AN ACT

RELATING TO PUBLIC AFFAIRS; CREATING REGIONAL VOLUNTEER
RESPONSE TEAMS TO ASSIST WITH HAZARDOUS MATERIALS ACCIDENT
RESPONSE; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 12-12-19 NMSA 1978 (being Laws 1983,
Chapter 80, Section 3, as amended) is amended to read:

"12-12-19. DEFINITIONS.--As used in the Hazardous
Materials Emergency Response Act:

A. "accident" means an event involving hazardous
materials that may cause injury to persons or damage to
property or release hazardous materials to the environment;

B. "administrator" means the hazardous materials
emergency response administrator;

C. "board" means the hazardous materials safety
board;

D. "chief" means the chief of the New Mexico state police;

E. "commission" means the state emergency response commission;

F. "department" means the homeland security and emergency management department;

G. "emergency management" means the ability to prepare for, respond to, mitigate, recover and restore the scene of an institutional, industrial, transportation or other accident;

H. "first responder" means the first law enforcement officer or other public service provider with a radio-equipped vehicle to arrive at the scene of an accident;

I. "hazardous materials" means hazardous substances, radioactive materials or a combination of hazardous substances and radioactive materials;

J. "hazardous substances" means flammable solids, semisolids, liquids or gases; poisons; corrosives; explosives; compressed gases; reactive or toxic chemicals; irritants; viral diseases, such as the coronavirus disease 2019; or biological agents, but does not include radioactive materials;

K. "orphan hazardous materials" means hazardous substances, radioactive materials, a combination of hazardous substances and radioactive materials or substances used in the
manufacture of controlled substances in violation of the Controlled Substances Act where an owner of the substances or materials cannot be identified;

L. "plan" means the statewide hazardous materials emergency response plan;

M. "radioactive materials" means any material or combination of materials that spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material are not considered to be radioactive materials unless determined to be so by the hazardous and radioactive materials bureau of the water and waste management division of the department of environment for purposes of emergency response pursuant to the Hazardous Materials Emergency Response Act;

N. "responsible state agency" means an agency designated in Subsection D of Section 12-12-21 NMSA 1978 with responsibility for managing a certain type of accident or performing certain functions at the scene of such accident; and

O. "secretary" or "state director" means the state director of homeland security and emergency management."

SECTION 2. Section 12-12-20 NMSA 1978 (being Laws 1983, Chapter 80, Section 4, as amended) is amended to read:

"12-12-20. STATE RESPONSIBILITY FOR MANAGEMENT OF ACCIDENTS--IMMUNITY FROM LIABILITY--COOPERATIVE AGREEMENTS--PRIVATE PROPERTY.--
A. The state director shall have final authority to administer the provisions of the Hazardous Materials Emergency Response Act.

B. As between state and local governments, the state government has the primary responsibility for the management of an accident, and the local government in whose jurisdiction the accident occurs shall assist the state in its management of the accident.

C. Nothing in the Hazardous Materials Emergency Response Act shall be construed as a waiver or alteration of the immunity from liability granted under the Tort Claims Act or as a waiver of any other immunity or privilege under law.

D. The state, through the state director or state director's designee, may enter into cooperative agreements with county and municipal governments for the management of accidents based on the severity of the accident and the resources of the local government. The plan shall set forth the criteria for determining when an accident may be managed by the local government in whose jurisdiction the accident occurred.

E. The state director shall support emergency response capabilities by assisting local and state responders in the acquisition of equipment, training and hazardous materials information.

F. The state, through the state director or state
director's designee, may enter into cooperative agreements with
the federal government, Indian tribes and pueblos and bordering
states for assistance in the management of accidents.

G. Whenever an accident appears imminent or has
occurred, employees or authorized persons of responsible state
agencies as defined in Section 12-12-21 NMSA 1978 are
authorized to enter upon any premises for the purpose of
determining whether it is necessary for emergency management
procedures to be implemented. The state on-scene coordinator
or a responsible state agency may take full control and custody
of the premises for the purpose of managing the accident. A
regional volunteer response team consisting of state employees
may also assist state and local governments in accident
response, at the discretion of the state director."

SECTION 3. Section 12-12-24 NMSA 1978 (being Laws 1983,
Chapter 80, Section 7) is amended to read:

"12-12-24. TRAINING OFFICERS.--Each responsible state
agency shall designate one person who is knowledgeable in the
area of [hazardous materials] accident response, as it applies
to the functions of that agency, to be its training officer.
It is the duty of the training officer to teach the appropriate
personnel within the agency the proper methods of discharging
the agency's responsibilities in responding to [hazardous
materials] accidents. The training officer is also responsible
for providing cross-training to personnel of other responsible
state agencies and other persons as may be required by the hazardous materials safety board. The training officer shall assist in training volunteers and coordinating with other state agencies and local governments to establish regional volunteer response teams statewide. A regional volunteer response team shall consist of state employees and shall assist state and local governments in accident response, including responses to the coronavirus disease 2019 statewide."

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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