

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Karen J. Kennard	ORIGINATED DATE: 05/01/03	APPROVED BY: SERC
REVISED BY: Karen J. Pabon	REVISED DATE: 1-12-12	
DATE ISSUED: 05/01/03	DATE EFFECTIVE: 05/01/03	SUBJECT: Hazardous Materials Response Plan and Exercise
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.1

Reference: NAC 459.99133

PRINCIPLE:

The State Emergency Response Commission (SERC) and the Local Emergency Planning Committees (LEPCs) are established by the federal Superfund Amendment Reauthorization Act, Title III (SARA Title III), and Emergency Planning and Community Right-to-Know Act (EPCRA). Pursuant to these laws, the SERC shall supervise and coordinate the activities of the LEPCs. The SERC reviews the local hazardous materials emergency response plans and makes recommendations for revisions to ensure compliance with the National Response Team Guidelines (NRT-1). LEPCs are required to exercise the hazardous materials emergency response plan annually.

The SERC also provides grant ~~funds—allocations~~ to state agencies who meet eligibility requirements. The SERC provides grant funds to LEPCs who meet eligibility requirements. To be eligible for funds from the SERC other than United We Stand funds, state agencies must operate under a hazardous materials emergency response plan that must be implemented or exercised annually. All key elements of the NRT-1A Checklist must be addressed through implementation or exercise every three (3) years. The SERC reviews the emergency response plans and makes recommendations for revisions. ~~To be eligible for funds from the SERC other than United We Stand funds, state agencies are required to participate in a hazardous materials plan exercise annually.~~

Comment [WU1]: Although the working group determined to remove this language, staff located attached documentation justifying why it should stay. State Agencies are not subject to EPCRA requirements in the United We Stand funds. There are no requirements in EPCRA that apply to them.

Comment [WU2]: Repetitive/redundant of previous sentence.

Among the SERC's working committees is a Planning and Training Subcommittee which has been designated to review the LEPC and state agency hazardous materials emergency response plans and ~~the E~~exercise ~~R~~report ~~F~~forms (Appendix A-2) and report to the SERC.

POLICY:

- A. The State Emergency Response Commission has appointed a Funding Committee. The Funding Committee has appointed a Planning and Training Subcommittee. This Planning and Training Subcommittee is charged with review of LEPC and state agency hazardous materials response plans and exercise report forms. The Planning and Training Subcommittee will verify the plan is appropriate and has been exercised.

1. Each LEPC/state agency must have a Hazardous Materials Response Plan in compliance with NRT-1 on file with the SERC office. The LEPCs/state

agencies must annually review and update the plan. Written notice of plan review results and plan updates along with minutes of the LEPC meeting indicating review and acceptance of updates to the plan must be submitted to the SERC by January 31st of each year. Detailed meeting minutes may be submitted in lieu of written notice. Failure to submit meeting minutes and updates will designate the plan as non-compliant and subject to the procedures outlined herein. Non-compliance with these procedures will result in the LEPC being ineligible for any funding from the SERC other than grant funds from the operations category and/or the planning category until the Planning and Training Subcommittee reviews required updates and ensures that all other forms of non-compliance or deficiencies with hazardous materials plans are met. Upon satisfactory completion LEPCs may apply for funding opportunities available plans in February of the next year. Operation funds may be awarded to LEPCs pursuant to Policy 8.2 provided the LEPC submits a compliance work plan demonstrating progress towards full compliance. Operation grant approval for LEPCs is subject to review and approval of by the SERC Co-Chairs. Planning funds may be awarded to appropriately review, develop, revise and/or update the plan.

Comment [WU3]: The Planning & Training Committee are volunteers and review of re-submissions due to deficiencies after the deadline will be done as schedules of Committee Members allow.

- a. Annual updates to the hazardous materials response plan include, but are not limited to:
 - contact information ~~-- REQUIRED~~Refer to NRT-1A
 - equipment lists ~~-- REQUIRED~~Refer to NRT-1A
 - letter of promulgation ~~-- REQUIRED~~Refer to NRT-1A
 - training and exercise schedules identified by type and in which calendar quarter to be held.
- b. In conjunction with the review and update of the hazardous materials response plan, the LEPC/state agency must submit an updated National Response Team form (NRT-1A). This form must indicate the page numbers where each of the nine required elements can be found in the plan.
- c. In conjunction with review of the hazardous materials response plan, the LEPC/state agency must annually review its Level of Response Questionnaire. Updates or written notice of no changes must be submitted to the SERC by January 31st of each year.
2. ~~To be eligible for grant funds from the SERC other than United We Stand funds, state agencies must operate under a Hazardous Materials Emergency Response Plan and that plan must be on file with the SERC office. The state agency must annually review the plan and submit updates. Written notice of plan review results and plan updates must be submitted to the SERC by January 31st of each year. Failure to submit updates will designate the plan as non-compliant and subject to the procedures outlined herein. Non compliance with these procedures will result in the state agency being ineligible for any funding from the SERC until the Planning and Training Subcommittee reviews plans in February of the next year.~~

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~~a. Annual updates to the hazardous materials response plan include, but are not limited to:~~

- ~~• contact information REQUIRED~~
- ~~• equipment lists REQUIRED~~
- ~~• training and exercise schedules identified by type and in which calendar quarter to be held.~~

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~~b. In conjunction with review of the hazardous materials response plan and as applicable, the state agency must annually review its Level of Response Questionnaire. Updates or written notice of no changes must be submitted to the SERC by January 31st of each year.~~

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~~3. LEPCs must exercise the hazardous materials emergency response plans annually and submit a report form to the SERC. Notification of the scheduled exercise should be forwarded to the SERC at least 14 days prior to the exercise.~~

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~~State agencies must exercise the hazardous materials emergency response plan annually and submit a report form to the SERC to be eligible for grant funds from the SERC other than United We Stand funds. Notification of the scheduled exercise should be forwarded to the SERC at least 14 days prior to the exercise.~~

Comment [WU4]: State agencies was combined in with LEPCs. There are only two differences in eligibility for funding and compliance between LEPCs and state agencies. State agencies do not have requirements under EPCRA and some state agencies are included in the statewide comprehensive hazardous materials response plans developed and managed by Nevada Division of Emergency Management. The United We Stand funding requires compliance with EPCRA. State agencies that are not included in the state comprehensive plan are required to meet the annual review and update of their hazardous materials response plans.

Each LEPC ~~and~~ state agency must report to the SERC on at least one real event and/or tabletop, functional or full scale exercise, or drill which utilizes and implements the hazardous materials response plan by January 31st of each year. ~~The~~ exercising or implementation of all key elements of the plan as listed in the NRT-1A is required at least once ~~every~~ within the past 3 consecutive years ~~third year~~. The Planning and Training Subcommittee will review all exercise report forms submitted to verify the hazardous materials emergency response plan has been properly exercised. The SERC will notify the LEPC or state agency of any non-compliance. Non-compliance will result in suspension of the current unencumbered grant funds and being ineligible for future grant funds until the program is deemed compliant.

Comment [WU5]: The committee acknowledged the difficulty in implementing all elements of the plan in one exercise or real life implementation. LEPCs and state agencies must document which aspects are covered and in year two can make appropriate plans to participate in a tabletop or other exercise utilizing any elements that have not been used in the previous two years. See tentative revised NRT-1A.

PROCEDURES:

A. Hazardous Materials Response Plan

1. During February of each year the Planning and Training Subcommittee will review plans/plan updates submitted by LEPCs/state agencies and approve the plan or identify deficiencies. As applicable, staff will notify each LEPC Chair/Head of the state agency of any identified deficiencies.
2. Within 45 days of notification, the LEPC or state agency must respond to the notice of deficiencies. If an updated plan was submitted and found to be deficient, the LEPC or state agency must bring the plan into compliance and

resubmit the corrected plan to the SERC for review by the assigned member(s) of the Planning and Training Subcommittee.

3. After 45 days, the Planning and Training Subcommittee will submit to the Funding Committee a list of LEPCs/state agencies that have complied with this policy. Only LEPCs/state agencies compliant with this policy will be eligible for funds during the year as available.

Comment [WU6]: Does not need to wait until after the next year plan review. Upon approval from the Planning & Training Committee, may apply for the next funding opportunity.

B. Exercise Report Form

1. Each LEPC/state agency will report to the SERC on at least one real event and/or tabletop, functional or full scale exercise or drill which utilizes and implements the hazardous materials emergency response plan by January 31st of each year. An exercise is required at least once every third year. A proper report will include a narrative scenario of the incident or exercise, the one-page SERC exercise form, four-page FEMA form, or HSEEP (Homeland Security Exercise and Evaluation Program) report, and a narrative of any corrective actions necessary. Narratives may be achieved by attaching the actual incident report and evaluation of the hazardous materials plan.
2. During February of each year, the Planning and Training Subcommittee will review the exercise report to verify the LEPC/state agency has properly exercised the hazardous materials emergency response plan. Staff will notify each LEPC/state agency of any identified deficiencies.
3. Within 45 days of notification, the LEPC/state agency must respond to the notice of deficiencies. The SERC will notify the LEPC/state agency of any non-compliance. Non-compliance will result in suspension of the current unencumbered grant funds and the LEPC/state agency being ineligible for future grant funds until the program is deemed compliant.
4. After 45 days, the Planning and Training Subcommittee will submit to the Funding Committee a list of LEPCs/state agencies that have complied with this policy. Only LEPCs/state agencies compliant with this policy will be eligible for funds during the year.

Intent of changes in SERC Policy 8.1

Some state agencies operate under the NDEM umbrella hazardous response plan.

State's can only transfer through allocations, not sub-grants

Acknowledging that when doing an exercise or actual event, not all elements will be addressed, the SERC has identified the potential lack of resources that LEPCs may have with lack of manpower. Exercise includes full scale and tabletop exercises. In the annual certification process, SERC staff can share this clarification going forward that will begin in FY 2017. LEPCs will be encouraged to review annually and in year two they can arrange through exercises in the third year to ensure they exercise any missing key elements.

In multi-jurisdictional exercises or events, LEPCs will need to track what part of their plans were exercised. It was shared that this is already being done. (See modified NRT-1A staff developed)

LEPCs that have deficiencies in their plans with required responses must submit the corrections to SERC staff and staff submits to the Planning & Training Committee for approval. Once approved and the LEPC is in compliance, they may apply for the next funding opportunities even if within the same fiscal year. The timeframe of reviewing corrective actions/changes is dependent upon availability and scheduling of the follow-up review. If the LEPC goes beyond the deadline to submit the corrective actions, review and approval is subject to the availability of the Planning & Training Committee availability.

Planning & Training Sub-Committee (volunteers) – need to know from them what it takes to review the plan, viability to stretch out the review of corrections.

State agencies that do not have their own Hazmat Response plans, must identify what their level of response is within the statewide plan and must participate in the required exercises annually to meet the eligibility requirements. Historically, state agencies, with the exception of UNLV, have only applied for and been awarded United We Stand sub-grants. AT this point it is unclear why.

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Karen J. Kennard	ORIGINATED DATE: 7/10/03	APPROVED BY: SERC
REVISED BY: Karen J. Pabón	REVISED DATE: 1-9-14	
DATE ISSUED: 7/10/03	DATE EFFECTIVE: 7/10/03	SUBJECT: Grant Applications, Grant Awards
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.2

Reference: NAC 459.99135 through 459.99148 and 459.99161 through 459.99169, inclusive

PRINCIPLE:

The State Emergency Response Commission (SERC) awards grants/~~allocations~~ with funds from, ~~among other sources~~, the federal government and fees collected from facilities within the State of Nevada. ~~GrantsFunds~~ are awarded to assist the ~~counties, through the~~ Local Emergency Planning Committees (LEPCs), and state agencies, to conduct planning and training, and identify equipment needs for first responders. (Additional funds derived from the sale of United We Stand license plates are administered by the SERC pursuant to SERC policy 8.2a.)

POLICY:

- A. A minimum of ~~six-eight~~ weeks prior to the due date of an ~~grant~~ application, LEPCs/~~and State~~ agencies will be notified the application kit has been posted on the SERC website www.serc.nv.gov. ~~Completed Applications may be submitted to include requesting the required~~ appropriate elements as outlined in the application kit. Applications must be submitted by the due date designated in the application kit. ~~Absent extenuating circumstances as deemed appropriate and acceptable by the SERC~~ Failure to submit the ~~grant~~ application by the due date will result in denial of the application. ~~Extenuating circumstances include those situations in which are beyond the LEPCs/applicant state agency control, despite reasonable efforts and unforeseen obstacles.~~

1. The SERC ~~currently~~ receives two main revenue sources for funding grants/~~allocations~~ relating to responding to hazardous materials incidents:

a. Fees

Fees collected from fixed facilities provide revenue for SERC grants/~~allocations~~. Approved expenses include planning, training, equipment, operations and community right to know activities as they relate to hazardous materials.

All training requests other than for conferences must first be made through the State Fire Marshal's ~~Office-Division~~ (SFM) ~~with sufficient time to schedule and conduct a training program~~. If the SFM ~~declines is not able to schedule~~ the training, the request must ~~ay~~

Comment [WU1]: According to the Clark County, County Manager's office, it takes 1-1/2 to 2 weeks for a County Department to get on a County Commission meeting agenda.

Comment [WU2]: We did not discuss this sentence but applications and not submitted requesting but containing the required elements. Up to the pleasure of the Committee's.

Comment [WU3]: Circumstances include those beyond the LEPCs control and unforeseen circumstances. SERC has provided electronic submission of completed applications.

be included in the SERC grant application.

As applicable, the LEPC/~~S~~State agency shall adhere to the policies and procedures of the governing body regarding hiring consultants or contractors. If local policies are not applicable, this SERC policy will prevail.

Any application including consultant/contractor services or equipment over \$1,999 per item/service must include at least ~~two~~ three (3) competitive bids. The bids must include an itemized quote and scope of work from the consultant/contractor. If the applicant is unable to obtain ~~two~~three (3) competitive bids, they may provide a detailed explanation of the attempts made to comply with this policy.

Comment [WU4]: If utilizing a Master Service Agreement (State or government entity has already completed an open and competitive bidding processed and has established a contract with a vendor) there is no need for competitive bids. If an agency is unable to obtain 3 quotes, must maintain/provide documentation of efforts.

After consideration by the SERC, a sole source consultant/contractor may be approved to provide services. A “sole source” shall mean any contractor who, at the time of entering the current contract, was reasonably believed to be the only known qualified source as determined by State purchasing. “Qualified source” shall be one meeting or exceeding the minimum statutory, regulatory, and published or solicited minimum contractor qualifications. Procurement for equipment and contracts must comply with State requirements as set forth in Chapter 333 of the Nevada Revised Statutes.

Comment [WU5]: Purchases requirements

~~Requests for equipment must be made in accordance with the costs on the list attached to the grant application. For equipment not included on the list, the application must include a quote for the equipment.~~ Any equipment requests made in grant applications must include the appropriate number of quotes in compliance with State purchasing guidelines and requirements.

Comment [WU6]: SERC no longer provides a list of equipment with application kits.

~~Radio communication equipment requested must conform with the Nevada Communication Interoperability Plan.~~

~~Operation funds are automatically given with each SERC grant awarded. LEPC's may also request operations funds from this funding source. Operation funds are automatically awarded to each eligible LEPC from this revenue source. If a LEPC is not eligible for a grant at the time the awards are approved by the SERC, no operation funds will be awarded. If the LEPC becomes eligible requests funding during the fiscal year, operation funds may be awarded at a prorated amount equal to ¼ of the original operation award for each remaining quarter of the state fiscal year. These funds are to pay the general operation costs of the LEPC as they relate to hazardous materials under SARA Title III, EPCRA, and SERC laws, regulations and policies. Costs must be reasonable and~~

Comment [WU7]: In the past, operations funds are requested in the SERC application. If there was no SERC application, the operations request has been by e-mail request. See staff one-page Operations Request form drafted by staff. Staff will also add directions to the annual SERC application.

