

CVR 10-000-001

CODE OF VERMONT RULES
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AGENCY 10. AGENCY OF ADMINISTRATION
SUB-AGENCY 000. GENERAL
CHAPTER 001. RULES FOR STATE MATCHING FUNDS UNDER THE FEDERAL PUBLIC
ASSISTANCE PROGRAM

CVR 10-000-001 (2015)

10 000 001. RULES FOR STATE MATCHING FUNDS UNDER THE FEDERAL PUBLIC
ASSISTANCE PROGRAM

Section 1.1 Purpose.

The purpose of this rule is to establish the criteria and procedures by which to distribute the State share of funds to match federal disaster relief under the Federal Emergency Management Agency's Public Assistance Program. The Emergency Relief and Assistance Fund is established at 20 V.S.A. § 45, along with the requirement for the Secretary of Administration to establish by rule the criteria and procedures for distribution of money from this fund.

The intent of the fund and this Rule is to render state assistance more predictable, consistent and available, as well as to encourage hazard mitigation strategies by municipalities and individuals to reduce potential future damages from natural disasters.

Section 1.2 Definitions.

1.2.1 Administration Plan: Vermont State Administration Plan for Public Assistance produced by the Department of Public Safety, Emergency Management Division, as amended from time to time.

1.2.2 ERAF: Emergency Relief and Assistance Fund established at 20 V.S.A. § 45.

1.2.3 FEMA: Federal Emergency Management Agency.

1.2.4 FEMA Regulations: Title 44 of the U.S. Code of Federal Regulations (44 CFR).

1.2.5 FEMA State Agreement: Agreement governing the administration of a federally declared disaster, signed by the FEMA Regional Director and by the Governor.

1.2.6 Grantee: the State of Vermont, as recipient of funds through Federal Public Assistance Program administered by FEMA.

1.2.7 Hazard Mitigation: Sustained action that reduces or eliminates long-term risk to people and property from natural hazards and their effects.

1.2.8 Subgrantee: A town, city, village, school district, municipal utility, or volunteer fire department meeting the requirements set out at 44 CFR § 206.201(a), (k), and (1).

1.2.9 Stafford Act: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Chapter 68).

1.2.10 VANR: The Vermont Agency of Natural Resources.

1.2.11 VEM: Vermont Emergency Management.

1.2.12 VTRANS: Vermont Agency of Transportation.

Section 1.3 Eligibility.

Funds under these rules shall be provided to subgrantees for repair or replacement of damaged public infrastructure to match federal disaster relief provided following a Presidential declaration of a major disaster under Section 406 of the Stafford Act. The funds may be provided to assist subgrantees in matching public assistance provided by FEMA following the rules established pursuant to the Stafford Act at 44 CFR § 206.

Section 1.4 Allocation of Funds for Federally Declared Disasters.

1.4.1 Municipalities: Twenty four months after the adoption of this rule, the State/municipal match requirements will change as follows. During this twenty four month period, the State/municipal match requirements will remain as described in the Vermont Emergency Relief and Assistance Fund Final Rule, adopted 8/16/2001.

The standard State funding match will be 30% of the non-Federal share of an approved project. The municipality will be responsible for the remaining 70% of the non-Federal share.

In order to qualify for an increased State funding match of either 50% or 70% of the non-Federal share of an approved project, a municipality must meet the requirements described in Appendix A (ERAF State-Share Match Incentives).

The subgrantee will apply to FEMA, following the process set out in the Administrative Plan. Once FEMA has approved the projects for funding, VTRANS will calculate the assistance for which the projects may be eligible and process payment for such eligible projects.

1.4.2 Other Public Subgrantees: Other municipal subgrantees (that are not the legislative bodies of cities, towns or villages), such as school districts, fire districts or municipal utilities, will be responsible for meeting all of the non-federal (25%) share up to \$ 10,000. State funds from the ERAF will be made available to cover the remainder of the non-federal share. The subgrantee will apply to FEMA, following the process set out in the Administrative Plan. Once the projects are approved for funding by FEMA, VTRANS will calculate the assistance for which the projects may be eligible and process payment for such eligible projects.

1.4.3 Payment: In any year, the funding from ERAF shall be paid to subgrantees in order of receipt of certification of project completion, until the ERAF is depleted for that year. Any subgrant that is not funded due to depletion in the ERAF shall be paid in order of receipt of certification of project completion when funding is available.

Section 1.5 Use of Funds for Public Projects.

1.5.1 Funds may be used for the repair and/or replacement of public property damaged in the event of a declared disaster.

1.5.2 Funds shall be used to match the FEMA share in conjunction with local funds for Large Projects, Small Projects and Improved Projects; as defined at 44 CFR § 206.203.

1.5.3 Funds under these rules shall not be available for Alternative Projects as defined at 44 CFR § 206.203(d)(2).

Appendix A. State of Vermont Emergency Relief and Assistance Fund (ERAF).

State Share- Match Incentives

The current State funding default rate for FEMA Public Assistance-eligible projects is 50% of the local match requirement for approved projects. Twenty four months after adoption of this Rule, the State funding default rate shall drop to 30% of the local match requirement. These percentages will apply to both the 75% and 90% federal cost share levels.

Twenty four months after adoption of this Rule, in order to qualify for State match funding to the 50% level of the non-Federal cost share, a municipality must provide verification to the Department of Public Safety that it has adopted or will adopt within 30 days of a federal disaster declaration, or is actively implementing the following programs or measures:

1. Town road and bridge standards consistent with or exceeding those listed under the most current version of Town Road & Bridge Standards, Handbook for Local Officials, published by the Vermont Agency of Transportation;
2. A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step (24 VSA §4415), to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;
3. A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community, and is approved or in the process of securing final approval by FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan; and,
4. Adoption of a local Emergency Operations Plan (EOP) in accordance with State standards.

Twenty four months after adoption of this Rule, in order to qualify for increased State match funding to the 70% level of the non-Federal cost share, a municipality must provide verification to the Department of Public Safety that it has adopted and is actively administering either item (a) or (b) from the following list:

a. Maintenance of an active rate classification (class #1 through 9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones.

or

b. Adoption of a Fluvial Erosion Hazard (FEH) or other river corridor or floodplain protection by-law that meets or exceeds the Vermont Agency of Natural Resources (ANR) FEH model

regulations and scoping guidelines.

For the twenty four month period following adoption of this Rule, the provisions within the current Rule will determine the rate of state financial participation with the municipality.

The secretary of administration, through rulemaking, may establish criteria, procedures, and reporting requirements governing payments from ERAF, as authorized by 20 V.S.A. § 45(a), in order to provide municipalities with up to the full state and local share of match required by FEMA public assistance grants for federal disaster relief related to flood events of a similar magnitude to Tropical Storm Irene or spring 2011 flooding. Criteria established by the secretary of administration shall reflect levels of damage, as approved by FEMA, and the ability of municipalities to provide matching funds that would otherwise be required.

HISTORY: STATUTORY AUTHORITY: 20 V.S.A. § 45

EFFECTIVE DATE: August 16, 2001 Secretary of State Rule Log #01-45

AMENDED: October 23, 2012 Secretary of State Rule Log #12-036