies. Local emergency response agencies are sometimes permitted to enter into mutual aid agreements with other agencies in the state. In some states, local agencies may create mutual aid agreements with agencies in other states.

- Many states provide for the declaration of local disaster emergencies in the event of a disaster affecting only a small locality.

- A number of states in the South have adopted the Interstate Civil Defense and Disaster Compact as part of the state emergency management act. In fact, the ESDA includes this compact; consequently, states adopting the ESDA intact have become members of the Civil Defense and Disaster Compact. (See the Matrix and individual state summaries for more specific information).

- A majority of states include the following provisions in their emergency management acts:

- a compensation provision for the state to reimburse owners of private property and pay for services;
- immunity from liability on the part of the state and its political subdivisions for damages due to the negligence of emergency management personnel and volunteers.

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The stated purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster, whether from enemy attack or from any other cause, natural or otherwise. It requires each state to formulate its own civil defense plans and programs. The states agree to frequently consult with each other, and to exchange emergency plans and inventories of available materials and supplies. Some uniform standards for the states are set out in the compact. Compact states aiding another state are permitted to send personnel, supplies, materials and equipment to the stricken state, as necessary. The civil defense forces of the aiding states are extended the same powers, duties, rights, privileges and immunities as if they were performing services in the state where they are normally employed. The state receiving assistance assumes operational control of the assisting civil defense forces. Any state rendering aid is reimbursed by the assisted state for the costs of the services and for any damage or loss incurred. Interstate evacuations are also covered. Eleven of the sixteen states reported herein have adopted the compact. (See matrix).

FEDERAL REGULATIONS

In 1979, President Carter ordered the Director of the Federal Emergency Management Agency (FEMA) to take the lead in state and local emergency planning and preparedness activities with respect to nuclear power facilities. This included a review of emergency plans in states with operating nuclear power reactors and those with plants scheduled to open. The Code of Federal Regulations, specifically 44 CFR 350, 351, details the review process and procedures for these plans. For state and local plans to be approved, the plans must adequately protect public health and safety by providing reasonable assurance that appropriate protective measures can be taken offsite in the event of a radiological emergency. Each of the sixteen states reported here has developed a radiological emergency response plan pursuant to the laws and regulations listed *infra*. As noted earlier, some of the state plans are only concerned with the possibility of an emergency at a nuclear facility, as required by 44 CFR 350, while others expand the parameters to include accidents involving the transportation of nuclear materials.

FEDERAL AGENCY RESPONSIBILITY

Several federal agencies share responsibility for radiological emergency planning and preparedness activities. FEMA, mentioned above, is the lead agency in this area (44 CFR §351.21) but other agencies are charged with emergency response planning duties as well. The Nuclear Regulatory Commission (NRC), for example, is given responsibility for assessing nuclear facility licensee emergency plans, verifying that implementation of such plans can be achieved and assisting FEMA in a variety of planning activities (44 CFR §351.21).

The Environmental Protection Agency (EPA) is required to establish Protective Action Guidelines for all aspects of radiological emergency planning in coordination with FEMA and other appropriate federal agencies (44 CFR §351.22). The Department of Health and Human Services must develop and specify protective actions and associated guidance to state and local governments for human food and animal feed in conjunction with EPA (44 CFR §351.23). The U.S. Department of Energy (DOE) must determine the appropriate planning bases for DOE-owned and contractor-operated facilities as well as assess and verify the adequacy of emergency response plans (44 CFR §351.24). The Department of Transportation is required to assist FEMA and the NRC in the preparation and promulgation of guidance to state and local governments for their use in developing the transportation portions of radiological emergency response plans (44 CFR §351.25). The Department of Agriculture is directed to assist FEMA in developing and promulgating guidance to state and local governments for the preparation of emergency plans (44 CFR §351.26). The Department of Defense (DOD) must determine the appropriate planning bases for DOD nuclear facilities and installations including distances, time and radiological characteristics (44 CFR §351.27). Finally, the U.S. Department of Commerce is responsible for assisting state and local governments in determining their requirements for meteorological and hydrological services for radiological emergencies and assisting state and local governments in preparing to meet these requirements within the limits of available resources (44 CFR §351.28).

MATRIX

State	Nuclear - specific	Local Organizations	Source of Funding	Office w/Primary Responsibility	Interstate Civil Defense and Disaster Compact	Statutory Authority	Regulations
AL	No	Mandatory: All political subdivisions	State	Alabama Emergency Management Agency	Yes	§31-9-1, et seq.	No
AR	Yes	Mandatory: counties Governor determines city	Utilities	Department of Health, Nuclear Planning & Response Program Office	Yes	§20-21-401, et seq. §12-75-101, et seq.	No
FL	Yes	Mandatory: counties encouraged: cities	Utilities	Division of Emergency Management of Department of Community Affairs	No	§252.31, et seq.	Yes
GA	Yes	Mandatory: counties & cities with over 1,000 people	State	Emergency Management Agency Department of Defense	Yes	§38-3-2, et seq.	Yes
KY	Yes	Mandatory: cities counties	State	Division of Disaster and Emergency Services in Department of Military Affairs	Yes	§39.400, et seq. §174.400, et seq.	Yes

MATRIX (continued)

State	Nuclear - specific	Local Organizations	Source of Funding	Office w/Primary Responsibility	Interstate Civil Defense and Disaster Compact	Statutory Authority	Regulations
LA	Yes	Mandatory	Utilities & State	Office of Emergency Preparedness Department of Public Safety & Corrections	Yes	§29:701, et seq. §32:1501, et seq. §30:2001, et seq.	No
MD	Yes	Mandatory: All political subdivisions & Baltimore	State	State Emergency Management & Civil Defense Agency	Yes	Art. 16A, § 1, et seq. §7-201, et seq. §18-204	No
MS	Yes	Mandatory: cities & counties	State	Mississippi Emergency Management Agency	Yes	§33-15-1, et seq. §45-14-1, et seq.	No
MO	Yes	Mandatory: All political subdivisions	State	State Emergency Management Agency	No	§260.500, et seq. §44.010, et seq. §192.510	Yes
NC	Man-made disasters	Authorized: cities & counties	Utilities & State	Department of Crime Control & Public Safety	No	§166A-1, et seq. §104E-16, et seq.	No