Comment [WU8]: Current practice has also been that if a SERC Grant is submitted to the SERC Office, the \$4,000 is automatically added if it is not already included. If the LEPC does not get the SERC grant or does not apply for whatever reason, the LEPC can request the operation funds separately.

Comment [WU9]: July-June

appropriate to the operation of the LEPC and include, but are not limited to:

- ◆ Postage
- ◆ Office supplies
- ◆ Telephone and satellite phone service charges
- ◆ Copying
- ◆ Publication costs
- ◆ Equipment maintenance
- ◆ Meeting costs
- ◆ Refreshments*
- ◆ Travel to SERC/LEPC meetings for all LEPC members
- ◆ Clerical Assistance**
- ◆ Grant writing
- ◆ Announcement of LEPC activities on radio, television, newspapers, etc.

*Expenses incurred for food and/or beverages provided at LEPC training sessions, LEPC meetings or LEPC conferences are allowed provided they satisfy the following three tests:

- ❖ The costs of the food and/or beverages are considered reasonable
- ❖ The food and /or beverages are provided at a LEPC function
- ❖ The food and/or beverages provided are not related directly to amusement and/or social events (Any event where alcohol is being served is considered a social event and, therefore, costs associated with that event are not allowable.)

** Clerical Assistance is limited to 50% of the amount awarded in the operation category and must be declared as a line item of the budget presented in the grant application. Clerical assistance is defined as: prepare and post agendas; travel to and from LEPC/SERC meetings; prepare and distribute meeting minutes; prepare grant applications to the SERC; prepare financial reporting forms.

b. Federal Grants

~~Money-Funds~~ awarded from federal agencies ~~through the~~ SERC provides revenue for SERC subgrants. The SERC may award subgrants to LEPCs/~~s~~State agencies in compliance with federal and SERC terms and conditions, for planning and training activities as they relate to hazardous materials. State agencies, including SERC, which receive subgrants, will comply with state purchasing rules and state budgetary authority.

LEPCs and grantees/sub-grantees are required to report on any additional information requested by the SERC on its behalf or on

behalf of granting federal agencies to include, but not limited to, the annual information requested for the Hazardous Materials Emergency Planning (HMEP) grant final report.

All training requests other than for hazmat conferences must first be made through the SFM with sufficient time to schedule and conduct a training program. If the SFM ~~declines is not able to schedule~~ the training, the request may be included in the HMEP grant application.

As applicable, the LEPC/~~S~~State agency shall adhere to the policies and procedures of the governing body regarding hiring consultants or contractors. If local policies are not applicable, this SERC policy will prevail.

Any application including consultant/contractor services exceeding the State threshold amount must include at least ~~two (2)~~three (3) competitive bids. The bids must include an itemized quote and scope of work from the consultant/contractor.

After consideration by the SERC, a sole source consultant/contractor may be approved to provide services. A “sole source” shall mean any contractor who, at the time of entering the current contract, was reasonably believed to be the only known qualified source as determined by State Purchasing. “Qualified source” shall be one meeting or exceeding the minimum statutory, regulatory, and published or solicited minimum contractor qualifications.

After the initial open grant application cycle and award of subgrants, eligible applicants may submit a mid-cycle grant application for grant awards of available unobligated funds, if any, any time throughout the remainder of the federal grant period.

c. Unallowable Expenses

Expenses not related to hazardous materials functions pursuant to federal and state laws and regulations are not allowed. Unallowable expenses include, but are not limited to, activities relating to homeland security, ~~weapons of mass destruction~~ and terrorism. Training expenses will not be reimbursed if the training was not attended. Additionally, finance charges, late fees and taxes are not allowable expenses from grants provided by the SERC.

- B. Eligible LEPCs/~~S~~State agencies may submit an application for grant funds. ~~The SERC will consider and award grants to LEPCs first. State agencies may be awarded grants from the remaining funds of the original available amount.~~ Eligibility is determined by the following:

1. LEPC Eligibility
 - a. Compliance with Emergency Planning and Community Right-to-Know Act (EPCRA), Nevada Administrative Code (NAC), SERC

policy 8.3, “Certified Assurances and Compliance Certification” and related SERC policies as outlined in policy 8.3.

- b. If a LEPC has met all administrative requirements except having a National Response Team (NRT-1) compliant plan approved by the SERC, the LEPC may apply for grant funds from the planning category to appropriately review, develop, revise and/or update the plan.

2. State Agency Eligibility

- a. The state agency ~~department~~ head must prioritize the request and sign the ~~grant~~ application, certified assurances and ~~grant~~ award.
- b. The agency must identify, by name, the hazardous materials emergency response plan it operates under and what its role is in that plan.
- c. The agency must identify its role, if any, in the State Hazardous Materials Emergency Response Plan annex to the State Comprehensive Emergency Management Plan.
- d. If the agency has response capabilities, it must ~~complete the~~ indicate its Level of Response ~~Questionnaire~~.
- e. The agency must participate in a hazardous materials exercise annually.

PROCEDURES FOR OPEN GRANT CYCLE APPLICATIONS:

- A. At its quarterly meeting, or a special meeting if necessary, the LEPC must discuss, determine, and approve the appropriate grant application submission and purpose, including the percentage of operation funds to be used towards clerical assistance. The LEPC will submit an application based on its determined needs for the county as a whole. As determined by the LEPC, the funding request may provide planning, training and equipment to, but not limited to, state and local entities, private companies, non-profit corporations, ~~public~~ utilities owned and operated by political subdivisions of the State and general improvement districts involved in preventing, responding to and mitigating hazardous materials incidents.
- B. The head of a ~~s~~State agency must determine the priority of funding requests from all Divisions of that agency. The agency will submit an application based on its determined needs for the entire agency. As determined by the head of the agency, the funding request may provide planning, training and equipment to Divisions of the agency.
- C. Applications must be submitted by the due date designated in the application kit absent extenuating circumstances as deemed appropriate and acceptable by SERC.
- D. Upon receipt of the applications, SERC staff will review to ensure compliance with state and federal terms and conditions as well as the technical requirements of the application.

Comment [WU10]: Circumstances include those beyond the LEPCs control and unforeseen circumstances. SERC has provided electronic submission of completed applications.

- E. SERC staff will distribute the applications to the Planning & Training Subcommittee ~~and/or~~ the Funding Committee ~~within ten working days of the application due date.~~
- F. The Planning & Training Subcommittee will meet and review the applications to determine appropriateness and eligibility of the request when compared to the level of response. The Planning & Training Subcommittee will make recommendations to the Funding Committee.
- G. The Funding Committee will meet and review the applications to determine appropriateness and eligibility based on the Planning and Training Subcommittee's recommendations. The Committee will also determine the amount of funds to award. The Committee will make recommendations to the SERC.
- H. Funding of the applications will be placed on a SERC agenda for approval. Grants/allocations will be awarded based on the applications submitted and the availability of ~~money~~funds.

The SERC may approve amounts of ~~funds~~money with contingencies or conditions to be met prior to preparation and funding of ~~the grant an~~ award. The ~~grant~~-project period will commence on the date designated by the grant/allocation cycle or the date compliance is attained, which ever is later. The SERC may withdraw the ~~grant~~-award and de-obligate the money if contingencies or conditions are not met within 90 days of notification to the applicant.

If time constraints do not permit review of an application by the Planning and Training Subcommittee and/or the Funding Committee, the SERC may consider an award of any application which has been agendized.

- I. ~~For LEPCs a~~A copy of the ~~LEPC~~-meeting minutes approving the grant application, along with SFM ~~delection of response to a request for~~ training, scope of work, quotes from contractors ~~or vendors~~, signed Grant Application, signed Certified Assurances, and signed Compliance Certification must be forwarded to the SERC ~~office~~ prior to preparation of a grant award.

J. For state agencies the SFM response to a request for training, scope of work, quotes from contractor or vendors, signed Allocation Application, signed Certified Assurances and signed Compliance Certification must be forwarded to the SERC office prior to the preparation of the allocation award.

~~K.~~SERC staff will prepare the award documents to include SERC and grantee employer tax identification number, the Catalog of Federal Domestic Assistance (CFDA) number and the name of the federal agency. Staff will ~~obtain the Executive Director's signature and~~ distribute awards consistent with the SERC approved amounts and conditions.

~~K.L.~~ Grant aAwards are signed by the LEPC Chair or the head of the ~~grantee state~~ agency and returned to the SERC for filing. The Grant-Award must be signed and original returned to the SERC office prior to an award being funded.

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PROCEDURES FOR MID-CYCLE FEDERAL GRANT APPLICATIONS:

- A. After the initial award of funds received on a federal grant through an open grant cycle, the SERC will notify eligible applicants of the availability of remaining unobligated funds. These funds, if any, will be available throughout the year at the request of an applicant and upon approval of the Funding Committee.
- B. Staff will notify LEPCs/~~S~~State agencies of the availability of unobligated funds, if any, at least quarterly throughout the year.
- C. ~~Section 'Procedures for Open Grant Cycle Applications', items A. and B. will be followed. At its quarterly meeting, or a special meeting if necessary, the LEPC must discuss, determine, and approve the appropriate grant application. The LEPC will submit an application based on its determined needs for the county as a whole. As determined by the LEPC, the funding request may provide planning and training to, but not limited to, state and local entities, private companies, non-profit corporations, public utilities owned and operated by political subdivisions of the State and general improvement districts involved in preventing, responding to and mitigating hazardous materials incidents.~~
- D. Applications must be submitted in the form designated in the mid-cycle application kit.
- E. Upon receipt of the applications, SERC staff will review to ensure compliance with state and federal terms and conditions as well as the technical requirements of the grant application.
- F. Staff will forward the request to the Funding Committee. Within five days, the Funding Committee will set a meeting to consider the request.
- G. The Funding Committee may approve or deny the request with a report of its action being made to the SERC at its next regularly scheduled meeting.

The Funding Committee may approve ~~funds~~amounts of money with contingencies or conditions to be met prior to preparation and funding of the ~~grant~~ award. The ~~grant~~ project period will commence on the date designated by the grant/allocation cycle or the date compliance is attained, which ever is later. The SERC may withdraw the ~~grant~~ award and deobligate the ~~funds~~money if contingencies or conditions are not met within 90 days of notification to the applicant.

If time constraints do not permit review of an application by the Funding Committee, the SERC may consider an award of any application which has been agendized.

- ~~H. Section 'Procedure for Open Grant Cycle Applications, items J. and K. will be followed. SERC staff will prepare the award documents to include SERC and grantee employer tax identification number, the Catalog of Federal Domestic Assistance (CFDA) number and the name of the federal agency. Staff will obtain the Executive~~

~~Director's signature and distribute consistent with the SERC approved amounts and conditions.~~

H.

- I. ~~Grant awards are signed by the LEPC Chair or the head of the grantee agency and returned to the SERC for filing. The Grant Award must be signed and original returned to the SERC office prior to an award being funded.~~

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STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Karen J. Kennard REVISED BY: Karen J. Pabón	ORIGINATED DATE: 01/13/05 REVISED DATE: 1-9-14	APPROVED BY: SERC
DATE ISSUED:	DATE EFFECTIVE:	SUBJECT: License Plate Funding Grant Application, Grant Awards
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.2a

Reference: NAC 459.99135, et. Seq.

PRINCIPLE:

The State Emergency Response Commission (SERC) awards grants and allocations with funds received from the sale of “United We Stand” license plates. Pursuant to NRS 459.735(4), this funding must be expended solely to provide financial assistance to this state or to local governments in this state to support preparedness to combat terrorism, as outlined in the State Enhancement Plan for Homeland Security, including, without limitation, planning, training and purchasing supplies and equipment.

POLICY:

A. A minimum of ~~six~~ eight weeks prior to the due date of a grant application, LEPCs/and sState agencies will be notified the application kit has been posted on the SERC website www.serc.nv.gov. ~~Completed A~~ applications may be submitted ~~requesting to include the required~~ appropriate ~~elements items~~ as outlined in the application kit. Applications must be submitted by the due date designated in the application kit. ~~Absent extenuating circumstances as deemed appropriate and acceptable by the SERC.~~ Failure to submit the ~~grant~~ application by the due date will result in denial of the application. Extenuating circumstances include those situations in which are beyond the LEPCs/state agency control, despite reasonable efforts and unforeseen obstacles.

1. Fees collected from the sale of “United We Stand” license plates provide revenue for these grants/allocations. Approved expenses pursuant to NRS 459.735(4) include planning, training and purchasing supplies and equipment to support preparedness to combat terrorism, as outlined in the State Enhancement Plan for Homeland Security. Agencies receiving grants—funds will comply with appropriate state and/or local purchasing policies.

a. All training requests other than for conferences must first be made through the Nevada Division of Emergency Management (NDEM) with sufficient time to schedule and conduct a training program. If the NDEM declines-is unable to schedule the training, the response to the request ~~may-must~~ be included in the SERC grant-funding opportunity application.

b. As applicable, the LEPC/~~s~~State agency shall adhere to the policies and procedures of the governing body regarding hiring consultants or contractors. If local policies are not applicable, this SERC policy will prevail.

Comment [WU1]: Changed from six to eight

Comment [WU2]: We did not discuss this sentence but applications and not submitted requesting but containing the required elements. Up to the pleasure of the Committee's.

Comment [WU3]: According to the Clark County, County Manager's office, it takes 1-1/2 to 2 weeks for a County Department to get on a County Commission meeting agenda. In addition with contacting another state agency that receives sub-grant applications from Clark County and they have comparable 6-week due dates and they have not had these issues in receiving completed sub-grant applications. Staff recommend keeping the assurances in the application kit but not requiring they be signed until there is an award for all applications.

Comment [WU4]: Circumstances include those beyond the LEPCs control and unforeseen circumstances. SERC has provided electronic submission of completed applications.

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Any application including consultant/contractor services or equipment for more than \$1,999 per item or service must include at least three (3)~~two (2)~~ competitive bids. The bids must include an itemized quote and scope of work from the consultant/contractor. If the applicant is unable to obtain three (3)~~two (2)~~ competitive bids, they may provide a detailed explanation of the attempts made to comply with this policy.

Comment [WU5]: If utilizing an Master Service Agreement, (a vendor that was selected by a government agency/state using an open and competitive bidding process and has an established contract) there is no need for competitive bids. If an agency is unable to obtain 3 quotes, must maintain/provide documentation of efforts. This is in compliance with current state requirements in NRS and State Purchasing and Contract Guidelines.

After consideration by the SERC, a sole source consultant/contractor may be approved to provide services. A “sole source” shall mean any contractor who, at the time of entering the current contract, was reasonably believed to be the only known qualified source. “Qualified source” shall be one meeting or exceeding the minimum statutory, regulatory, and published or solicited minimum contractor qualifications. Procurement for equipment and contracts must comply with State requirements as set forth in Chapter 333 of the Nevada Revised Statutes.

Comment [WU6]: Purchases requirements

c. Requests for equipment must include a the appropriate number of quotes as required in state purchasing policies for the item.

~~d. Radio communication equipment requested must conform to the Nevada Communication Interoperability Plan.~~

B. Eligible LEPCs/~~s~~State agencies may submit an application for ~~grant~~ funds. Eligibility is determined by the following:

1. LEPC Eligibility

a. Compliance with Emergency Planning and Community Right-to-Know Act (EPCRA), Nevada Administrative Code (NAC), SERC Policy 8.3, “Certified Assurances and Compliance Certification” and related SERC policies as outlined in policy 8.3.

2. State Agency Eligibility

- a. The ~~head of the~~ State agency head must prioritize the request and sign the ~~grant~~ application, certified assurances and ~~grant~~ award.
- b. The agency must identify, if it falls under an emergency response plan and what its role is in that plan.
- c. The agency must identify its role, if any, in the State Comprehensive Emergency Management Plan.
- d. If the agency has response capabilities, it must complete indicate its the Level of Response Questionnaire.