MATRIX (continued)

State	Nuclear - specific	Local Organizations	Source of Funding	Office w/Primary Responsibility	Interstate Civil Defense and Disaster Compact	Statutory Authority	Regulations
OK	Man-made disasters	Mandatory	State	Department of Civil Defense	No	63§663 63§683.1, et seq.	No
SC	No	None required	State	South Carolina Emergency Preparedness Division, Office of Adjutant General	Yes	§25-1-420, et seq. §13-7-10, et seq.	No
TN	Yes	Mandatory: each political subdivision of the state	State	Tennessee Emergency Management Agency	Yes	§38-9-101, et seq. §58-2-101, et seq.	No
TX	Man-made causes	Mandatory: counties Governor may require cities	State	Division of Emergency Management, Office of Governor	Yes	Gov. Code §418.001, et seq. Health-Public §4590f-1, et seq.	Yes
VA	Yes	Optional	Utility & State	State Department of Emergency Services	No	§44-146.13, et seq. §56-245.1:1	No

MATRIX (continued)

State	Nuclear - specific	Local Organizations	Source of Funding	Office w/Primary Responsibility	Interstate Civil Defense and Disaster Compact	Statutory Authority	Regulations
WV	Man-made causes	Mandatory	State	Office of Emergency Services	Yes	§15-5-1, et seq.	No

ALABAMA

Statutory Authority

Alabama Emergency Management Act of 1955 Ala. Code §§31-9-2, *et seq.*

This act authorizes the response to an enemy attack or a natural disaster but does not mention radiological emergency response specifically. The Alabama Radiation Emergency Plan, however, cites this act as authority for the plan.

The Alabama Emergency Management Agency is created by the act. The governor is granted general powers over the emergency management functions of the state and is also granted emergency powers listed in the statute. Among his powers is the authority to enter into mutual aid agreements and compacts, and Alabama has joined the Interstate Civil Defense and Disaster Compact.

Each political subdivision of the state is required to establish a local emergency management organization. The powers of the local organizations under the act are listed in the statute; among those powers is the power to enter into mutual aid agreements with other public and private agencies in the state.

Funds for emergency management expenses are to be appropriated by the legislature. There is an initial appropriation of \$250,000 for these purposes. In addition, the state and its political subdivisions are authorized to accept services, equipment, supplies and funds by way of gift, grant or loan from the federal government, a person, firm or corporation for emergency management purposes.

Regulations

Ala. Board of Health Rules ch. 420-3-26 (Unofficial)

RADIATION CONTROL REGULATIONS (UNOFFICIAL).

ARKANSAS

Statutory Authority

Nuclear Planning and Response Program Ark. Stat. Ann. §§20-21-401, *et seq.*

The Department of Health, Nuclear Planning and Response Program Office of the Division of Radiation Control and Emergency Management is responsible for carrying out a nuclear planning and response program in the state. The statute authorizes the training and education of persons residing near nuclear plants, a plan for immediate emergency response capability in the event of an incident or accident at the facility, evacuation procedures and other precautionary measures to be taken in the event of a radiation accident or incident. The Department of Health is further authorized to take other actions deemed necessary to educate and equip citizens to respond to an incident or accident at a nuclear generating facility. The chief fiscal officer of the state annually determines the cost of the preparation and maintenance of the program and apportions this cost to each utility operating a nuclear power facility in the state. These funds are deposited in the Arkansas Nuclear Planning and Response Fund and are to be used exclusively to finance the program.

The statute provides a system of grants to counties required by federal or state regulations to prepare nuclear disaster and response procedures and precautions due to their proximity to nuclear power plants. The payments, paid quarterly, are no more than \$2,500.

A Nuclear Planning and Response Program Advisory Committee is established under the statute to coordinate plans by state and utility officials and to provide a public forum on nuclear concerns at the state's nuclear power plants. The committee is to meet at least annually. The composition of the committee is set out in the statute.

Arkansas Emergency Services Act of 1973 Ark. Stat. Ann. §§12-75-101, *et seq.*

This act authorizes state response to any radiological incident. It establishes the Office of Emergency Services as the state agency in charge of emergency management, which is responsible for preparing and maintaining a state disaster plan. The act enumerates the powers and duties of the office and the emergency powers and duties of the governor. Each county is required to maintain a local office of emergency services or to participate in an interjurisdictional plan. The governor may require some cities to establish municipal emergency management agencies. Local agencies are encouraged to participate in mutual aid agreements. Local emergencies may be declared. The state and local governments are permitted to accept services, gifts, grants and loans from the federal government or any person, firm or corporation for emergency services or disaster relief purposes. Arkansas is a member of the Interstate Civil Defense and Disaster Compact.

Arkansas Hazardous Waste Management Law Ark. Stat. Ann. §§8-7-201, *et seq.*

The definition of hazardous waste in this statute includes radioactive waste. The Department of Pollution Control and Ecology is the agency in charge of state hazardous waste control. The department is to enforce all laws, rules and regulations relating to

hazardous waste. In the event that the department determines that the storage, transportation, treatment or disposal of any waste may present an imminent and substantial hazard to the health of persons or to the environment and that an emergency exists, the department may order that necessary action be taken to protect the health of persons and the environment.

Regulations

Arkansas Board of Health Rules RH 3000-3400 (Unofficial)

ARKANSAS RADIATION PROTECTION REGULATIONS.

FLORIDA

Statutory Authority

Radiological Emergency Response Fla. Stat. Ann. §252.60

This statute authorizes the preparation and implementation of radiological emergency response plans and preparedness requirements imposed by the NRC and FEMA. The Division of Emergency Management of the Department of Community Affairs is responsible for preparing the plans, in conjunction with the affected counties and the operators of commercial nuclear power plants. Funding is to be provided by the operators of nuclear power plants, who may enter into agreements with other state agencies or the appropriate counties, if necessary, to obtain funds.

Emergency Management Fla. Stat. Ann. §252.31 *et seq.*

The State Emergency Management Act would be implemented in the event of an incident at a nuclear facility or a transportation accident involving nuclear materials. An emergency is defined as an occurrence, or threat thereof, whether accidental, natural or caused by man, that results or may result in substantial injury or harm to the population or substantial damage to or loss of property. The Division of Emergency Management is authorized to take various preparatory steps before an emergency occurs. Each county is required to establish an emergency management agency, and each city is authorized and encouraged to create a municipal emergency management agency. Two or more counties may join together to create an interjurisdictional agency. These local agencies are to perform emergency management functions in their territorial limits and are to provide local emergency management plans. County agencies are permitted to enter into mutual aid agreements with other county agencies in the state, and the governor is authorized to enter into compacts with other states to render mutual aid in an emergency. The governor is given additional powers over the emergency management functions of the state, as necessary. Financing is to be appropriated by the state, as necessary. The state and its counties may accept gifts, grants or loans from the federal government and private individuals and corporations only in an emergency. Florida has not entered into the Interstate Civil Defense and Disaster Compact.

Other Statutory Authority Fla. Radiation Protection Act, Fla. Stat. Ann. §§404.042; 404.051

The Department of Health and Rehabilitative Services is designated the state agency to administer a statewide radiation protection program. The Department is to respond to any emergency that involves the possible or actual release of radioactive materials, to carry out or supervise any required decontamination and to otherwise protect the public health and safety.

Regulations

Fla. Admin. Code, Chapter 9G-6, 9G-7; Fla. Admin. Code sec. 10D-91.101 *et seq.*; RADIATION CONTROL REGULATIONS (UNOFFICIAL).

The regulations require each county emergency management agency to prepare a local emergency management plan consisting of three parts: (1) a peacetime emergency plan, which is concerned with natural disasters, hazardous materials spills and industrial emergencies; (2) the Nuclear Civil Protection Plan, which is concerned with the threat of nuclear war; and (3) the Radiological Emergency Plan for Nuclear Power Plants, which is concerned with areas within 50 miles of a nuclear plant. Transportation emergencies involving nuclear materials would be covered under the Radiological Emergency Plan for Nuclear Power Plants. The requirements for each plan are detailed in the regulations, along with procedures for certification and periodic review.

GEORGIA

Statutory Authority

Georgia Emergency Management Act of 1981 Ga. Code Ann. §§38-3-1, *et seq.*

This act is a general emergency management statute. It defines emergency management to include disasters or the imminent threat thereof whether of man-made or natural origin. The act also covers energy emergencies, which refers to any condition of substantial danger to the health, safety or welfare of the citizens of the state resulting from the operation of any electrical-power generating facility, the transport of any energy resource or the production, use or disposal of any source material, special nuclear material or by-product and also any nuclear incident occurring within or outside Georgia that substantially affects the health, safety or welfare of the citizens of the state.

The act creates the Emergency Management Division, Department of Defense. The governor is given several emergency management powers and duties by the act, as well as special emergency powers. There are statutory limits on these powers in the event of an energy emergency.

Each city of over 1,000 people and each county is required to establish a local emergency management agency. Interjurisdictional emergency management agencies are authorized. Powers of the local organizations are listed by the statute. Mutual aid agreements between local agencies and other agencies, within or without the state, are permitted. A fund is set up to provide assistance to local emergency management organizations in purchasing equipment needed for emergency management duties.

In the event that governmental functions cannot be conducted in Atlanta the act allows the governor to designate a provisional seat of government. A similar provision is including for local governments.

Georgia is a member of the Interstate Civil Defense and Disaster Compact.

Georgia Radiation Control Act Ga. Code Ann. §§31-13-1, *et seq.*

The Department of Human Resources is designated the state agency to administer a state-wide radiation control program. The department is charged with the responsibilities of developing policies and programs for the evaluation and amelioration of radiation hazards, with conducting studies, investigations, public hearings, training, research and demonstrations relating to radiation, and other duties concerning radiation. The department is authorized to issue emergency orders in the event of an emergency. The department also has impoundment authority.

Regulations

Ga. Admin. Code ch. 155-1; Ga. Admin. Code ch. 290-5-23; RULES AND REGULATIONS FOR RADIOACTIVE MATERIALS.

The regulations begin by referring to pertinent amendments to the Georgia Emergency Management Act and describing the purposes of the regulations and definitions. Licensing requirements for state rescue operations are provided, along with the authority for establishing local rescue organizations and the application and renewal processes for these organizations and revocation or suspension standards. Standards for rescue specialists and required training for them in hazardous materials and auto extrication are given, along with the standards for rescue instructors. The minimum standards for primary rescue vehicles are outlined. The second section of the regulations concerns the fund provided for in the act to assist local emergency management organizations in purchasing necessary equipment to prepare for an emergency. Requirements for the fund, equipment that qualifies for the fund, priorities and application and financial procedures are listed.