~~d.~~

C. The United We Stand grant funding opportunity application must address one or more of the Nevada Commission on Homeland Security priorities components of the Threat and Hazard Identification and Risk Assessment (THIRA) for the respective county.

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PROCEDURES:

A. At its quarterly meeting, or a special meeting if necessary, the LEPC must discuss, determine, and approve the appropriate funding request pursuant to the grant application

kit and guidelines provided by the SERC. LEPCs ~~and/or State agencies~~ will submit an application based on its determined needs. As determined by the LEPC ~~or State agencies~~, the request may be made to support preparedness to combat terrorism, as outlined in the ~~Homeland Security Strategy~~ Threat and Hazard Identification and Risk Assessment for the respective county including, without limitation, planning, training, supplies and equipment.

- B. The ~~head of a~~ State agency head must determine the priority of funding requests from all Divisions of that agency. The agency will submit an application based on its determined needs for the entire agency. As determined by the head of the agency, the funding request may provide planning, training and equipment to Divisions of the agency.
- C. Applications must be submitted by the due date designated in the application kit absent extenuating circumstances as deemed appropriate and acceptable by SERC.
- D. Upon receipt of the applications, SERC staff will review to ensure compliance with State terms and conditions as well as the technical requirements of the application.
- E. SERC staff will distribute the applications to the Funding Committee ~~within ten working days of the application due date~~.
- F. The Funding Committee will meet and review the applications to determine appropriateness and eligibility. The Committee will also determine the amount of funds to award based on the guidelines referred to in section A of these procedures. The Committee will make recommendations to the SERC.
- G. Funding of the applications will be placed on a SERC agenda for approval. Grants/allocations will be awarded based on the applications submitted and the availability of money/funds.

The SERC may approve amounts of money/funds with contingencies or conditions to be met prior to preparation and funding of ~~the grant~~ award. The ~~grant~~ approved project period will commence on the date designated by the grant cycle or the date compliance is attained, which ever is later. The SERC may withdraw the ~~grant~~ award and de-obligate the money/funds if contingencies or conditions are not met within 90 days of notification to the applicant.

If time constraints do not permit review of an application by the Funding Committee, the SERC may consider an award of any application which has been agendaized

- H. For LEPCs a copy of the ~~LEPC~~ meeting minutes approving ~~said the submission of the~~ grant application along with NDEM ~~declination response to a request for~~ training as appropriate, scope of work and quotes from contractors, signed Grant Application, signed Compliance Certification and signed Certified Assurances must be submitted prior to preparation of the grant award.
- I. For state agencies the NDEM response to a request for training, scope of work, quotes from contractor or vendors, signed Allocation Application, signed Certified Assurances and signed Compliance Certification must be forwarded to the SERC office prior to the preparation of the allocation award.

Comment [WU7]: Circumstances include those beyond the LEPCs control and unforeseen circumstances. SERC has provided electronic submission of completed applications.

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H.

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J. SERC staff will prepare the award documents to include SERC and grantee employer tax identification number, the Catalog of Federal Domestic Assistance (CFDA) number and the name of the federal agency. Staff will ~~obtain the Executive Director's signature and~~ distribute awards consistent with the SERC approved amounts and conditions.

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J. ~~K. Grant a~~Awards are signed by the LEPC chair or the head of the grantee-state agency and returned to the SERC for filing. The ~~Grant~~ Award must be signed and originals returned to the SERC office prior to an award being funded.

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Intent of changes to SERC Policy 8.2

Situations beyond the fiscal/grant management control of the applicant organization.

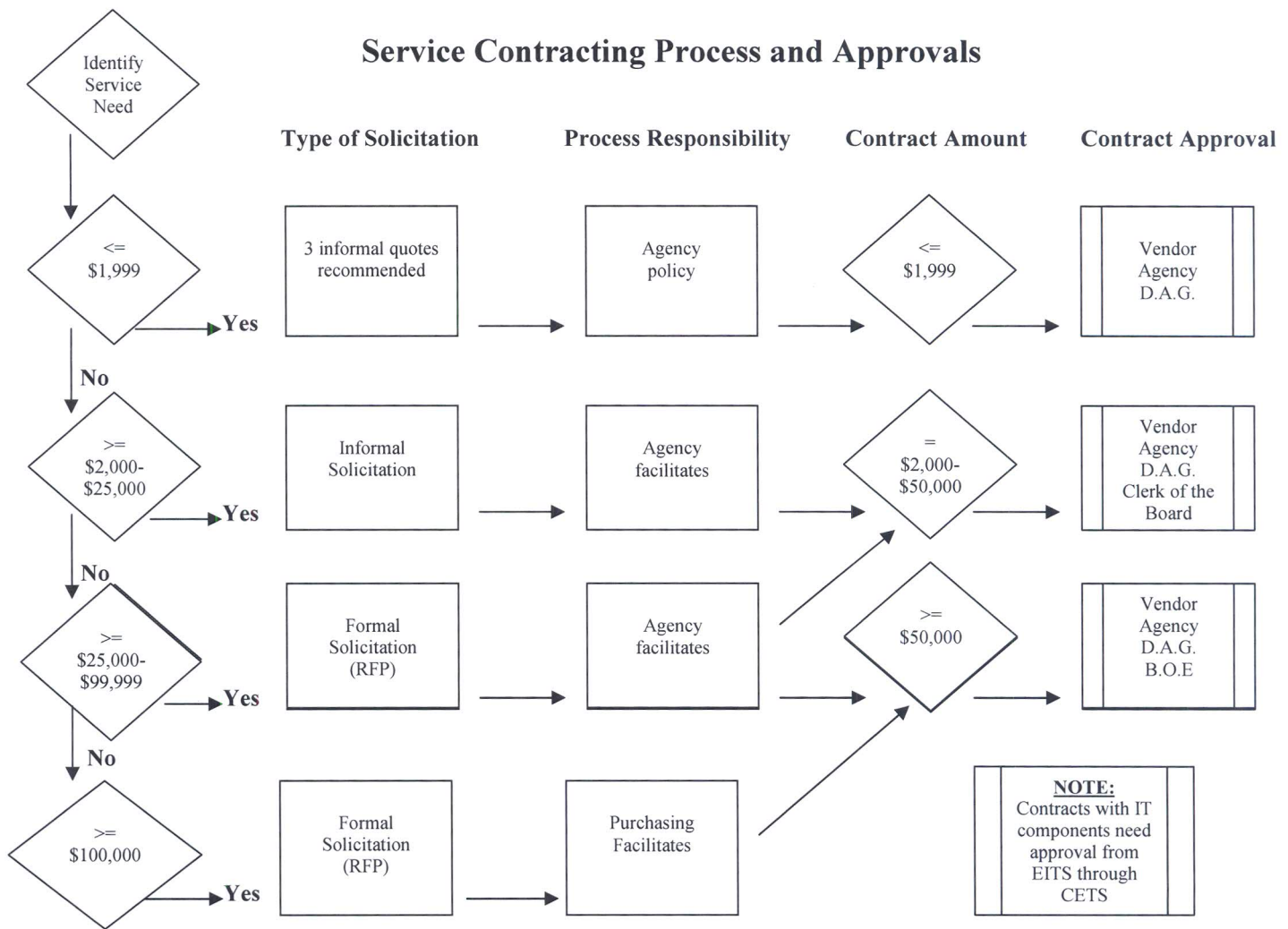
If LEPCs set-up their bylaws in a way to impede their timely submission, that would not be considered beyond their control.

8/31/15 The Clark County, County Manager's office advised it takes 1-1/2 weeks to 2 weeks to get on the Commission agenda.

The grant applications are posted 6 weeks in advance of the due date. Then there is approximately 2 week until reviewed and after first the 6-week time-frame, LEPCs have 90 days to meet their contingencies.

Absent extenuating circumstances, staff's intent is to post grant applications 8 weeks prior to the deadlines.

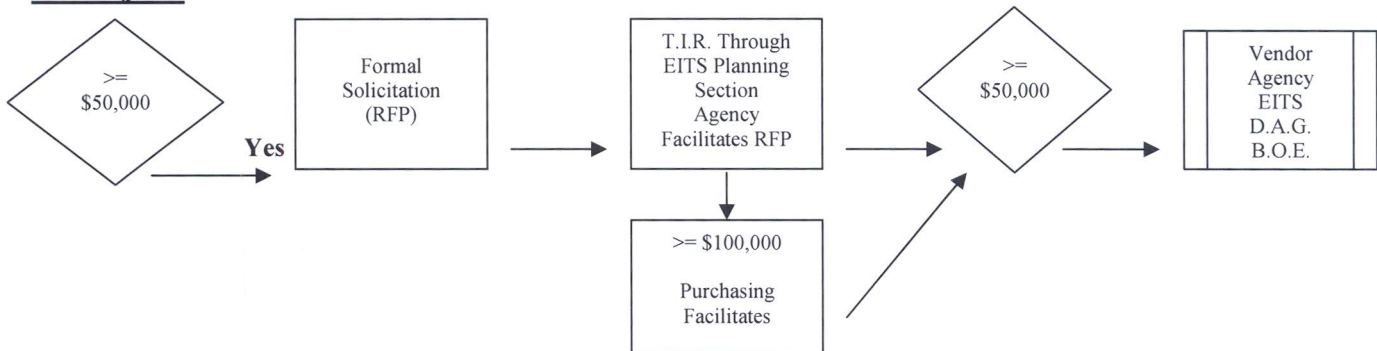
Service Contracting Process and Approvals



Solicitation Waiver



IT Projects



NRS 333.340 Award of contract or order for goods: Determination of lowest responsible bidder; written statement to be provided if contract or order is not awarded to lowest bidder.

1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Administrator:

(a) Shall consider, if applicable:

- (1) The granting of the preference described in [NRS 333.3366](#).
- (2) The required standards adopted pursuant to [NRS 333.4611](#).

(b) May consider:

- (1) The location of the using agency to be supplied.
- (2) The qualities of the articles to be supplied.
- (3) The total cost of ownership of the articles to be supplied.
- (4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.
- (5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:
 - (I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;
 - (II) The purchase of the alternative article results in a lower price; and
 - (III) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.
- (6) The purposes for which the articles to be supplied are required.
- (7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Administrator shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him or her.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

- (a) The history of maintenance or repair of the articles;
- (b) The cost of routine maintenance and repair of the articles;
- (c) Any warranties provided in connection with the articles;
- (d) The cost of replacement parts for the articles; and
- (e) The value of the articles as used articles when given in trade on a subsequent purchase.

[23:333:1951]—(NRS A [1997, 486, 1562](#); [1999, 464, 465, 1027](#); [2003, 1616](#); [2009, 2667, 2754](#))

NRS 333.400 Purchase of commodities out of schedule: Quotations to be obtained; exceptions.

1. Every effort shall be made to obtain quotations from three or more vendors when commodities are to be purchased out of schedule, except when standard equipment parts for which prices are established must be obtained from the manufacturer of the equipment or his or her agent or when the article needed is a patented or proprietary one and therefore obtainable from only one source of supply.

2. Urgent requests for immediate purchasing shall be discouraged as much as is practicable.

3. When supplies, materials and equipment urgently are required and time does not permit the obtaining of written quotations, the Administrator may obtain quotations by telephone or otherwise, but such quotations shall be confirmed in writing, and records of all quotations so obtained shall be made on the relative purchase requisitions.

[29:333:1951]—(NRS A 1963, 1059)

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Karen J. Pabón	ORIGINATED DATE: 04/01/09	APPROVED BY: SERC
REVISED BY: Karen J. Pabón	REVISED DATE: 10/09/14	
DATE ISSUED: 04/01/09	DATE EFFECTIVE: 04/01/09	SUBJECT: SERC & LEPC Release of EPCRA Information
PROCESSED BY: Karen J. Pabón	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.14

No NAC applicable to this policy

PRINCIPLE:

The State Emergency Response Commission (SERC) recognizes the successful operation of the Local Emergency Planning Committees (LEPCs) it coordinates depends, to an extent, upon the support of citizens of the State and their understanding of its activities and responsibilities. Such support and understanding is largely dependent on the SERC's and LEPCs' response to requests for information and efforts to keep the public informed.

Companies which operate facilities in the State of Nevada and store or manufacture extremely hazardous materials are required to submit a chemical inventory pursuant to the provisions under 42 U.S.C. 116, the Emergency Planning and Community Right-to-Know Act (EPCRA). These provisions, known as Tier II reporting, help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.

POLICY:

Pursuant to EPCRA, any person may submit a request to the SERC or a LEPC for Tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be ~~in writing and shall be with respect to a specific facility~~requested in accordance with NRS Chapter 239.

PROCEDURES:

Hazardous materials facilities submit chemical information and obtain a hazardous materials permit through the Nevada Online Hazardous Materials Reporting System. This information is available to the SERC, LEPCs and first responders throughout the State as a repository for planning and response purposes. This information is also available to the public under the Community Right-to-Know requirement in EPCRA.

~~All~~ Requests for EPCRA information ~~must~~ may be made in writing (Example: [SERC-Hazmat Repository Nevada Public Records Information Request form \(Appendix M-1\)](#) attached or may be verbal). ~~It is acceptable to ask for identification.~~ If the SERC or LEPC suspects the person making the request plans an illegal act, the appropriate course of action is to contact law enforcement.

Pursuant to guidance from the Nevada Attorney General's Office, a balancing test must be conducted to determine if specific information is subject to disclosure. Relevant considerations on a case-by-case basis include the balancing of 1) the document's content and function; 2) the interest and justification of either the agency or the public in general in maintaining the confidentiality of the document; and 3) the extent of the interest or need of the public in reviewing the document. Also to be considered is how dissemination of information could impact the public policy contained in various Nevada Homeland Security related statutes.

In accordance with NRS Chapter 239 and Nevada Supreme Court decisions, the balancing test must favor the requestor unless specific, known issues meeting specific confidentiality criteria specified in statute are documented.

After the balancing test and pursuant to NRS 239.0107, within five days of receipt of the written request, the agency must provide the requestor with the information if available or, as applicable, a denial of the request. If the information is not immediately available, the agency must provide the requestor with a date in which to expect the information. Pursuant to EPCRA, requested information must be provided within 45 days of receipt of the request. The information will be provided in a format available through the online reporting system. Caution should be used when providing information from the online system to ensure the security of the system and to maintain confidentiality of information so designated.

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Mary Lynne Evans REVISED BY: Karen J. Pabón	ORIGINATED DATE: 04/20/00 REVISED DATE: 01/09/14	APPROVED BY: SERC
DATE ISSUED: 04/20/00	DATE EFFECTIVE:	SUBJECT: Certified Assurances and Compliance Certification
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.3

Reference: NAC 459.99149 and 459.99171

PRINCIPLE:

The State Emergency Response Commission (SERC) will invoke all federal and state rules and regulations which are pertinent to establishing, supervising and coordinating the Local Emergency Planning Committees (LEPCs) and grant management. To enforce the laws, regulations and rules, the SERC must be able to demonstrate the LEPCs and grantees/sub grantees are aware of the rules and regulations.

POLICY:

Certified Assurances state various requirements of the grantee in managing grants received from the SERC. Each grantee/sub-grantee is required to submit signed Certified Assurances prior to preparation of the grant award.

LEPC Compliance Certification states the various requirements of LEPCs to show accountability of federal and state laws and regulations. A LEPC Compliance Certification will be submitted with each grant application. In the event a LEPC does not submit a SERC grant application, the LEPC is required to submit a signed LEPC Compliance Certification by March 31st of each year.

A State Agency Compliance Certification states the various requirements of the agency to show accountability of federal and state laws and regulations. A State Agency Compliance Certification will be submitted with each application for funding allocation.