KENTUCKY

Statutory Authority

Disaster and Emergency Services Act Ky. Rev. Stat. §§39.400, *et seq.*

This act is a general emergency statute providing for response in the event of natural or man-caused disasters and transportation emergencies. The act specifically provides for radiological monitoring, decontamination and neutralization in the event of an emergency. The act creates the Division of Disaster and Emergency Services of the Department of Military Affairs. The adjutant general is the director of the program, and he is empowered with certain duties and responsibilities by the act, including the duty to prepare a comprehensive disaster and emergency response plan and program for the state. The governor is granted express emergency powers by the act.

Each county and city is required to establish an emergency preparedness agency under the act, or two or more cities or counties may form an interjurisdictional agency. These local organizations are authorized to develop mutual aid agreements with other agencies in the state. Additional powers of the local organizations are listed. Funding for local emergency preparedness is to be provided by the state through use of supplemental funds. The state funds are to be allocated on a reimbursement basis in amounts not to exceed 50 percent of the total local expenditures.

The act adopts the Interstate Civil Defense and Disaster Compact.

Regulations

106 Ky. Admins. Reg. 1:020, *et seq.*

This regulation concerns the fund, established by the Disaster and Emergency Services Act, to aid funding of local emergency preparedness organizations. The regulation lists its purposes, the responsibilities of the various personnel involved with emergency preparedness services, the benefits of the fund, eligibility requirements of the fund, the administrative process, review and waivers.

The regulations further authorize the development of rescue organizations to provide emergency assistance in the event of a disaster or emergency, their purposes and responsibilities, eligibility for funds, and application procedures, expenditure requirements, inspections, audits and reports.

LOUISIANA

Statutory Authority

Louisiana Nuclear Energy and Radiation Control Law La. Rev. Stat. Ann. §§30:1101 *et seq.*

The statute defines an emergency as any condition existing within or outside the jurisdictional confines of a nuclear facility arising from the presence of a byproduct material, source material, special nuclear material or any other radioactive materials or source of radiation that endangers or could reasonably be expected to endanger the health and safety of the public or contaminate the environment. The Office of Air Quality and Nuclear Energy of the Department of Environmental Quality is designated the state agency responsible for radiation protection and control. The office is to develop and implement a statewide radiological emergency preparedness plan and coordinate the development of specific emergency plans for nuclear power facilities, to respond to any emergency involving possible or actual release of radioactive material, to coordinate decontamination efforts, to issue relocation and evacuation recommendations and to otherwise protect the public welfare and safety in any manner deemed necessary and appropriate.

The act authorizes an annual fee to be paid by each utility operating a nuclear power plant located in the state or which has a Plume Exposure Pathway Emergency Planning Zone located in any part of the state. These fees are to cover the costs of developing, maintaining and implementing state radiological emergency preparedness plans and radiation surveillance and monitoring programs. The amount of the fees is to be determined by the secretary.

The act also includes powers of the department pertaining to emergency planning and response.

Louisiana Disaster Act of 1974 La. Rev. Stat. Ann. §§29:701, *et seq.*

This act is the general emergency response statute for the state and applies in the event of any disaster, whether of natural or man-made causes. The State Office of Civil Defense and Emergency Preparedness is created under the statute, and is granted specific powers to, among other things, develop a state disaster plan. The governor is granted general and emergency powers by the statute. Louisiana has enacted the Interstate Civil Defense and Disaster Compact.

The law provides for the declaration of local emergencies and lists the special powers of the local government during such an emergency. Each parish is required to maintain a disaster agency or to participate in an interjurisdictional agency; the governor is to determine which cities need their own disaster agencies. Local organizations are encouraged to participate in mutual aid agreements.

Funding under the act is to be secured from monies regularly appropriated to state agencies. If a disaster requires expenditures in excess of available funds, the governor may transfer monies appropriated for other purposes or he may borrow from the federal government or any other public or private source. A Disaster Emergency Funding Board is established to provide funding for emergency response to environmental accidents or disasters, reimbursements for restoration of the environment or expenditures from the response fund not recovered from responsible persons. The Bond may also use money

for implementation of the Environmental Emergency Response Training Program created by the act to provide training for emergency response personnel to quickly, efficiently and effectively respond to environmental emergencies.

Other Statutes La. Rev. Stat. Ann. §§36:408, 36:409

The Louisiana Civil Defense Agency was abolished by this act and its duties were transferred to the Department of Public Safety and Corrections. The office is now responsible for coordinating emergency response activities in the state.

Regulations

La. Admin. Code tit. 32, sec. 101-2513

RADIATION PROTECTION REGULATIONS (UNOFFICIAL).

MARYLAND

Statutory Authority

State Emergency Management and Civil Defense Act Md. Ann. Code Art. 16A, §§1, *et seq.*

This general emergency response statute defines an emergency as one of a listed group of events "or other catastrophe," thus including a radiological disaster. It later specifically mentions nuclear power plants, discussed *infra*. The act creates the State Emergency Management and Civil Defense Agency as part of the Department of Public Safety and Corrections and designates it as the government office in charge of emergency response. It also creates the Emergency Management Advisory Council to advise the governor on all emergency management issues. The governor is given general direction and control of the agency itself and is vested with certain emergency powers. The agency is responsible for the coordination of emergency response activities during a declared emergency.

Each political subdivision of the state is required to maintain an emergency response organization. Each local organization that falls within a plume or ingestion zone of a nuclear reactor, or which might reasonably be expected to host evacuees from another jurisdiction within a plume or ingestion zone, is required to prepare a radiological emergency response plan. The plan for each jurisdiction within a plume or ingestion zone is required to provide for evacuation of the residents of the jurisdiction following an emergency caused by the release of radiation. The director of the agency will develop mutual aid agreements for the political subdivisions in the state.

Expenditures necessitated by an emergency are made first from funds regularly appropriated to state and local agencies. If these funds are inadequate, the Board of Public Works is required to make other funds available. The state and its political subdivisions are authorized to accept services, equipment, supplies, materials or funds by way of gift, grant or loan from the federal government, a person, firm or corporation.

Provisions are made in this chapter for the continuation of governmental functions in the event that county councilmen or commissioners, mayors or town councilmen are killed, sick, injured, incapacitated or are missing due to an emergency.

Maryland Radiation Control Act Md. Env. Code Ann. §§8-101, *et seq.*

This act authorizes the secretary of the Department of the Environment to declare that a radiological emergency exists and to take whatever steps necessary to meet the emergency. During an emergency, he may order the impoundment of a source of radiation or may order the person in possession of the radiation source to stop any violation.

The act also creates the Radiation Control Advisory Board to advise the secretary on radiation matters.

Maryland Controlled Hazardous Substances Act Md. Env. Code §§7-201, *et seq.*

The definition of a controlled hazardous substance in this act includes low-level nuclear waste. The Department of the Environment is designated as the state agency to supervise and control hazardous substances. The Controlled Hazardous Substances

Advisory Council is created within the department. In the event that any hazardous substance is released or there is a substantial threat or a release into the environment, the department may remove or arrange for the removal of the hazardous substance and provide for remedial action, as necessary. The department may also take any other response measures necessary to protect the public health or welfare of the environment.

The act also creates a State Hazardous Substance Control Fund financed through application and permit fees, renewal fees, transportation vehicle certification fees and other funds collected under this act. The fund is used by the department and any local or state agency for activities related to identifying, monitoring and controlling the proper disposal, storage, transportation or treatment of controlled hazardous substances. The person responsible for the release or threatened release of a controlled hazardous substance is required to reimburse the department for all expenditures from the fund in response to the release or threatened release.

Other Authority Md. Cts. & Jud. Proc. §§3-1102, *et seq.*

A motor carrier transporting hazardous materials in the state who is at fault and causes a traffic accident is responsible for the expense of the emergency response if: (1) a release of the hazardous materials occurs, and (2) an emergency response by a volunteer or paid fire department, a volunteer rescue squad or a volunteer ambulance company is required. The statute includes radioactive materials in the definition of a hazardous substance.

Md. Ann. Code Art. 41 §18-204

Each county, as well as the city of Baltimore, are required to prepare an emergency preparedness plan for responding to a hazardous substance or controlled hazardous substance emergency. This includes radioactive materials, as discussed supra.

Regulations

Md. Reg. sec. 10.14.02.01

RADIATION CONTROL REGULATIONS (UNOFFICIAL).

MISSISSIPPI

Statutory Authority

Mississippi Emergency Management Law Miss. Code Ann. §§33-15-1, *et seq.*

This act does not specifically mention radiological emergency management, but it does state that emergencies caused by man-made or technological causes are included under the act. The act establishes the Mississippi Emergency Management Agency and the Mississippi Emergency Management Council. The agency is responsible for the emergency management program in the state, while the council advises the governor and the director of the agency. In addition, the governor is granted numerous express emergency powers, including the power to enter into reciprocal aid agreements or compacts with other states. Mississippi is a member of the Interstate Civil Defense and Disaster Compact.

Each county and city is authorized to establish a local organization for emergency management, if required by the state emergency management plan and program. Two or more counties or cities may form a joint agency. The statute lists the powers of local agencies. Mutual aid agreements are authorized for local organizations.

Mississippi Radiation Protection Law of 1976 Miss. Code Ann. §§45-14-1, *et seq.*

The State Board of Health is designated as the state agency to administer a state-wide radiation protection program. It is responsible for responding to any emergency involving possible or actual release of radioactive materials, coordination of decontamination and other protection of the public health and safety. When the board finds that an emergency exists, it may issue an order requiring that necessary action be taken to meet the emergency, including the emergency impounding of radiation sources.

In the event of a radiation accident involving an emergency response action by the state, the state is authorized to demand reimbursement for the expense from the party controlling the radioactive material or responsible for the release of radiation.

The Mississippi Emergency Management Agency, in conjunction with the Board of Health, is required to develop a training program for public safety officials that shall include instruction on emergency response to transportation accidents involving radioactive waste.

Regulations

Miss. Board of Health, Division of Radiological Health,
Environmental Protection Regulations (Pt. 801 Div. 800)

RADIATION CONTROL REGULATIONS (UNOFFICIAL).

MISSOURI

Statutory Authority

Civil Defense Mo. Ann. Stat. §§44.010, *et seq.*

This act defines a disaster as the result of an enemy attack or a natural cause. While this might be interpreted to exclude a radiological emergency, the Missouri Nuclear Emergency Assistance Plan cites this section as authority for the plan.

The act creates the Disaster Planning and Operations Office, Civil Defense, within the office of the Adjutant General. The name of this office was changed in 1982 by executive order of the governor to the State Emergency Management Agency. The governor is given general direction and control of the agency, and the adjutant general is the executive head of the agency. Their respective powers are also listed. The governor is authorized to create advisory commissions and enter into mutual aid agreements with other states. Missouri is not a member of the Interstate Civil Defense and Disaster Compact. The state is authorized to accept an offer from the federal government for services, equipment, supplies or materials by way of gift, grant or loan for civil defense purposes on behalf of itself or a political subdivision.

Each political subdivision is required to establish a local organization for civil defense planning. Powers of the local organizations are listed in the act. Local organizations are authorized to enter into mutual aid agreements with other public and private agencies within and outside of the state.

In addition, the Missouri Disaster fund is established. The money in the fund is to be expended during a state emergency, to implement state disaster plans, at the direction of the governor, for civil defense purposes, to assist political subdivisions that have suffered from a disaster or to meet the matching requirements of federal assistance programs. Money for the fund comprises annual legislative appropriations, as well as voluntary contributions and federal appropriations.

Radiation Control Mo. Stat. Ann. §192.510

The Department of Health is required to respond to all radiation emergencies. The department is to coordinate its activities with the State Emergency Management Agency, the Department of Natural Resources and other agencies.