PROCEDURES:

- A. The following requirements must be complied with prior to the start of a grant. The Funding Committee will be notified if an applicant is or is not in compliance of the following:

1. **CERTIFIED ASSURANCES:** The grantee/sub-grantee must sign and submit the Certified Assurances agreeing to abide by the rules and regulations governing grant funds awarded. This agreement requires the signatures of the Governmental Unit (County Commission, County Manager, head of State agency) and the chairman of the Local Emergency Planning Committee or the State agency project manager. A grant award will not be prepared until the Certified Assurances are properly signed and submitted. Reference the Program and Grant Management Handbook; policies 8.5 – Funding of Grants; 8.6 – Reporting; Policy 8.7 - Grant Change Request; and Policy 8.8 – Subrecipient Program Monitoring and Financial Audits.

2. **LEPC COMPLIANCE CERTIFICATION:** The LEPC Chair must sign the LEPC Compliance Certification indicating compliance with administrative requirements annually, by March 31st. Staff will verify each requirement. The following must be met by the LEPCs to comply with all applicable federal, local, and state regulations and reported timely to the SERC, even if not currently receiving grant funds:

If the Certification is turned in by March 31st, does it need to be included in every grant submitted for the rest of that year?

- a. Bylaws and the current membership list form identifying representation from the 13 EPCRA categories must be submitted by January 31st. (policy 8.9).
- i. LEPC membership lists may include designated alternate members if alternate members are approved in the LEPC Bylaws. (Enabling statute: The SERC is created in NRS 459.738 to carry out the provisions of 42 U.S.C. § 11001 et seq. These codes require the SERC to appoint the LEPC and give the SERC authority to revise the appointments. The SERC finds these codes are the legal authority creating the LEPCs and therefore the SERC has the authority to allow designated alternate members. The SERC asserts this process complies with NRS 241.025.)
- b. LEPC meetings must be held at least quarterly. All meetings must be conducted in compliance with the Nevada Open Meeting Law (OML), ref: http://ethics.nv.gov/COE_website_files/coe_publications_and_media/OML%20Manual.pdf. Agendas and minutes of all meetings, including special meetings, must be forwarded to the SERC.

- i. EPCRA requires LEPCs to hold “regularly scheduled meetings”. The SERC has defined regularly scheduled meetings as quarterly meetings.
- ii. A meeting, to qualify as a quarterly meeting, must have a posted agenda, meeting held and minutes taken, whether or not there was a quorum present. (Refer to Nevada Open Meeting Law).
- iii. The LEPC may apply to the SERC for a waiver of the quarterly meeting requirement due to extenuating circumstances. Upon cancellation of a timely noticed quarterly meeting for reasons beyond the control of the LEPC, the meeting may be rescheduled to the following quarter with approval of the SERC Co-chairs.
- iv. The LEPC may apply to the SERC for an exemption of one meeting per fiscal year (July to June), if it is impossible to conduct four meetings for reasons beyond the control of the LEPC. Approval for an exemption of one meeting may be approved by the SERC Co-chairs.

“Timely
submitted’ is
subjective

- c. If a recipient of grant funds, all required reports which summarize the financial management of these grants must be ~~timely submitted~~ submitted by the required due dates to the SERC (policies 8.5 and 8.6).
- d. The County Hazardous Materials Emergency Plan (or haz-mat portion of the jurisdiction’s “all hazards” plan) must be reviewed and updated annually. Plan updates must be submitted by January 31st each year (SERC policy 8.1).
- e. Each LEPC must report on at least one real event and/or tabletop, functional or full scale exercise or drill which tests the hazardous materials response plan by January 31st of each year. An exercise is required at least once every third year (SERC policies 8.1, and 8.6).

- f. The Emergency Planning and Community Right-to-Know Act “information availability” must be published in the local newspaper annually (EPCRA Section 312). A copy of the standard Affidavit of Publication must be sent to the SERC. The notice must be published at least once annually to inform the public of the availability of the Material Safety Data Sheets (MSDS) reports, Tier II reports and hazardous material response plans and provide the location and hours for public view.

3. **STATE AGENCY COMPLIANCE CERTIFICATION:** The head of the State agency must sign the State Agency Compliance Certification indicating compliance with administrative requirements along with an application. The SERC will verify each requirement. The following must be met by the State agency to comply with all applicable federal and state regulations and reported timely to the SERC:

Should this not be due by January 31st, like the LEPCs?

- a. If a recipient of grant ~~funds~~allocations, all required reports which summarize the financial management of these grants must be submitted by the required due dates (SERC policies 8.5 and 8.6).
- b. If recipient of funds from the SERC other than United We Stand funds, the agency must operate under a Hazardous Materials Emergency Plan and that plan must be reviewed and updated annually. Updates must be submitted by January 31st (SERC policy 8.1).
- c. The agency must report on at least one real event and/or tabletop, functional or full scale exercise or drill which tests the hazardous materials response plan by January 31st of each year. An exercise is required at least once every third year (SERC policies 8.1, and 8.6).
4. Failure to accomplish all eligibility and compliance requirements could result in denial of a grant award by the SERC. Failure to maintain all eligibility and compliance requirements could result in the suspension or deobligation of the current grant awards by the SERC.

NAC 459.99149 Completion and submission of certain forms. ([NRS 459.735](#), [459.740](#))

Before any grant money may be distributed by the Commission to a local emergency planning committee, the local emergency planning committee must complete and submit to the Commission the following forms provided by the Commission:

1. The Certified Assurances Form indicating that the local emergency planning committee agrees to comply with the rules and regulations governing the grant money awarded in the grant. The form must be signed by the chair of the local emergency planning committee and a designee of the appropriate governmental entity for which the grant has been awarded.
2. The Compliance Certification Form indicating that the local emergency planning committee has complied with the administrative requirements for a grant.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99171 Completion and submission of certain forms. ([NRS 459.735](#), [459.740](#))

Before any money may be distributed by the Commission to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials or to support preparedness to combat terrorism, the state agency must complete and submit to the Commission the following forms provided by the Commission:

1. The Certified Assurances Form indicating that the state agency agrees to comply with the rules and regulations governing the allocation of money by the Commission. The form must be signed by the head of the state agency or his or her designee.
2. The Compliance Certification Form indicating that the state agency has complied with the administrative requirements for an allocation of money from the Contingency Account for Hazardous Materials.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006; R120-08, 12-17-2008)

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Karen J. Kennard	ORIGINATED DATE: 01/09/03	APPROVED BY: SERC
REVISED BY: Karen J. Pabón	REVISED DATE: 07/12/12	
DATE ISSUED: 07/01/03	DATE EFFECTIVE:	SUBJECT: Funding of Grants
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.5

Reference: NAC 459.99151 through 459.99153 and 459.99172 through 459.99174, inclusive

PRINCIPLE:

The State Emergency Response Commission (SERC) distributes grant funds to the Local Emergency Planning Committees (LEPCs) within each of the seventeen counties and eligible State agencies. For proper grant management, the SERC will provide funds on a reimbursement basis.

POLICY:

The SERC provides funding to grantees/sub-grantees on a reimbursement basis. Upon request by the grantees/sub-grantees, advanced funding for expenses over \$2,000 may be made.

PROCEDURES:

- A. During open grant cycles, applications will be submitted by LEPCs/State agencies. Applications may be reviewed by the Planning & Training Subcommittee, Funding Committee and approved as appropriate by the SERC.
- B. Grant awards will be prepared, ~~signed by the Executive Director~~ and sent to the grantee/sub grantee. Signature of the LEPC Chair or head of the State agency on the grant award finalizes the agreement between the grantee/sub-grantee and the SERC for the grant funding amount and purpose.

- C. For the purpose of these procedures, the SERC designates quarters based on a fiscal year, July to June, as follows:

1 st quarter	July – September
2 nd quarter	October – December
3 rd quarter	January – March
4 th quarter	April – June

- D. The following procedures will be implemented to provide the funds to the grantee/sub-grantee:

1. Reimbursement:

- a. The grantee/sub-grantee will request reimbursement by completing and submitting a Financial Report form with the appropriate box(es) checked. The submission must include **a spreadsheet showing the description of expenditures claimed**, dated invoices and proof of payment.

This spreadsheet exists and is on the website, but don't think it has ever been used

If the report includes request for reimbursement for contractual training, class sign-in sheets must be submitted.

Reimbursement will not be made for training that was not attended.

Reimbursement will only be made for training that is related to hazardous materials or combating terrorism as appropriate to the grant award.

Supporting documentation in requesting reimbursement for LEPC clerical assistance includes time sheets, LEPC log showing the time spent on LEPC business, mileage claims in compliance with travel procedures below, **and the appropriate agenda, minutes, grant application, annual report,** etc.

Since these items will already exist in the LEPC's file, do they really need to be sent in again?

Requests for reimbursement shall be submitted not later than 30 days after the last day of the quarter.

- b. If no expenditures have been made, ~~a financial report with explanation of why no expenditures have been made~~ a statement to that effect and the plan for future expenditure is due no later than 30 days after the last day of the quarter.

The Financial Report has been modified and gives space to note this reason. It was sent to all LEPCs and is on the website, but not too many are using.

- c. Within 5 working days of receipt, SERC staff will conduct a desk audit of the report and information submitted. Expenses are examined to ensure compliance with federal and/or SERC terms and conditions. Discrepancies or questions will be immediately addressed with the submitting agency. Upon approval of the request, staff will process the report for payment.
- d. A final Financial Report is due 45 days after the end of the grant period. All remaining expenditures and supporting documentation must be submitted for reimbursement. After processing of the final Financial Report, all unexpended funds will be deobligated.
- e. Failure to comply with these procedures may jeopardize future funding from the SERC.

2. Reimbursement of travel related expenses:

- a. Grantee/sub-grantees may be reimbursed for lodging, per diem, incidentals and mode of travel at amounts defined in the following procedures; in conjunction with the terms of a grant award received from the SERC; upon submission of a copy of a completed, signed and dated travel claim expense form, conference or course agenda; and upon proof of payment by the grantee/sub-grantee agency. A completed travel expense claim form must include the purpose of the travel; date of travel; time in and out of travel status; and mode of travel.
- b. Per diem and lodging rates will be reimbursed in accordance with the amounts paid by the local entities, not to exceed the General Services Administration (GSA) rates found at www.gsa.gov; as adopted by the State of Nevada found in the State Administrative Manual, <http://budget.state.nv.us/SAM/>; and further defined by the SERC as follows:
 - i. Receipts are required for all expenses except meals including, but not limited to, lodging (unless the standard continental United States (CONUS) rate as defined by GSA is approved by the SERC), transportation, parking, tolls, telephone/internet connection, etc. and are subject to appropriate written explanation and SERC approval.

- ii. Grant funds will not be used to reimburse employees for commuting to and from work. Grant funds may be used to reimburse for additional mileage when an employee leaves the normal commuting route less the mileage that would have been used to travel to the duty station. Work-related mileage will be reimbursed at the local rate, not to exceed the State approved rate per mile when a privately owned vehicle is used. When an agency vehicle is used, fuel charges may be reimbursed upon presentation of receipts or agency fuel logs.
- iii. For single or partial day travel, per diem will be paid at the rate of no more than 50% of the standard rate for the traveler's destination if the traveler is in travel status for at least 4 hours but less than 12 hours; 75% of the standard rate for the traveler's destination if the traveler is in travel status for 12 hours, but less than 14 hours; and 100% of the standard rate for the traveler's destination if the traveler is in travel status for 14 or more hours within a single day. For travel less than 12 hours, reimbursement will be made for the appropriate meals based on time of travel as described below, not to exceed the prevailing percentage. NOTE: The travel day is deemed to end at midnight. At no time will reimbursement be based on the traveler's duty station or be more than GSA standards. For single day travel status, the applicable per diem rate will be determined by the city/county where a majority of the work was performed.
- iv. The per diem calculation for multiple days of travel shall use the single day of travel calculation explained above for the first and last day of travel, using midnight as the stop time for the first day of travel and the start time for the last day of travel. All intervening days should be paid at 100% of the prevailing per diem rate, as defined by GSA.
- v. For intervening days, there will be no need to separate breakfast, lunch or dinner unless the travel is to a formal event (conference, seminar, training, etc.), which provides a specific meal. If this is the case, the traveler ~~will have to~~must deduct the per diem allowed for that meal from their reimbursement.

NOTE: A continental breakfast is not considered a meal.

- vi. Personnel must be at least 50 miles from their duty station or home, whichever is closer to the destination (or airport as applicable), to receive per diem for meals and lodging. Per diem will be reimbursed based on the total hours in travel status and miles traveled, less the time and mileage that would have been used to travel to the duty station (i.e. normal work day commute).

If the above percentage schedule does not apply, meals are allowable if travel status:

	<u>Starts at or before</u>	<u>Ends at or after</u>
Breakfast	6:30 a.m.	6:30 a.m.
Lunch	11:30 a.m.	1:00 p.m.
Dinner	6:30 p.m.	6:30 p.m.

Lodging will be reimbursed as designated by GSA at the area specific rate plus taxes, fees and surcharges.

3. Advanced Funding:

- a. The grantee/sub-grantee may make a request for advanced funding for purchases totaling more than \$2,000. The Financial Report with the appropriate box checked must be submitted with a copy of the purchase order showing the processing date and costs of purchase.
- b. Within 5 working days of receipt, staff will verify the purchase is appropriate to the grant award and process the request for payment through the state Integrated Financial System.
- c. The grantee/sub-grantee will report on expenditure of advanced funds by completing and submitting a Financial Report form with the appropriate box checked. The submission must include invoices and proof of payment. Funding will not be allowed for training which was not attended. Report of expenditure of advanced funds must be filed within 30 days of the date of the check.
- d. If the purchase is not **timely** completed by the expiration of the quote or the advanced amount was more than the actual purchase price, the unspent funds must be returned to the

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SERC within 45 days of the date of the ~~check~~receipt of the advanced funds.

- e. Failure to comply with these procedures will result in no further advance funding until the grantee/sub-grantee is in compliance with reimbursement procedures for one year.
- f. Failure to comply with these procedures may jeopardize all future funding from the SERC.

NAC 459.99151 Reimbursement of expenditures: Requirements for disbursement of money. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in [NAC 459.99152](#), the grant money awarded to a local emergency planning committee by the Commission will be disbursed on the basis of reimbursement for expenditures authorized in the grant.

2. If a local emergency planning committee seeks to be reimbursed for an expenditure authorized in the grant, the local emergency planning committee must submit a request for reimbursement to the Commission not later than 30 days after the last day of the quarter or 45 days after the end of the award period.

3. A request for reimbursement must include a financial report, on a form approved by the Commission, consisting of an accounting of the expenditure, the invoice for the expenditure and proof of payment by the local emergency planning committee.

4. Within 5 working days after receiving a request for reimbursement, the Commission will conduct an audit of the financial report submitted to the Commission to ensure that the expenditure for which the local emergency planning committee is requesting reimbursement is authorized in the grant. If the Commission approves the request, the Commission will process the payment within 1 working day after approval of the request.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99152 Advance funding for expected expenditures exceeding \$2,000. ([NRS 459.735](#), [459.740](#))

1. If a local emergency planning committee has an expected expenditure exceeding \$2,000, the local emergency planning committee may submit a request to the Commission for advance funding.

2. The request for advance funding must include a financial report, on a form approved by the Commission, consisting of a copy of the purchase order indicating the date of processing for the purchase and the cost of the purchase.

3. Within 5 working days after receiving a request for advance funding, the Commission will verify that the expenditure for which the local emergency planning committee is requesting advance funding is authorized in the grant. If the Commission approves the request, the Commission will process the payment to the local emergency planning committee.

4. Within 30 days after a check for advance funding is issued to a local emergency planning committee, the local emergency planning committee shall submit to the Commission a financial report, on a form approved by the Commission, that includes any invoices for the expenditure and proof of payment.

5. If the expenditure is not made within 30 days after a check for advance funding is issued to a local emergency planning committee, the local emergency planning committee must return to the Commission the amount of the advance funding within 45 days after the issuance of the check for advance funding.

6. If a check for advance funding issued to a local emergency planning committee is in excess of the actual expenditure, the local emergency planning committee must return to the Commission the amount of the advance funding that is in excess of the actual expenditure within 45 days after the date of issuance of the check for advance funding.