Missouri Hazardous Waste Management Law Mo. Stat. Ann. §§260.500, *et seq.*

Nuclear waste transportation accidents are covered by this law. The Department of Natural Resources is responsible for developing a Hazardous Substance Emergency Response Plan under this act. In case of an accident, the department may take charge of the cleanup efforts or it may require the person having control over the nuclear waste to clean up the waste and to take such other steps as are necessary to end the hazardous substance emergency. It may further require a person controlling nuclear waste involved in an emergency to take such corrective measures as reasonably required to prevent a recurrence of the emergency. Any person exercising control over a hazardous substance shall be strictly liable to the state for the reasonable cleanup costs incurred by the state as the result of the failure of the person to clean up the hazardous waste unless the release

was the result of an act of God, an act of war, an act of the state, of the United States or of a third party. If the failure to clean up the waste is willful, the person may be liable for punitive damages up to three times the cleanup cost. Money received pursuant to this section shall be deposited in the Hazardous Waste Remedial Fund, to be used for control, abatement, cleanup, investigation and other reasonable costs incurred in responding to hazardous waste emergencies.

Regulations

11 Mo. Admin. Code 10-11

This regulation states the purpose for the Disaster Operations Plan and the Resources Management Plan.

NORTH CAROLINA

Statutory Authority

North Carolina Emergency Management Act of 1977 N.C. Gen. Stat. §§166A-1, *et seq.*

This statute, based on the Example State Disaster Act of 1972, covers the gamut of possible emergencies, whether natural, man-made or military in nature. It grants the governor and the Department of Crime Control and Public Safety general powers, and additionally grants the governor emergency powers. The functions of the state management program are also outlined.

All persons, firms, corporations or municipalities that are licensed to construct or who are operating a nuclear power plant in the state or which has a Plume Exposure Pathway Emergency Planning Zone of which any part is located in the state must pay annual fees to the state. The fees are: a \$30,000 floor is established and a fee equal to or above this amount is to be paid to the Department of Public Safety and Crime Control, and \$12,000 to be paid to the Department of Human Resources. These fees are designated for the planning and implementation of emergency response activities required by FEMA. In addition, the state and its political subdivisions are permitted to accept services, equipment, supplies, materials or funds by way of gift, grant or loan from the federal government for emergency management purposes.

The individual counties are responsible for the emergency management of their counties. As such, the statute authorizes the establishment of emergency management agencies by the counties. If a county does not establish an emergency management agency, the governor may, at his discretion, establish the agency for the county. In addition, the act authorizes any municipality in the state to create its own emergency management agency. Local emergencies can be declared. Local emergency management agencies are authorized to enter into mutual aid agreements with other local governments, whether within or outside the state, although at this time, North Carolina has not entered the Interstate Civil Defense and Disaster Compact.

North Carolina Radiation Protection Act N.C. Gen. Stat. §§104E-1, *et seq.*

This act designates the State Department of Human Resources as the state radiation protection agency. The Department is to respond to any emergency which involves the possible or actual release of radioactive material, to perform or supervise any decontamination and to otherwise protect the environment. The act also creates a Non-reverting Radiation Protection Fund which is intended for use in defraying the expenses of emergency response and decontamination of radiation accidents, among other things. Money is appropriated to this fund by the legislature. In the event of a radiation incident that required emergency response and decontamination efforts, any person having control over the radioactive materials or the release thereof or any person causing or contributing to such an incident is liable to the state for necessary expenses incurred in responding to the accident. Also, there is a security bond to cover emergency response costs required of any person who shall use, manufacture, produce, transport, transfer, acquire, own, possess or dispose of radioactive material.

Other Statutory Authority N.C. Gen. Stat. §143B-474

This act places the duty of providing law enforcement and emergency services to protect the public from natural and man-made disasters on the Department of Crime Control and Public Safety.

Regulations

Title 14A N.C. Admin. Code ~~SS04.0100~~, *et seq.*; N.C. Admin. Code tit. 10 Ch. 3; NORTH CAROLINA REGULATIONS FOR PROTECTION AGAINST RADIATION.

Some of the important regulations are as follows:

- There is a listing of the headquarters of the six state emergency management areas, their addresses and the counties served by the regional offices;
- The purposes and objectives of the Division of Emergency Management;
- The organizational hierarchy of the Division of Emergency Management;
- Lists the manuals, forms and assistance produced or possessed by the department, and where they can be obtained; and
- Details the requirements of local emergency management programs.

OKLAHOMA

Statutory Authority

Oklahoma Civil Defense and Emergency resources Management Act of 1967 Okla. Stat. Ann. tit. 63, §§663, *et seq.*

Oklahoma does not have a specific act providing for emergency management in the event of a nuclear incident. This statute is designed to cover any emergency situation that arises, whether from enemy attack or sabotage or from fire, flood, tornado, earthquake or other causes. The Department of Civil Defense is created to provide for emergency services during an emergency. The act also creates a Civil Defense Advisory Council to advise the governor and the director of the Department of Civil Defense on all matters pertaining to civil defense.

The governor is given powers and duties under the act, and is given special emergency powers operative only during a civil defense emergency. Each political subdivision of the state is required to establish a local civil defense agency. These local organizations are authorized to enter into mutual aid agreements with other local agencies in the state or in states that border Oklahoma. The state and its political subdivisions are authorized to accept from the federal government, or from any person, firm or corporation, services, equipment, supplies, materials or funds by way of gift, grant or loan for civil defense purposes.

The act creates within the state treasury a special fund for the office of civil defense called the Civil Defense Disaster Relief Matching Fund. The fund consists of money appropriated to it, and is used as the state's share of matching funds required to receive federal funds under the Disaster Relief Act of 1974. In addition to this fund, the act also authorizes the governor to allocate money from the Governor's Contingency and Emergency Fund to supplement funds appropriated to the state Civil Defense Agency.