7. If a local emergency planning committee fails to return an amount of advance funding as required pursuant to this section, the Commission may withhold funding from the local emergency planning committee in the future.

8. As used in this section, “advance funding” means an advance of the grant money awarded to pay for any expenditures.

(Added to NAC by St. Emergency Response Comm’n by R133-03, eff. 3-26-2004)

NAC 459.99153 Quarterly financial reports. ([NRS 459.735](#), [459.740](#)) Unless a financial report is submitted pursuant to [NAC 459.99151](#) or [459.99152](#), a local emergency planning committee must submit to the Commission a quarterly financial report. The quarterly financial report must be submitted on a form approved by the Commission not later than 30 days after the last day of the quarter indicating that no expenditures were made during that quarter.

(Added to NAC by St. Emergency Response Comm’n by R133-03, eff. 3-26-2004)

NAC 459.99172 Reimbursement of expenditures: Requirements for disbursement of money. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in [NAC 459.99173](#), the money allocated to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials by the Commission from the Contingency Account for Hazardous Materials will be disbursed on the basis of reimbursement for expenditures authorized in the allocation of money.

2. If the state agency seeks to be reimbursed for an expenditure authorized in the allocation of money, the state agency must submit a request for reimbursement to the Commission not later than 30 days after the last day of the quarter or 45 days after the end of the award period.

3. A request for reimbursement must include a financial report, on a form approved by the Commission, consisting of an accounting of the expenditure, the invoice for the expenditure and proof of payment by the state agency.

4. Within 5 working days after receiving a request for reimbursement, the Commission will conduct an audit of the financial report submitted to the Commission to ensure that the expenditure for which the state agency is requesting reimbursement is authorized in the allocation of money. If the Commission approves the request, the Commission will process the payment within 1 working day after approval of the request.

(Added to NAC by St. Emergency Response Comm’n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99173 Advance funding for expected expenditures exceeding \$2,000. ([NRS 459.735](#), [459.740](#))

1. A state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials and which has an expected expenditure exceeding \$2,000 may submit a request to the Commission for advance funding.

2. The request for advance funding must include a financial report, on a form approved by the Commission, consisting of a copy of the purchase order indicating the date of processing for the purchase and the cost of the purchase.

3. Within 5 working days after receiving a request for advance funding, the Commission will verify that the expenditure for which the state agency is requesting advance funding is authorized in the documentation of the allocation of money. If the Commission approves the request, the Commission will process the payment to the state agency.

4. Within 30 days after a check for advance funding is issued to the state agency, the state agency shall submit to the Commission a financial report, on a form approved by the Commission, that includes any invoices for the expenditure and proof of payment.

5. If the expenditure is not made within 30 days after a check for advance funding is issued to the state agency, the state agency must return to the Commission the amount of the advance funding within 45 days after the issuance of the check for advance funding.

6. If a check for advance funding issued to the state agency is in excess of the actual expenditure, the state agency must return to the Commission the amount of the advance funding that is in excess of the actual expenditure within 45 days after the date of issuance of the check for advance funding.

7. If the state agency fails to return an amount of advance funding as required pursuant to this section, the Commission may withhold funding from the state agency in the future.

8. As used in this section, "advance funding" means an advance of the money allocated to pay for any expenditures.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99174 Quarterly financial reports. ([NRS 459.735](#), [459.740](#)) Unless a financial report is submitted pursuant to [NAC 459.99172](#) or [459.99173](#), a state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials must submit to the Commission a quarterly financial report. The quarterly financial report must be submitted on a form approved by the Commission not later than 30 days after the last day of the quarter indicating that no expenditures were made during that quarter.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Mary Lynne Evans REVISED BY: Karen J. Kennard	ORIGINATED DATE: 02/22/00 REVISED DATE: 04/12/07	APPROVED BY: SERC
DATE ISSUED: 03/01/00	DATE EFFECTIVE: 03/01/00	SUBJECT: Sub-recipient Program Monitoring & Financial Audits
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.8

Reference: NAC 459.99151 to 459.99155 inclusive; and 459.99172 to 459.99176 inclusive

PRINCIPLE:

The State Emergency Response Commission awards grants with funds from the Federal Government, fees collected from facilities and other sources of revenue within the State of Nevada. It is the responsibility of the SERC staff to verify funds are being utilized correctly by monitoring and auditing expenditures.

POLICY:

With the dissemination of ~~monies~~funds obtained from fees and federal funding to the Local Emergency Planning Committees or State agencies, the SERC will invoke all federal and state rules and regulations which are pertinent to grants management. The grantee/subgrantee is monitored both fiscally and programmatically.

The SERC provides grants based on the state fiscal year. Quarters are as follows:

- 1st quarter July – September
- 2nd quarter October – December
- 3rd quarter January – March
- 4th quarter April – June

PROCEDURES:

- A. Financial Reports are required from all grantees/subgrantees to be submitted not later than 30 days after the last day of the quarter. The report consists of an accounting of grant expenditures, invoices and proof of payment. If no expenditures have been made, a financial report indicating this is due the end of the month following the end of the quarter. Reference SERC Policy 8.5.
- B. Staff will perform a desk audit on the documentation submitted to substantiate the expenditures of the project.
 - 1. The expenditures will be compared to the amounts approved in the grant award documents.

2. The mathematics of the claim are verified and noted by initialing and dating the report form.
 3. Expenditures are tracked on the LEPC Grant Awards spreadsheet on the computer at K:\groups\SERC\Shared\Grants\FY** County Grant Awards.
 4. The Financial Report is filed in the appropriate grant file.
- C. Any discrepancies in the claim will be handled using the following procedures:
1. Staff will contact the grantee/subgrantee to obtain clarification and resolve the issue. If the issue is not resolved:
 - a. The Executive Director will contact the grantee/subgrantee and/or the County Manager, head of the State agency or a designee to resolve the issue.
 - b. If the discrepancy is blatant, the Executive Director will notify the Funding Committee Chair and SERC Co-Chairs and the proper course of action will be determined.
- D. Delinquent financial reports will be handled as follows:
1. 30 days past due – the grantee/subgrantee will be notified in writing.
 2. 45 days past due – the County Manager, head of the State agency or a designee will be contacted.
 3. 60 days past due – the Executive Director will make every attempt to resolve or take appropriate action. The SERC will be notified and the grant will be in jeopardy.
- E. Staff will audit and monitor ~~a minimum of 8~~all grantee/subgrantees ~~per~~each year. This shall include:
1. Program Monitoring:
 - a. An on-site review of the program will be performed. The goals and objectives of the grantee/subgrantee shall be reviewed to determine if the grantee/subgrantee is working within the scope of the project.
 - b. Staff will attend a grantee/subgrantee meeting to observe and provide technical assistance if needed.
 - c. A written report of the monitoring trip will be completed, reviewed and approved by the Executive Director, and disseminated as follows:

- i. One copy in the project file
- ii. One copy to the grantee/subgrantee
- ii. Verbal summary provided to the Funding Committee

2. Financial Audit:

- a. An on-site audit of the financial record and accounting practices will be performed by the SERC staff. This will include:
 - i. A visit to the financial office responsible for the public ~~monies~~funds which are in that county or state agency.
 - ii. Review of the separation of funds.
 - iii. Review how the grantee/subgrantee determines costs applicable to the SERC grant.
- b. A written report of the audit trip will be completed, reviewed and approved by the Executive Director, and disseminated as follows:
 - i. One copy in the project file
 - ii. One copy to the grantee/subgrantee
 - iii. Verbal summary provided to the Funding Committee

F. If necessary, a follow-up documented discussion will be held within 60 days or as otherwise scheduled to ensure compliance and/or implementation of pertinent laws, regulations, rules and recommendations. If compliance and/or implementation have not occurred, the issues will be agendized at the next SERC meeting for further corrective action.

G. Subgrantees receiving federal funds from the SERC are required to submit a copy of the independent Single Audit report to the granting agency. To save duplication, **SERC staff will review copies forwarded to the Division of Emergency Management** to ensure proper amounts reflected and to determine the effect, if any, findings may have on the administration of grants through this office. Findings, recommendations or concerns will be addressed appropriately with the grantee/sub-grantee. A memo will be placed in the grantee/sub-grantees file reflecting the review of the audit report and any subsequent action.

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H. **The SERC has adopted performance measures prescribing each SERC member attend a minimum of one LEPC meeting per year.** When attending the meeting(s), the Commission member is instructed to provide technical assistance and assess any needs which can be provided to the LEPC. Any ~~findings~~potential needs for additional technical assistance will be submitted to the SERC to determine resources available and a plan/notation will be placed ~~be filed~~ in the appropriate LEPC file. Staff will follow up on the recommendations of the Commission member and notify the SERC as appropriate.

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happens

NAC 459.99151 Reimbursement of expenditures: Requirements for disbursement of money. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in [NAC 459.99152](#), the grant money awarded to a local emergency planning committee by the Commission will be disbursed on the basis of reimbursement for expenditures authorized in the grant.

2. If a local emergency planning committee seeks to be reimbursed for an expenditure authorized in the grant, the local emergency planning committee must submit a request for reimbursement to the Commission not later than 30 days after the last day of the quarter or 45 days after the end of the award period.

3. A request for reimbursement must include a financial report, on a form approved by the Commission, consisting of an accounting of the expenditure, the invoice for the expenditure and proof of payment by the local emergency planning committee.

4. Within 5 working days after receiving a request for reimbursement, the Commission will conduct an audit of the financial report submitted to the Commission to ensure that the expenditure for which the local emergency planning committee is requesting reimbursement is authorized in the grant. If the Commission approves the request, the Commission will process the payment within 1 working day after approval of the request.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99152 Advance funding for expected expenditures exceeding \$2,000. ([NRS 459.735](#), [459.740](#))

1. If a local emergency planning committee has an expected expenditure exceeding \$2,000, the local emergency planning committee may submit a request to the Commission for advance funding.

2. The request for advance funding must include a financial report, on a form approved by the Commission, consisting of a copy of the purchase order indicating the date of processing for the purchase and the cost of the purchase.

3. Within 5 working days after receiving a request for advance funding, the Commission will verify that the expenditure for which the local emergency planning committee is requesting advance funding is authorized in the grant. If the Commission approves the request, the Commission will process the payment to the local emergency planning committee.

4. Within 30 days after a check for advance funding is issued to a local emergency planning committee, the local emergency planning committee shall submit to the Commission a financial report, on a form approved by the Commission, that includes any invoices for the expenditure and proof of payment.

5. If the expenditure is not made within 30 days after a check for advance funding is issued to a local emergency planning committee, the local emergency planning committee must return to the Commission the amount of the advance funding within 45 days after the issuance of the check for advance funding.

6. If a check for advance funding issued to a local emergency planning committee is in excess of the actual expenditure, the local emergency planning committee must return to the Commission the amount of the advance funding that is in excess of the actual expenditure within 45 days after the date of issuance of the check for advance funding.

7. If a local emergency planning committee fails to return an amount of advance funding as required pursuant to this section, the Commission may withhold funding from the local emergency planning committee in the future.

8. As used in this section, “advance funding” means an advance of the grant money awarded to pay for any expenditures.

(Added to NAC by St. Emergency Response Comm’n by R133-03, eff. 3-26-2004)

NAC 459.99153 Quarterly financial reports. ([NRS 459.735](#), [459.740](#)) Unless a financial report is submitted pursuant to [NAC 459.99151](#) or [459.99152](#), a local emergency planning committee must submit to the Commission a quarterly financial report. The quarterly financial report must be submitted on a form approved by the Commission not later than 30 days after the last day of the quarter indicating that no expenditures were made during that quarter.

(Added to NAC by St. Emergency Response Comm’n by R133-03, eff. 3-26-2004)

NAC 459.99154 Past due financial reports. ([NRS 459.735](#), [459.740](#)) If a financial report required to be submitted pursuant to [NAC 459.99151](#), [459.99152](#) or [459.99153](#):

1. Is at least 30 days past due but less than 45 days past due, the Commission will notify the chair of the local emergency planning committee required to submit the financial report.

2. Is at least 45 days past due but less than 60 days past due, the Commission will notify the designee of the appropriate governmental entity for which the grant has been awarded.

3. Is at least 60 days past due, the Commission may in the future withhold funding from the local emergency planning committee required to submit the financial report.

(Added to NAC by St. Emergency Response Comm’n by R133-03, eff. 3-26-2004)

NAC 459.99172 Reimbursement of expenditures: Requirements for disbursement of money. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in [NAC 459.99173](#), the money allocated to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials by the Commission from the Contingency Account for Hazardous Materials will be disbursed on the basis of reimbursement for expenditures authorized in the allocation of money.

2. If the state agency seeks to be reimbursed for an expenditure authorized in the allocation of money, the state agency must submit a request for reimbursement to the Commission not later than 30 days after the last day of the quarter or 45 days after the end of the award period.

3. A request for reimbursement must include a financial report, on a form approved by the Commission, consisting of an accounting of the expenditure, the invoice for the expenditure and proof of payment by the state agency.

4. Within 5 working days after receiving a request for reimbursement, the Commission will conduct an audit of the financial report submitted to the Commission to ensure that the expenditure for which the state agency is requesting reimbursement is authorized in the allocation of money. If the Commission approves the request, the Commission will process the payment within 1 working day after approval of the request.

(Added to NAC by St. Emergency Response Comm’n by R133-03, eff. 3-26-2004; A by R177-05, 6-1-2006)

NAC 459.99173 Advance funding for expected expenditures exceeding \$2,000. ([NRS 459.735](#), [459.740](#))

1. A state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous

materials and which has an expected expenditure exceeding \$2,000 may submit a request to the Commission for advance funding.

2. The request for advance funding must include a financial report, on a form approved by the Commission, consisting of a copy of the purchase order indicating the date of processing for the purchase and the cost of the purchase.

3. Within 5 working days after receiving a request for advance funding, the Commission will verify that the expenditure for which the state agency is requesting advance funding is authorized in the documentation of the allocation of money. If the Commission approves the request, the Commission will process the payment to the state agency.

4. Within 30 days after a check for advance funding is issued to the state agency, the state agency shall submit to the Commission a financial report, on a form approved by the Commission, that includes any invoices for the expenditure and proof of payment.

5. If the expenditure is not made within 30 days after a check for advance funding is issued to the state agency, the state agency must return to the Commission the amount of the advance funding within 45 days after the issuance of the check for advance funding.

6. If a check for advance funding issued to the state agency is in excess of the actual expenditure, the state agency must return to the Commission the amount of the advance funding that is in excess of the actual expenditure within 45 days after the date of issuance of the check for advance funding.

7. If the state agency fails to return an amount of advance funding as required pursuant to this section, the Commission may withhold funding from the state agency in the future.

8. As used in this section, "advance funding" means an advance of the money allocated to pay for any expenditures.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99174 Quarterly financial reports. ([NRS 459.735](#), [459.740](#)) Unless a financial report is submitted pursuant to [NAC 459.99172](#) or [459.99173](#), a state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials must submit to the Commission a quarterly financial report. The quarterly financial report must be submitted on a form approved by the Commission not later than 30 days after the last day of the quarter indicating that no expenditures were made during that quarter.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

NAC 459.99175 Past due financial reports. ([NRS 459.735](#), [459.740](#)) If a financial report required to be submitted pursuant to [NAC 459.99172](#), [459.99173](#) or [459.99174](#):

1. Is at least 30 days past due but less than 45 days past due, the Commission will notify the state agency required to submit the financial report.

2. Is at least 45 days past due but less than 60 days past due, the Commission will notify the head of the state agency required to submit the financial report.

3. Is at least 60 days past due, the Commission may in the future withhold funding from the state agency required to submit the financial report.