Oklahoma has not entered the Interstate Civil Defense and Disaster Compact.

Regulations

No published regulations are available at this time.

SOUTH CAROLINA

Statutory Authority

South Carolina Emergency Preparedness Division S.C. Code Ann. §§25-1-420. *et seq.*

This act establishes the South Carolina Emergency Preparedness Division within the Office of the Adjutant General. The division is responsible for coordinating a state emergency plan, conducting a statewide preparedness program, establishing a State Emergency Operations Center and establishing a system for reporting, analyzing, displaying and disseminating emergency information. The governor is given emergency powers by the statute, and the duties of state, county and municipal governments for mutual assistance in emergencies are also listed. The act authorizes emergency loans to counties and municipalities suffering from an emergency. Loans are not to exceed \$1.5 million to any individual county or municipality.

Other Statutory Authority South Carolina Atomic Energy and Radiation Control Act, S.C. Code Ann. §§13-7-10, *et seq.*

This act defines an emergency as any condition existing outside the bounds of nuclear operating sites concerning the handling or the transportation of by-product material, source material or special atomic energy materials endangering, or reasonably expected to endanger, the health and safety of the public or to contaminate the environment. In the event of such an emergency, the Department of Health and Environmental Control may order that any necessary action be taken to meet the emergency.

S.C. Code Ann. §§25-9-10, *et seq.*

South Carolina has entered the Interstate Civil Defense and Disaster Compact.

Regulations

S.C. Dept. of Health and Environmental Control Reg. 61-63

RADIATION PROTECTION REGULATIONS (UNOFFICIAL).

TENNESSEE

Statutory Authority

Civilian Defense Law Tenn. Code Ann. §§58-2-101, *et seq.*

This general emergency statute includes the statutory authority for a response to an energy emergency, defined as a condition of danger to the health, safety, welfare or economic well being of the citizens of the state resulting from the operation of any electrical power generating facility, the transport of any energy resource by any means, or the production, use, or disposal of any source material, special nuclear material, or by-product material. This definition also includes any nuclear incident within or without the state substantially affecting the health, safety or welfare of the citizens of the state.

The act creates a State Emergency Management Agency under the adjutant general. The governor shall have general direction and control of the agency, and in the event of an emergency, he shall have direct operational control of the agency. The governor is granted powers in the statute to prepare for the emergency. He is also granted specified emergency powers.

Plans for dealing with an energy emergency shall be prepared by the Division of Energy of the Department of Economic and Community Development. Each political subdivision of the state is required to establish a local emergency management agency and that agency is granted several emergency powers by the statute. The local organizations are authorized to enter mutual aid agreements with other local agencies in the state and with civil defense agencies and organizations in other states. Interjurisdictional agencies between two or more counties are authorized. The local organizations receive funding from their parent political subdivisions. The state and its political subdivisions are authorized to accept from the federal government, or any person, firm, or corporation, services, equipment, supplies, materials, funds by way of gifts, grant or loan for civil defense purposes. The state is also authorized to make grants to any political subdivision in the state for the administrative costs of local civil defense and emergency preparedness.

The act also authorizes the governor to enter into civil defense and disaster compacts. Tennessee has joined the Interstate Civil Defense and Disaster Compact.

The State Disaster Relief Fund Act Tenn. Code Ann. §§58-2-501, *et seq.*

The Disaster Relief Committee is created by this act and is responsible for the implementation, supervision and administration of all localized disaster relief fund activities. A localized disaster is described only in terms of a "natural" disaster or phenomenon. It would therefore appear that the act does not cover emergency response to radiological accidents or disasters.

Civil Emergencies Tenn. Code Ann. §§38-9-101, *et seq.*

The definition of a civil emergency includes any natural or man-made calamity within the geographic limits of a municipality resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety or welfare. Upon a proclamation of civil emergency, the chief administrative officer may exercise his emergency powers.

Local Government Emergency Assistance Act of 1987 Tenn. Code Ann. §§58-2-601, *et seq.*

In the event of an emergency, a local government may request that another local government send personnel and equipment into the stricken area to render emergency assistance. The act details the jurisdiction, authority, immunity, liability and order of command in such an event.

Regulations

No published regulations are available at this time.

TEXAS

Statutory Authority

Texas Disaster Act of 1975 Tex. Gov't Code Ann. §§418.001, *et seq.*

Texas does not have a specific statute addressing radiological emergency response. The Disaster Act, however, defines a covered disaster as the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including a radiological emergency. The act is modeled after the Example Disaster Act of 1972. The governor is permitted to establish an Emergency Management Council. In the event of an emergency, the governor is vested with various emergency powers. Provision is made for the state to apply for federal aid to local governments and for the state to accept federal grants to aid individuals following a disaster.

The act also creates the Division of Emergency Management of the Office of the Governor and requires it to prepare and keep current a comprehensive state emergency management plan. Other powers and duties of the division are listed in the statute. In addition, each county must maintain an emergency management agency or participate in an interjurisdictional agency. The governor will determine which cities are to have their own emergency management agencies. Each local agency is responsible for preparing an emergency management plan for its own area. Local disasters can be declared. Mutual aid agreements between local governments are encouraged.

A Disaster Contingency Fund is created, through appropriations, to ensure funding in the event of a disaster and is overseen by the Disaster Funding Board. In addition, the state and its political subdivisions are authorized to accept services, equipment, supplies, materials or funds as a gift, grant or loan from the federal government, any private or public agency or an individual.

Low-Level Radioactive Waste Disposal Authority Act Tex. Health & Safety Code Ann. §4590f-1

This act requires the Texas Low-Level Radioactive Waste Disposal Authority to develop an emergency response plan for each disposal site to be implemented in the event the site becomes a threat to the public health or safety or the environment.