(Added to NAC by St. Emergency Response Comm'n by R133-03, eff. 3-26-2004)

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Mary Lynne Evans REVISED BY: Karen J. Kennard	ORIGINATED DATE: 02/22/00 REVISED DATE: 01/27/15	APPROVED BY: SERC
DATE ISSUED: 03/01/00	DATE EFFECTIVE: 03/01/00	SUBJECT: Federal Grant Administration
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.10

No NAC applicable to this policy

PRINCIPLE:

The State Emergency Response Commission is both a primary recipient and subrecipient of Federal Grant funds. These funds are pursued to assist ~~the counties,~~ ~~through~~ the Local Emergency Planning Committees, in conducting planning and training activities, and identifying equipment needs for first responders.

The State Emergency Response Commission must ensure adequate controls are in place to satisfy the needs of the federal, state and department rules and regulations.

POLICY:

SERC policies regarding grants management, including reporting, monitoring and auditing, will be followed in the administration of federal grants. Reference SERC Policies 8.1 through 8.9.

PROCEDURES--SERC AS PRIMARY RECIPIENT:

- A. The SERC receives or locates available funding sources through an application or research. The application is prepared by staff.
- B. Approval of the application for submission to the granting agency will be placed on a SERC agenda prior to the due date of the application. Members of the SERC will be provided the opportunity to review and approve the application for submission.
- C. Staff will submit the SERC approved application to the appropriate granting agency. In accordance with NRS 353.245, ~~and~~ the State Administrative Manual (SAM) 3008.0, and SERC Internal Controls staff will submit the grant application to the Budget and Planning Division, LCB and the State Grants Office of the Department of Administration.

D. In accordance with NRS 353.245 and SAM 3008.0, within five working days of receiving a Grant Award from the awarding Federal Agency, staff will notify the Budget and Planning Division, LCB, and the State Grants Office and the State Controller's Office of the award.

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E. If applicable, a state work program request will be prepared to accept the funds. Reference SERC Policy 4.12.

F. Awarding and payment of subgrants will be made pursuant to SERC Policy 8.2 and 8.5, respectively.

G. Staff will prepare and submit the federal request for reimbursement form to the awarding agency at least quarterly, as applicable. Funds will be requested when expenditures from the grant have been made within the quarter.

H. The deposit from the federal agency is processed in the Integrated Financial System (IFS) and placed on hold until the funds are received. Notification of the expected funds will be sent to the State Treasurer's Office. The Treasurer's Office will release the hold when the funds are received.

I. Staff will record the request for reimbursement in the Budget Tracking spreadsheets on the computer at K:\Shared\Groups\SERC\fiscal\FY**budget tracking.

J. Documents are filed in the "pending" folder.

K. Upon record of receipt on the Budget Status Report, documentation is dated and removed from the pending folder and filed in the revenue budget notebook ~~under the appropriate category and~~ by fiscal year.

PROCEDURES--SERC AS A SUB-RECIPIENT:

A. SERC may receive subgrants of federal money through other state agencies to carry out hazardous materials projects. The application process is determined by the appropriate state agency.

B. The grant award is processed through the appropriate state agency. Upon subgrant award, staff will prepare a state work program request, to accept the funds, if applicable. Reference SERC Policy 4.12.

C. Funds will be transferred from the appropriate state agency to the SERC after approval of the grant award and, if applicable, the state work program request.

- D. Awarding and payment of subgrants to local agencies will be made pursuant to SERC Policy 8.2 and 8.5, respectively.

FEDERAL AUDITS:

- A. All federal grants are subject to audits by the federal agencies. Staff and SERC members will cooperate with auditors by answering questions and providing requested documentation in a timely manner.
- B. Staff will answer the final audit reports and provide corrective action plans within the time lines provided.
- C. Staff will appropriately implement the corrective action plan within the designated time frame.

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Karen J. Kennard	ORIGINATED DATE: 04/14/05	APPROVED BY: SERC
REVISED BY: Karen J. Pabón	REVISED DATE: 05/28/10	
DATE ISSUED: 04/14/05	DATE EFFECTIVE: 04/14/05	SUBJECT: Appeal Process
PROCESSED BY: Karen J. Kennard	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.12

Needs
overhaul to
comply with
NRS 233B.

NAC 459.99189

PRINCIPLE:

The State Emergency Response Commission (SERC) is the executive agency to ensure Nevada's compliance with the Emergency Planning and Community Right-to-Know Act (EPCRA). As such, the SERC coordinates and supervises Local Emergency Planning Committees (LEPCs) in the program areas of EPCRA. The SERC also awards grants with funds from the federal government, fees collected from facilities and other sources of revenue within the State of Nevada. Policies and regulations have been imposed to govern the SERC and LEPCs EPCRA program and/or grantee financial management. It may become necessary for the program staff, applicant or grantee to request an appeal of a staff, committee or SERC decision.

POLICY:

The programs are managed and grant funds are awarded consistent with SERC policies, and federal and State laws and regulations. Program managers, applicants or grantees have the right to appeal if they disagree with a decision made by staff, committee or the SERC. A written appeal must be submitted to the Executive Director within 35 days after receipt of notice of the decision.

PROCEDURES:

1. If program managers, applicants or grantees disagree with a decision made by staff, a committee or the SERC, they may file an appeal with the Executive Director within 35 days after receipt of notice of the decision. The appeal must be submitted in writing, with original signature of LEPC chair or co-chair, and include grounds for the appeal and all supporting documentation.

2. The Executive Director will review the material submitted to determine timeliness. The Executive Director or designee will present a report to the SERC at its next meeting. If an appeal is received after the deadline for placing the item on the agenda, it will be presented to the SERC at the following meeting.
3. Not later than 10 days before the date of the meeting in which the appeal will be heard by the SERC, staff will notify the appellant of the date, time and place of the meeting.
4. The report presented to the SERC by the Executive Director or designee will include the grounds for the appeal, supporting documentation, information concerning the claim and recommendations for action by the SERC.
5. The appellants may appear to present their appeals and the reasons why they are not satisfied with the decision of the SERC.
6. The SERC may render a decision on the appeal at that time during its open meeting or defer action to a future meeting if additional information is required for review.
7. The Executive Director or designee shall mail to the appellant by first-class mail, notice of the decision of the SERC within 15 days after the decision is rendered.
8. A decision of the SERC on an appeal is final. [\(Reference NAC 459.99189\)](#)

NAC 459.99189 Appeal of decision of Commission or staff member of Commission.
(NRS 459.740)

1. If a local emergency planning committee or a state agency is not satisfied with a decision by the Commission or by a staff member of the Commission, the local emergency planning committee or state agency may file an appeal with the Executive Director of the Commission. The appeal must be filed in writing, including the grounds for the appeal and any supporting documentation, within 35 days after the receipt of notice by the local emergency planning committee or state agency of the original decision.

2. Except as otherwise provided in this subsection, after the receipt of an appeal pursuant to this section, the Executive Director or his or her designee shall present a report to the Commission at its next meeting. If an appeal is received after the deadline for placing items on the agenda for the next meeting of the Commission, the Executive Director or his or her designee shall present the report to the Commission at its next following meeting. The report presented to the Commission will include the grounds for the appeal, supporting documentation, information concerning the claim and recommendations for action by the Commission.

3. Not later than 10 days before the date of the meeting in which an appeal will be heard, the Executive Director or his or her designee shall notify the local emergency planning committee or state agency in writing of the date, time and place of the meeting.

4. The local emergency planning committee or state agency may appear in person to present the reason for appeal.

5. The Commission may render a decision on the claim at the time of the meeting or may defer action to a future meeting if additional information is required for review.

6. The Executive Director or his or her designee shall mail to the participant by first-class mail notice of the decision of the Commission within 15 days after the decision is rendered.

7. A decision by the Commission regarding an appeal is final.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006; A by R120-08, 12-17-2008)

CHAPTER 233B - NEVADA ADMINISTRATIVE PROCEDURE ACT

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GENERAL PROVISIONS

NRS 233B.010 Short title. This chapter may be cited as the Nevada Administrative Procedure Act.
(Added to NRS by 1965, 962)

NRS 233B.020 Legislative intent.

1. By this chapter, the Legislature intends to establish minimum procedural requirements for the regulation-making and adjudication procedure of all agencies of the Executive Department of the State Government and for judicial review of both functions, except those agencies expressly exempted pursuant to the provisions of this chapter. This chapter confers no additional regulation-making authority upon any agency except to the extent provided in subsection 1 of [NRS 233B.050](#).

2. The provisions of this chapter are intended to supplement statutes applicable to specific agencies. This chapter does not abrogate or limit additional requirements imposed on such agencies by statute or otherwise recognized by law.

(Added to NRS by 1965, 962; A 1973, 472; [1977, 1384](#))

NRS 233B.030 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [NRS 233B.031](#) to [233B.0385](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1965, 962; A 1967, 807; 1971, 661; 1975, 1790; [1977, 1384](#); [1999, 2072](#))

NRS 233B.031 "Agency" defined. "Agency" means an agency, bureau, board, commission, department, division, officer or employee of the Executive Department of the State Government authorized by law to make regulations or to determine contested cases.

(Added to NRS by [1977, 1382](#))

NRS 233B.032 “Contested case” defined. “Contested case” means a proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing, or in which an administrative penalty may be imposed.

(Added to NRS by [1977, 1382](#))

NRS 233B.033 “Emergency regulation” defined. “Emergency regulation” means a regulation adopted pursuant to [NRS 233B.0613](#).

(Added to NRS by [1977, 1382](#); A [1983, 1123](#))

NRS 233B.034 “License” and “licensing” defined. “License” means the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law. “Licensing” means the agency procedure whereby the license is granted, denied, revoked, suspended, annulled, withdrawn or amended.

(Added to NRS by [1977, 1382](#))

NRS 233B.035 “Party” defined. “Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any contested case.

(Added to NRS by [1977, 1383](#))

NRS 233B.036 “Permanent regulation” defined. “Permanent regulation” means a regulation which is not an emergency regulation or a temporary regulation.

(Added to NRS by [1977, 1383](#))

NRS 233B.037 “Person” defined. “Person” includes any political subdivision or public or private organization of any character other than an agency.

(Added to NRS by [1977, 1383](#); A [1985, 513](#))

NRS 233B.038 “Regulation” defined.

1. “Regulation” means:

(a) An agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency;

(b) A proposed regulation;

(c) The amendment or repeal of a prior regulation; and

(d) The general application by an agency of a written policy, interpretation, process or procedure to determine whether a person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest.

2. The term does not include:

(a) A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) A declaratory ruling;

(c) An intraagency memorandum;

(d) A manual of internal policies and procedures or audit procedures of an agency which is used solely to train or provide guidance to employees of the agency and which is not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation;

(e) An agency decision or finding in a contested case;

(f) An advisory opinion issued by an agency that is not of general applicability;

(g) A published opinion of the Attorney General;

(h) An interpretation of an agency that has statutory authority to issue interpretations;

(i) Letters of approval, concurrence or disapproval issued in relation to a permit for a specific project or activity;

(j) A contract or agreement into which an agency has entered;

(k) The provisions of a federal law, regulation or guideline;

(l) An emergency action taken by an agency that is necessary to protect public health and safety;

(m) The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine whether the person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest;

(n) A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic-control devices that conform with the manual and specifications for a uniform system of official traffic-control devices adopted pursuant to [NRS 484A.430](#);

(o) The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the provisions of title 45 of NRS; or

(p) A technical bulletin prepared pursuant to [NRS 360.133](#).

(Added to NRS by [1977, 1383](#); A [1999, 2406](#); [2013, 159](#))

NRS 233B.0382 “Small business” defined. “Small business” means a business conducted for profit which employs fewer than 150 full-time or part-time employees.

(Added to NRS by [1999, 2070](#))

NRS 233B.0385 “Temporary regulation” defined. “Temporary regulation” means:

1. A regulation adopted pursuant to subsection 3 of [NRS 233B.063](#); or

2. Any other regulation which is effective for 120 days or less and which is not an emergency regulation.

(Added to NRS by [1977, 1383](#))

NRS 233B.039 Applicability.

1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in [NRS 209.221](#), the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in [NRS 368A.140](#) and [463.765](#), the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in [NRS 422.390](#), the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to [chapter 217](#) of NRS.

(j) Except as otherwise provided in [NRS 533.365](#), the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of [NRS 618.375](#).

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of [NRS 616C.260](#).

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to [NRS 590.830](#).

(n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and [NRS 391.323](#), the Department of Education, the Board of the Public Employees’ Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) [Chapter 612](#) of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) [Chapters 616A](#) to [617](#), inclusive, of NRS for the determination of contested claims;

(c) [Chapter 91](#) of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) [NRS 90.800](#) for the use of summary orders in contested cases,

↪ prevail over the general provisions of this chapter.

4. The provisions of [NRS 233B.122](#), [233B.124](#), [233B.125](#) and [233B.126](#) do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

- (b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to [NRS 453.2184](#);
- (c) A regulation adopted by the State Board of Education pursuant to [NRS 392.644](#) or [394.1694](#); or
- (d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

(Added to NRS by [1977, 1383](#); A [1979, 492, 1639](#); [1981, 1398, 2045, 2046](#); [1983, 183, 970, 1528](#); [1985, 1366](#); [1987, 327, 1014, 1294, 2191](#); [1989, 160, 1650](#); [1991, 663, 1665](#); [1993, 367, 859, 1493, 2084, 2085](#); [1995, 128, 582](#); [1997, 1973, 2607, 3342](#); [1999, 581, 590, 2242, 2407, 3039, 3044](#); [2001, 158, 963, 1334](#); [2001 Special Session, 233](#); [2003, 289, 306, 2165](#); [2003, 20th Special Session, 191](#); [2005, 22nd Special Session, 144](#); [2009, 2297](#); [2010, 26th Special Session, 86](#); [2011, 936, 2649](#); [2013, 9, 3314](#))

ADMINISTRATIVE REGULATIONS

NRS 233B.0395 Ratification of Nevada Administrative Code. The Nevada Administrative Code as most recently revised or supplemented before May 15, 1987, and the text of those regulations which have been prepared by the Legislative Counsel for inclusion in the Nevada Administrative Code on or before May 15, 1987, but have not been included, are hereby ratified.

(Added to NRS by [1987, 1581](#))

NRS 233B.040 Regulations: Adoption; enforcement; contents; adoption of material by reference; agency to explain failure to adopt.

1. To the extent authorized by the statutes applicable to it, each agency may adopt reasonable regulations to aid it in carrying out the functions assigned to it by law and shall adopt such regulations as are necessary to the proper execution of those functions. If adopted and filed in accordance with the provisions of this chapter, the following regulations have the force of law and must be enforced by all peace officers:

- (a) The Nevada Administrative Code; and
- (b) Temporary and emergency regulations.

➔ In every instance, the power to adopt regulations to carry out a particular function is limited by the terms of the grant of authority pursuant to which the function was assigned.

2. Every regulation adopted by an agency must include:

- (a) A citation of the authority pursuant to which it, or any part of it, was adopted; and
- (b) The address of the agency and, to the extent not elsewhere provided in the regulation, a brief explanation of the procedures for obtaining clarification of the regulation or relief from the strict application of any of its terms, if the agency is authorized by a specific statute to grant such relief, or otherwise dealing with the agency in connection with the regulation.

3. An agency may adopt by reference in a regulation material published by another authority in book or pamphlet form if:

- (a) It files one copy of the publication with the Secretary of State and one copy with the State Library and Archives Administrator, and makes at least one copy available for public inspection with its regulations; and
- (b) The reference discloses the source and price for purchase of the publication.

➔ An agency shall not attempt to incorporate any other material in a regulation by reference.

4. An agency shall adopt a proposed regulation not later than 2 years after the date on which the proposed regulation is submitted to the Legislative Counsel pursuant to subsection 1 of [NRS 233B.063](#). If an agency does not adopt a proposed regulation within the time prescribed by this subsection, the executive head of the agency shall appear personally before the Legislative Commission and explain why the proposed regulation has not been adopted.

(Added to NRS by 1965, 963; A 1971, 804; [1977, 1385](#); [1985, 366, 1488](#); [1997, 3151](#); [2013, 77](#))

NRS 233B.045 Treatment of regulations adopted by certain entities other than agencies. The Legislative Counsel shall treat regulations adopted by entities other than agencies in the same manner as regulations adopted by agencies if the entity is required by statute to adopt the regulation in the manner prescribed by this chapter.

(Added to NRS by [2001, 2316](#))

NRS 233B.050 Rules of practice; public inspection of regulations, orders, decisions and opinions; review of rules of practice and regulations; validity.

1. In addition to other regulation-making requirements imposed by law, each agency shall:

(a) Adopt rules of practice, setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency.

(b) Make available for public inspection all rules of practice and regulations adopted or used by the agency in the discharge of its functions and that part of the Nevada Administrative Code which contains its regulations.

(c) Make available for public inspection all final orders, decisions and opinions except those expressly made confidential or privileged by statute.

(d) Review its rules of practice at least once every 3 years and file with the Secretary of State a statement setting forth the date on which the most recent review of those rules was completed and describing any revisions made as a result of the review.

(e) Review its regulations at least once every 10 years to determine whether it should amend or repeal any of the regulations. Within 30 days after completion of the review, the agency shall submit a report to the Legislative Counsel for distribution to the next regular session of the Legislature. The report must include the date on which the agency completed its review of the regulations and describe any regulation that must be amended or repealed as a result of the review.

2. A regulation, rule, final order or decision of an agency is not valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection as required in this section, except that this provision does not apply in favor of any person or party who has actual knowledge thereof.

(Added to NRS by 1965, 963; A [1977, 1386](#); [1979, 972](#); [1995, 129](#); [1997, 184](#); [1999, 2203](#))

NRS 233B.060 Notice of adoption, amendment or repeal of permanent or temporary regulation; adoption of permanent regulation after adoption of temporary regulation.

1. Except as otherwise provided in subsection 2 and [NRS 233B.061](#), before adopting, amending or repealing:

(a) A permanent regulation, the agency must, after receiving the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to [NRS 233B.063](#), give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

(b) A temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation must be approved by the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of [NRS 233B.067](#).

3. If the Public Utilities Commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation must be approved by the Legislative Commission or the Subcommittee to Review Regulations.

(Added to NRS by 1965, 964; A 1973, 621; 1975, 1157, 1413; [1977, 1386](#), [1547](#), [1549](#); [1981, 186](#); [1983, 1123](#), [1244](#); [1995, 130](#); [1997, 1973](#); [2007, 871](#); [2009, 2284](#))

NRS 233B.0601 Notice of meeting or workshop regarding adoption of permanent or temporary regulation: Agency to provide electronic copy to Legislative Counsel Bureau for posting on website. At the same time that an agency provides notice of any meeting or workshop relating to the adoption of a proposed regulation pursuant to this chapter or [NRS 241.020](#), the agency shall submit an electronic copy of the notice to the Director of the Legislative Counsel Bureau. The Director shall cause the notice to be posted on the same day on the Internet website maintained by the Legislative Counsel Bureau.

(Added to NRS by [2013, 77](#))

NRS 233B.0603 Contents and form of notice of intent to adopt, amend or repeal permanent or temporary regulation; solicitation of comments from public or affected businesses.

1. The notice of intent to act upon a regulation required pursuant to [NRS 233B.060](#) must:

(a) Include:

(1) A statement of the need for and purpose of the proposed regulation.

(2) If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

(3) If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to [NRS 233B.063](#).

(4) A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

(I) Both adverse and beneficial effects; and

(II) Both immediate and long-term effects.

(5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of [NRS 233B.0608](#).

(6) The estimated cost to the agency for enforcement of the proposed regulation.

(7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

(8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

(9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

(10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

(b) If the proposed regulation is a temporary regulation, state each address at which the text of the proposed regulation may be inspected and copied.

(c) Include an exact copy of the provisions of subsection 2 of [NRS 233B.064](#).

(d) Include a statement indicating whether the regulation establishes a new fee or increases an existing fee.

(e) Be mailed to all persons who have requested in writing that they be placed upon a mailing list, which must be kept by the agency for that purpose.

(f) Be submitted to the Legislative Counsel Bureau for inclusion in the Register of Administrative Regulations created pursuant to [NRS 233B.0653](#). The publication of a notice of intent to act upon a regulation in the Register does not satisfy the requirements for notice set forth in paragraph (e).

2. The Attorney General may by regulation prescribe the form of notice to be used.

3. In addition to distributing the notice to each recipient of the agency's regulations, the agency shall also solicit comment generally from the public and from businesses to be affected by the proposed regulation.

(Added to NRS by [1983, 1124](#); A [1995, 130, 239](#); [1997, 184, 1390](#); [2005, 1479](#); [2007, 872](#))

NRS 233B.0607 Proposed permanent or temporary regulation: Filing; availability; contents.

1. The agency shall at the time of giving the notice of intent to act upon a regulation required pursuant to [NRS 233B.060](#):

(a) Deposit one copy of the notice and text of the proposed regulation with the State Library and Archives Administrator;

(b) Keep at least one copy of the notice and text available in each of its offices from the date of the notice to the date of the hearing, for inspection and copying by the public; and

(c) If the agency does not maintain an office in a county, deposit one copy of the notice and text with the librarian of the main public library in the county.

2. The text of the proposed regulation so disseminated must include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal.

3. After the final version of an adopted regulation is received, each such librarian may discard the deposited copy of the text of the proposed regulation.

(Added to NRS by [1983, 1125](#); A [1983, 1245](#); [1985, 1489](#); [1995, 130](#); [1997, 3151](#); [2007, 873](#))

NRS 233B.0608 Proposed permanent or temporary regulation: Determination of impact on small businesses; consultation with owners and officers of small businesses; analysis of likely impact on small business; consideration of methods to reduce impact on small businesses; preparation of small business impact statement; requirement to include impact statement in submission to Legislative Counsel Bureau.

1. Before conducting a workshop for a proposed regulation pursuant to [NRS 233B.061](#), an agency shall make a concerted effort to determine whether the proposed regulation is likely to:

(a) Impose a direct and significant economic burden upon a small business; or

(b) Directly restrict the formation, operation or expansion of a small business.

2. If an agency determines pursuant to subsection 1 that a proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business, the agency shall:

(a) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation.

(b) Conduct or cause to be conducted an analysis of the likely impact of the proposed regulation on small businesses. Insofar as practicable, the analysis must be conducted by the employee of the agency who is most knowledgeable about the subject of the proposed regulation and its likely impact on small businesses or by a consultant or other independent contractor who has such knowledge and is retained by the agency.

(c) Consider methods to reduce the impact of the proposed regulation on small businesses, including, without limitation:

(1) Simplifying the proposed regulation;

(2) Establishing different standards of compliance for a small business; and

(3) Modifying a fee or fine set forth in the regulation so that a small business is authorized to pay a lower fee or fine.

(d) Prepare a small business impact statement and make copies of the statement available to the public not less than 15 days before the workshop conducted and the public hearing held pursuant to [NRS 233B.061](#). A copy of the statement must accompany the notice required by subsection 2 of [NRS 233B.061](#) and the agenda for the public hearing held pursuant to that section.

3. The agency shall prepare a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business and the reasons for the conclusions of the agency. The director, executive head or other person who is responsible for the agency shall sign the statement certifying that, to the best of his or her knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

4. Each adopted regulation which is submitted to the Legislative Counsel pursuant to [NRS 233B.067](#) must be accompanied by a copy of the small business impact statement and the statement made pursuant to subsection 3. If the agency revises a regulation after preparing the small business impact statement and the statement made pursuant to subsection 3, the agency must include an explanation of the revision and the effect of the change on small businesses.

(Added to NRS by [1999, 2070](#); A [2005, 1480](#); [2013, 2305](#))

NRS 233B.0609 Proposed permanent or temporary regulation: Contents of small business impact statement; person responsible for agency to sign impact statement.

1. A small business impact statement prepared pursuant to [NRS 233B.0608](#) must set forth the following information:

(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(b) The manner in which the analysis was conducted.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(1) Both adverse and beneficial effects; and

(2) Both direct and indirect effects.

(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

(f) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

(h) The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

2. The director, executive head or other person who is responsible for the agency shall sign the small business impact statement certifying that, to the best of his or her knowledge or belief, the information contained in the statement was prepared properly and is accurate.

(Added to NRS by [1999, 2071](#); A [2013, 2306](#))

NRS 233B.061 Proposed permanent or temporary regulation: Public comment; workshop; public hearing; applicability of Open Meeting Law.

1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. With respect to substantive regulations, the agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency shall consider fully all written and oral submissions respecting the proposed regulation.

4. An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2.

5. Each workshop and public hearing required pursuant to subsections 2 and 3 must be conducted in accordance with the provisions of [chapter 241](#) of NRS.

(Added to NRS by [1983, 1125](#); A [1989, 571](#); [1997, 185](#); [2005, 1407](#); [2007, 873](#); [2009, 2284](#))

NRS 233B.0613 Emergency regulations.

1. If an agency determines that an emergency exists, it shall submit to the Governor a written statement of the emergency which sets forth the reasons for the determination. If the Governor endorses the statement of the emergency by written endorsement at the end of the full text of the statement of emergency on the original copy of a proposed regulation, the regulation may be adopted and become effective immediately upon its being filed in the Office of the Secretary of State pursuant to subsection 3 of [NRS 233B.070](#). The statement of the emergency endorsed by the Governor must be included as a part of the regulation for all purposes.

2. If practicable, the agency shall, not later than 9 a.m. on the first working day before the date on which the emergency regulation is filed in the Office of the Secretary of State pursuant to subsection 3 of [NRS 233B.070](#), make the emergency regulation available to the public by:

(a) Providing a copy of the emergency regulation to a member of the public upon request; and

(b) Making a copy of the emergency regulation available on its website on the Internet, if any.

3. If practicable, the agency shall, not later than 9 a.m. on the first working day before the date of any hearing at which the agency considers the emergency regulation, make the version of the proposed emergency regulation that will be considered at the hearing available to the public by:

(a) Providing a copy of the proposed emergency regulation to a member of the public upon request; and

(b) Making a copy of the proposed emergency regulation available on its website on the Internet, if any.

4. A regulation adopted pursuant to this section may be effective for a period of not longer than 120 days. A regulation may be adopted by this emergency procedure only once.

5. If an agency adopts, after providing notice and the opportunity for a hearing as required in this chapter, a permanent or temporary regulation which becomes effective and is substantially identical to its effective emergency regulation, the emergency regulation expires automatically on the effective date of the temporary or permanent regulation.

(Added to NRS by [1983, 1125](#); A [1983, 1245](#); [1995, 131](#), [2580](#); [2003, 2005](#); [2011, 406](#))

NRS 233B.0617 Limitation on objections to regulation. No regulation adopted after July 1, 1965, is valid unless adopted in substantial compliance with this chapter but no objection to any regulation on the ground of noncompliance with the procedural requirements of [NRS 233B.060](#) to [233B.0617](#), inclusive, may be made more than 2 years after its effective date. Regulations in effect on July 1, 1965, continue in effect until amended or repealed in accordance with the provisions of this chapter, if an original and two copies were deposited with the Secretary of State on or before July 1, 1965.

(Added to NRS by [1983, 1125](#))

NRS 233B.062 Policies for drafting and accessibility of regulations; guidelines; permanent regulations to be included in Nevada Administrative Code; distribution of emergency and temporary regulations.

1. It is the policy of this State that every regulation of an agency be made easily accessible to the public and expressed in clear and concise language. To assist in carrying out this policy:

(a) The Attorney General must develop guidelines for drafting regulations; and
(b) Every permanent regulation must be incorporated, excluding any forms used by the agency, any publication adopted by reference, the title, any signature and other formal parts, in the Nevada Administrative Code, and every emergency or temporary regulation must be distributed in the same manner as the Nevada Administrative Code.

2. It is the policy of this State that persons with physical, mental or cognitive disabilities are to be referred to in the Nevada Administrative Code using language that is commonly viewed as respectful and sentence structure that refers to the person before referring to the person's disability, in the same manner as provided in [NRS 220.125](#) for Nevada Revised Statutes.

3. The Legislative Counsel shall:

(a) Include each permanent regulation in the Nevada Administrative Code; and
(b) Distribute in the same manner as the Nevada Administrative Code each emergency or temporary regulation, ➤ that is required to be adopted pursuant to the provisions of this chapter and which is adopted by an entity other than an agency.

4. The Legislative Commission may authorize inclusion in the Nevada Administrative Code of the regulations of an agency otherwise exempted from the requirements of this chapter.

(Added to NRS by [1977, 1381](#); A [1997, 186, 1391](#); [2001, 1422](#); [2007, 907](#))

NRS 233B.063 Submission of proposed permanent regulation to Legislative Counsel; duties of Legislative Counsel; adoption of temporary regulation.

1. An agency that intends to adopt, amend or repeal a permanent regulation must deliver to the Legislative Counsel a copy of the proposed regulation. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to the Legislative Counsel between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to the Legislative Counsel. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in [NRS 439B.225](#) and the proposed regulation relates to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and [NRS 233B.064](#), but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

(Added to NRS by [1977, 1381](#); A [1989, 57, 621](#); [1991, 940](#); [1993, 514](#); [2003, 2005](#); [2007, 874](#); [2009, 531, 2285](#))

NRS 233B.0633 Temporary regulation: Review by Legislative Commission or Subcommittee to Review Regulations; approval of or objection by Commission or Subcommittee; revision and resubmission by agency.

1. Upon the request of a Legislator, the Legislative Commission may examine a temporary regulation adopted by an agency that is not yet effective pursuant to subsection 2 of [NRS 233B.070](#) to determine whether the temporary regulation conforms to the statutory authority pursuant to which it was adopted and whether the temporary regulation carries out the intent of the Legislature in granting that authority.

2. If a temporary regulation that the Legislative Commission is requested to examine pursuant to subsection 1 was required to be adopted by the agency pursuant to a federal statute or regulation and the temporary regulation exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State, the agency shall submit a statement to the Legislative Commission that adoption of the temporary regulation was required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:
 - (a) Review the temporary regulation at its next regularly scheduled meeting if the request for examination of the temporary regulation is received more than 10 working days before the meeting; or
 - (b) Refer the temporary regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6 of [NRS 233B.067](#).
 4. If an agency determines that an emergency exists which requires a temporary regulation of the agency for which a Legislator requested an examination pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the Subcommittee to Review Regulations as soon as practicable.
 5. If the Legislative Commission, or the Subcommittee to Review Regulations if the temporary regulation was referred, approves the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary of State. If the Commission or the Subcommittee objects to the temporary regulation after determining that:
 - (a) If subsection 2 is applicable, the temporary regulation is not required pursuant to a federal statute or regulation;
 - (b) The temporary regulation does not conform to statutory authority; or
 - (c) The temporary regulation does not carry out legislative intent,↳ the Legislative Counsel shall attach to the temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the temporary regulation to the agency.
 6. If the Legislative Commission or the Subcommittee to Review Regulations has objected to a temporary regulation, the agency that adopted the temporary regulation shall revise the temporary regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the temporary regulation pursuant to subsection 5. Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the Legislative Commission or the Subcommittee for review. If the Legislative Commission or the Subcommittee approves the revised temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the revised temporary regulation with the Secretary of State.
 7. If the Legislative Commission or the Subcommittee to Review Regulations objects to the revised temporary regulation, the Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall continue to revise it and resubmit it to the Legislative Commission or the Subcommittee within 30 days after the agency received the written notice of the objection to the revised temporary regulation.
- (Added to NRS by [2003, 2003](#); A [2007, 874](#); [2009, 2285](#))

NRS 233B.0635 Permanent regulation: Reimbursement of Legislative Counsel Bureau for cost of examination and revision.