Interstate Civil Defense and Disaster Compact

Texas has adopted the Interstate Civil Defense and Disaster Compact.

Other Statutory Authority Texas Radiation Control Law, Tex. Civ. Code Ann. §§4590f

This act designates the Texas State Department of Health as the state radiation control agency. The various functions of the department in protecting the public health and safety are listed in the act. The department has injunction and impoundment authority to protect the public from nuclear dangers. The act also creates a Radiation Advisory Board, to review and evaluate policies and programs of the state relating to radiation and make recommendations to the department. The board will also provide technical advice to the department.

Regulations

Tex. Admin. Code tit. 37, §1.142; Texas Dept. of Health, Bureau of Radiation Control Regs. (Unofficial); RADIATION CONTROL REGULATIONS (UNOFFICIAL).

This authorizes the Department of Public Safety to use helicopters in the event of a disaster for aerial reconnaissance and disaster relief.

Tex. Admin. Code tit. 37, §1.54

Media access to disaster areas is covered in this section.

Tex. Admin. Code tit. 37, §3.51

This section imposes a duty upon officers of the Department of Public Safety to make emergency rules when normal operating procedures prove inadequate under "unusual" conditions affecting the lives, health or property of the general public at disaster scenes. Accidents involving radioactive materials are listed as an example of such an "unusual" condition.

Tex. Admin. Code tit. 37, §7.1, *et seq.*

The regulations require each county and incorporated city in Texas to maintain an emergency management agency or to participate in an interjurisdictional agency. The mayor of each city and the county judge of each county are the respective directors of their agencies. The state and local and/or interjurisdictional agency or agencies are required to prepare, update and distribute emergency response plans.

Also included in this section are the eligibility requirements for local participation in certain federal assistance programs. The declaration of a local disaster is covered under this section, as are requests for state assistance, evacuations from local disasters and use of emergency powers by local governments.

VIRGINIA

Statutory Authority

Emergency Services and Disaster Law Va. Code §§44-146.13, *et seq.*

This law covers emergency response for natural and man-made disasters, expressly including nuclear and transportation accidents. The creation of the State Department of Emergency Services is authorized in the statute, and its functions in preparation for and during an emergency are listed. The governor is the director of emergency services. Emergency services agencies are authorized for each political subdivision in the state, and are required to prepare a local emergency operations plan. Local agencies are authorized to enter into mutual aid agreements with other public or private agencies within the state or in an adjacent state. Interjurisdictional disaster agencies are authorized.

The act creates the Virginia Disaster Response Fund, a non-lapsing revolving fund appropriated by the legislature for use in emergency planning and response. The governor is also allowed to spend such other funds available in the treasury as are necessary in the event of a disaster.

A local emergency can be declared by the local director of emergency services, who grants the local organization with emergency powers.

Funding for State and Local Government Radiological Emergency Preparedness Va. Code §§44-146.31, *et seq.*

A Radiological Emergency Preparedness Fund is created by these sections to support the activities of state and local agencies in establishing, maintaining and operating plans to handle nuclear accidents as required by the NRC and FEMA. Funding is provided by the operators of each nuclear power plant in the state. Each plant pays "an amount based upon the projected annual cost of administering the state and local government's radiological emergency preparedness programs for the station." Va. Code §44-146.3.2.C.

Virginia Hazardous Materials Emergency Response Program Va. Code §§44-146.34, *et seq.*

This law includes radioactive materials in its definition of hazardous materials. The Department of Emergency Services is authorized to implement the program. It is required 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. The department may enter into agreements with political subdivisions to provide hazardous materials emergency response within certain areas on a cost-sharing basis. Disbursements are made from the Virginia Disaster Response Fund, and the department is authorized to seek reimbursement from any party responsible for causing or contributing to an accident or incident involving hazardous materials.

The act also creates two advisory councils, the State Hazardous Materials Emergency Response Advisory Council and the Virginia Emergency Response Council.

Radiation Control Laws Va. Code §§32.1-227, *et seq.*

This act creates the Radiation Advisory Board for state radiation control. The board is responsible for programs aimed at adequately responding to radiation emergencies and the coordination of such programs with the Department of Emergency Services.

Nuclear Emergency Evacuation Plans Va. Code §56-245.1:1

Each utility that owns or operates a nuclear power plant in Virginia must publish a statement or notice approved by the Department of Emergency Services setting forth the evacuation and other protective plans to be taken in the event of a nuclear incident at a facility. The notice is to be published in a newspaper having general circulation within a 10-mile radius of each plant.

Regulations

No published regulations are available at this time; however, Executive Order No. 24(86), dated September 2, 1986, created the Virginia Radiological Emergency Response Plan detailing the manner in which state and local agencies will respond to a radiological emergency. The plan has the same force and effect as regulations.

WEST VIRGINIA

Statutory Authority

Emergency Services W. Va. Code §§15-5-1, *et seq.*

This act does not specifically address radiological emergency response; rather, it is a general emergency statute covering disasters caused by enemy attack, natural or man-made causes, including nuclear disasters.

The Office of Emergency Services in the Governor's Office is created to prepare for and respond to disasters. An Emergency Services Advisory Council is created to advise the governor and the director of emergency services. The act further specifies the general and emergency powers of the governor.

Each political subdivision in the state is required to establish an agency for emergency services, and the powers of these organizations are enumerated. Regional organizations are authorized for any combination of political subdivisions, and in-state mutual aid agreements are encouraged.

The state and its political subdivisions may accept from the federal government, or from any person, firm or corporation, services, equipment, supplies, materials or funds by way of gift, grant or loan.

West Virginia is a member of the Interstate Civil Defense and Disaster Compact.

Regulations

No published regulations are available at this time.

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