1. Except as otherwise provided in this section, each agency which submits a regulation for examination and revision pursuant to subsection 1 or 2 of [NRS 233B.063](#) shall reimburse the Legislative Counsel Bureau for the cost of the examination and revision. The Legislative Commission shall establish the amount of reimbursement required pursuant to this subsection.
 2. The reimbursement required pursuant to subsection 1:
 - (a) Must be an hourly fee for each hour spent by employees of the Legal Division of the Legislative Counsel Bureau in examining and revising the regulation. The hourly fee must not exceed the average hourly salary of the persons whose salaries are reimbursed pursuant to this section.
 - (b) Must be established at a rate calculated to generate the amount approved in the budget of the Legislative Counsel Bureau for such reimbursement.
 - (c) Must not be charged to agencies whose budgets are supported entirely from the State General Fund.
- (Added to NRS by [1993, 856](#); A [1993, 2266](#))

NRS 233B.064 Permanent regulation not to be adopted until text approved or revised by Legislative Counsel; agency's reasons for adoption.

1. An agency shall not adopt, amend or repeal a permanent regulation until it has received from the Legislative Counsel the approved or revised text of the regulation in the form to be adopted. The agency shall immediately notify the Legislative Counsel in writing of the date of adoption of each regulation adopted.

2. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

(Added to NRS by [1977, 1382](#); A [1997, 1391](#))

NRS 233B.065 Production and distribution of Nevada Administrative Code.

1. The Legislative Counsel shall prescribe the numbering, page size, style and typography of the Nevada Administrative Code. For convenience of reproduction in the Nevada Administrative Code, the Legislative Counsel may prescribe the same matters in original agency regulations.

2. The Legislative Counsel shall cause to be included in the Nevada Administrative Code the:

(a) Date on which an agency last completed a review of its regulations pursuant to paragraph (e) of subsection 1 of [NRS 233B.050](#); and

(b) Citation of authority pursuant to which the agency adopted each section of a permanent regulation.

3. The Legislative Counsel shall prepare or cause the State Printer to prepare such sets of the Nevada Administrative Code and of supplementary pages as are required from time to time. A set must be provided to and kept respectively:

(a) By the Secretary of State as the master copy;

(b) By the State Library and Archives Administrator for public use;

(c) By the Attorney General for his or her use and that of the Executive Department; and

(d) By the Legislative Counsel for his or her use and that of the Legislature.

↪ The Legislative Commission may direct the preparation of additional sets or pages, or both, and specify the places where those sets or parts of sets are to be kept and the uses to be made of them.

4. The Legislative Counsel shall, without charge, provide:

(a) A complete set of the Nevada Administrative Code, upon request, to each person who is on July 1, 1985, or who becomes after that date a member of the Legislature; and

(b) To each Legislator who has so acquired the Nevada Administrative Code, the replacement or supplementary pages which are issued during the Legislator's term of office.

5. Each agency shall reimburse the Legislative Counsel Bureau and the State Printing Office for their respective costs in preparing and keeping current that agency's portion of the Nevada Administrative Code in the number of copies required for official and public use. If additional sets or pages are sold, the Legislative Commission shall set sale prices sufficient to recover at least the cost of production and distribution of the additional sets or pages.

(Added to NRS by [1977, 1382](#); A [1985, 38, 463, 1489](#); [1993, 1494](#); [1997, 18, 186, 1391, 3152](#); [1999, 642, 645](#); [2005, 1085](#))

NRS 233B.0653 Register of Administrative Regulations: Contents; frequency of publication; distribution and sale; immunity for omissions.

1. The Legislative Counsel shall prepare and publish or cause to be prepared and published a Register of Administrative Regulations. The Register must include the following information regarding each permanent regulation adopted by an agency:

(a) The proposed and adopted text of the regulation and any revised version of the regulation;

(b) The notice of intent to act upon the regulation set forth in [NRS 233B.0603](#);

(c) The written notice of adoption of the regulation required pursuant to [NRS 233B.064](#);

(d) The informational statement required pursuant to [NRS 233B.066](#); and

(e) The effective date of the regulation, as determined pursuant to [NRS 233B.070](#).

↪ In carrying out the duties set forth in this subsection, the Legislative Counsel may use the services of the State Printing Office.

2. The Legislative Counsel shall publish the Register not less than 10 times per year but not more than once every 2 weeks.

3. The Register must be provided to and maintained by:

(a) The Secretary of State;

(b) The Attorney General;

(c) The Supreme Court Law Library;

- (d) The State Library and Archives;
- (e) Each county clerk;
- (f) Each county library; and
- (g) The Legislative Counsel Bureau.

4. The Legislative Counsel may sell an additional copy of the Register to any person or governmental entity that requests a copy, at a price which does not exceed the cost of publishing the additional copy.

5. The Legislative Counsel is immune from civil liability which may result from failure to include any information in the Register.

(Added to NRS by [1997, 1389](#); A [2005, 1085](#))

NRS 233B.0656 Register of Administrative Regulations: Access via Internet.

1. The Legislative Counsel shall, without charge, make available for access on the Internet or its successor, if any, the information contained in the Register of Administrative Regulations created pursuant to [NRS 233B.0653](#). The Legislative Counsel may determine the manner in which this information is compiled and must revise the information at least as often as the Register is published pursuant to [NRS 233B.0653](#).

2. This section must not be construed to require the Legislative Counsel to provide any equipment or service that would enable a person to access the Internet.

(Added to NRS by [1997, 1390](#))

NRS 233B.0658 Explanatory statement required concerning emergency actions; contents of statement; inclusion in Register of Administrative Regulations. An agency that takes an emergency action as described in paragraph (l) of subsection 2 of [NRS 233B.038](#) shall file with the Legislative Counsel within 5 working days after taking the action a statement that describes the action taken and the reason for the action. If the agency is prohibited by federal law, regulation, interpretation or instruction from describing the action taken or the reason for the action, the statement must cite the federal law, regulation, interpretation or instruction that prohibits such disclosure. The Legislative Counsel shall include a statement filed pursuant to this section in the Register of Administrative Regulations published pursuant to [NRS 233B.0653](#).

(Added to NRS by [1999, 2405](#))

NRS 233B.066 Informational statement required concerning adopted permanent or temporary regulation; contents of statement.

1. Except as otherwise provided in subsection 2, each adopted regulation which is submitted to the Legislative Counsel pursuant to [NRS 233B.067](#) or filed with the Secretary of State pursuant to subsection 2 or 3 of [NRS 233B.070](#) must be accompanied by a statement concerning the regulation which contains the following information:

(a) A clear and concise explanation of the need for the adopted regulation.

(b) A description of how public comment was solicited, a summary of the public response and an explanation of how other interested persons may obtain a copy of the summary.

- (c) The number of persons who:
- (1) Attended each hearing;
 - (2) Testified at each hearing; and
 - (3) Submitted to the agency written statements.

(d) For each person identified in subparagraphs (2) and (3) of paragraph (c), the following information if provided to the agency conducting the hearing:

- (1) Name;
- (2) Telephone number;
- (3) Business address;
- (4) Business telephone number;
- (5) Electronic mail address; and
- (6) Name of entity or organization represented.

(e) A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.

(f) If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

(g) The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

- (1) Both adverse and beneficial effects; and

- (2) Both immediate and long-term effects.
- (h) The estimated cost to the agency for enforcement of the proposed regulation.
- (i) A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.
- (j) If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.
- (k) If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.
- 2. The requirements of paragraphs (b) to (f), inclusive, of subsection 1 do not apply to emergency regulations.
(Added to NRS by [1981, 186](#); A [1987, 1581](#); [1989, 572](#); [1995, 131, 2580](#); [2003, 2006](#); [2011, 379](#); [2013, 78](#))

NRS 233B.0665 Failure to submit informational statement concerning permanent regulation. If a regulation submitted to the Legislative Counsel Bureau pursuant to [NRS 233B.067](#) is not accompanied by an informational statement which complies with the requirements of [NRS 233B.066](#) or a small business impact statement which complies with the requirements of [NRS 233B.0608](#) and [233B.0609](#), the Legislative Counsel shall return the regulation to the agency with a note indicating the statement which is missing. Unless the missing statement is supplied, the Legislative Counsel shall not submit the regulation to the Legislative Commission or the Subcommittee to Review Regulations, as applicable, and the regulation never becomes effective.

(Added to NRS by [1981, 186](#); A [1995, 2583](#); [1999, 2204](#); [2007, 876](#); [2013, 2307](#))

NRS 233B.067 Permanent regulation: Review by Legislative Commission or Subcommittee to Review Regulations; approval of or rejection by Commission or Subcommittee; appointment of members to Subcommittee.

1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to [NRS 233B.066](#) and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether to approve the regulation. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

(a) The agency is required to adopt pursuant to a federal statute or regulation; and

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State,

↳ it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting; or

(b) Refer the regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6.

4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the Subcommittee to Review Regulations. The Subcommittee shall meet to review the regulation as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the regulation was referred, approves the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission or Subcommittee objects to the regulation after determining that:

(a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;

(b) The regulation does not conform to statutory authority;

(c) The regulation does not carry out legislative intent;

(d) The small business impact statement is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses; or

(e) The agency has not provided a satisfactory explanation of the need for the regulation in its informational statement as required pursuant to [NRS 233B.066](#), or the informational statement is insufficient or incomplete,

➤ the Legislative Counsel shall attach to the regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

6. As soon as practicable after each regular legislative session, the Legislative Commission shall appoint a Subcommittee to Review Regulations consisting of at least three members or alternate members of the Legislative Commission.

(Added to NRS by [1977, 1546](#); A [1979, 223, 1357](#); [1981, 508](#); [1985, 256](#); [1987, 1581](#); [1993, 856](#); [1995, 132, 2581](#); [1997, 275, 1602](#); [1999, 2204](#); [2003, 2006](#); [2005, 2687](#); [2007, 876](#); [2009, 2287](#); [2011, 3674](#); [2013, 79, 2307](#))

NRS 233B.0675 Permanent regulation: Revision and resubmission of regulation objected to by Legislative Commission or Subcommittee to Review Regulations; approval of or objection to revised regulation by Commission or Subcommittee.

1. If the Legislative Commission, or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of [NRS 233B.067](#), has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to [NRS 233B.067](#). Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Commission or Subcommittee for review. If the Commission or Subcommittee approves the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission or Subcommittee objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission or Subcommittee within 30 days after the agency received the written notice of the objection to the revised regulation.

(Added to NRS by [1981, 510](#); A [1987, 1582](#); [1997, 276](#); [1999, 902, 2205](#); [2005, 2688](#); [2007, 877](#); [2009, 2288](#))

NRS 233B.0677 Meeting to review adopted temporary or permanent regulations: Written notice; list of regulations to be reviewed to be posted on website maintained by Legislative Counsel Bureau.

1. Before holding a meeting to review temporary regulations pursuant to [NRS 233B.0633](#) or adopted regulations pursuant to [NRS 233B.067](#) or [233B.0675](#), the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of [NRS 233B.067](#), as applicable, shall provide written notice of the meeting at least 3 working days before the meeting. The notice must include, without limitation:

(a) A list of the regulations that the Legislative Commission or the Subcommittee to Review Regulations will review at the meeting; and

(b) An explanation of the manner in which a person may obtain a copy of a regulation that the Legislative Commission or Subcommittee to Review Regulations will review at the meeting.

2. If the Legislative Counsel Bureau maintains a website on the Internet or its successor, the Legislative Counsel Bureau shall, at least 3 working days before the Legislative Commission or the Subcommittee to Review Regulations holds a meeting to review temporary regulations pursuant to [NRS 233B.0633](#) or adopted regulations pursuant to [NRS 233B.067](#) or [233B.0675](#), post on its website a list of the regulations that the Legislative Commission or the Subcommittee to Review Regulations will review at the meeting, unless the Legislative Counsel Bureau is unable to do so because of technical problems relating to the operation or maintenance of its website.

(Added to NRS by [2007, 871](#))

NRS 233B.0681 Early review of permanent regulation by Legislative Commission; waiver of review.
The Legislative Commission may provide for:

1. Its early review of a proposed permanent regulation after the agency has given notice of a hearing on the regulation but before the hearing is held. If the permanent regulation adopted after the hearing is identical to the regulation submitted for early review, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing.

2. A waiver of its review of a permanent regulation in a case of administrative convenience or necessity.

(Added to NRS by [1981, 510](#); A [1999, 2205](#); [2003, 2007](#))

NRS 233B.070 Effective date of permanent, temporary and emergency regulations; dissemination of regulations; duties of Secretary of State.

1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in [NRS 293.247](#) or where a later date is specified in the regulation.

2. Except as otherwise provided in [NRS 233B.0633](#), an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to [NRS 233B.066](#). The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to [NRS 233B.066](#).

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to [NRS 233B.066](#). The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to [NRS 233B.066](#).

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.

6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in [NRS 439B.225](#) and it has adopted a permanent regulation relating to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

(Added to NRS by 1965, 964; A 1975, 1158, 1414; [1977, 1387](#), [1549](#), [1551](#); [1979, 972](#); [1983, 1245](#); [1985, 367](#), [1490](#); [1991, 941](#); [1995, 133](#), [2582](#); [1997, 276](#), [3152](#); [1999, 642](#), [2205](#); [2003, 2007](#); [2007, 877](#), [2622](#); [2009, 532](#))

NRS 233B.080 Inactive files of Secretary of State. When any regulation filed with the Secretary of State expires by its own terms or is replaced by an amended regulation or repealed, and the adopting agency so informs the Secretary of State, the Secretary of State shall cause the regulation to be placed in an inactive file.

(Added to NRS by 1965, 965; A [1985, 256](#))

NRS 233B.090 Rebuttable presumption of regularity of adoption and filing of regulation. The Secretary of State's authenticated file stamp on the original of the final draft or revision of a regulation raises a rebuttable presumption that the regulation was adopted and filed in compliance with all requirements necessary to make it effective.

(Added to NRS by 1965, 965; A [1977, 1549](#))

NRS 233B.100 Petition for adoption, filing, amendment or repeal of regulation; amendment or suspension of regulation by Governor.

1. Any interested person may petition an agency requesting the adoption, filing, amendment or repeal of any regulation and shall accompany the petition with relevant data, views and arguments. Each agency shall prescribe by regulation the form for such petitions and the procedure for their submission, consideration and disposition. Upon submission of such a petition, the agency shall within 30 days either deny the petition in writing, stating its reasons, or initiate regulation-making proceedings.

2. Any regulation of any agency is subject to amendment or suspension by the Governor pursuant to the provisions of [NRS 416.060](#).

(Added to NRS by 1965, 965; A [1977, 551](#), [1388](#))

NRS 233B.105 Objection to adopted regulation by small business; basis and procedure for objection; amendment of regulation.

1. A small business that is aggrieved by a regulation adopted by an agency on or after January 1, 2000, may object to all or a part of the regulation by filing a petition with the agency that adopted the regulation within 90 days after the date on which the regulation was adopted. An agency which receives such a petition shall transmit a copy of the petition to the Legislative Counsel for submission to the Legislative Commission or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of [NRS 233B.067](#).

2. A petition filed pursuant to subsection 1 may be based on the following grounds:

(a) The agency failed to prepare a small business impact statement as required pursuant to [NRS 233B.0608](#) and [233B.0609](#); or

(b) The small business impact statement prepared by the agency pursuant to [NRS 233B.0608](#) and [233B.0609](#) is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses.

3. After receiving a petition pursuant to subsection 1, an agency shall determine whether the petition has merit. If the agency determines that the petition has merit, the agency may, pursuant to this chapter, take action to amend the regulation to which the small business objected.

(Added to NRS by [1999, 2071](#); A [2013, 2308](#))

NRS 233B.110 Declaratory judgment to determine validity or applicability of regulation.

1. The validity or applicability of any regulation may be determined in a proceeding for a declaratory judgment in the district court in and for Carson City, or in and for the county where the plaintiff resides, when it is alleged that the regulation, or its proposed application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. A declaratory judgment may be rendered after the plaintiff has first requested the agency to pass upon the validity of the regulation in question. The court shall declare the regulation invalid if it finds that it violates constitutional or statutory provisions or exceeds the statutory authority of the agency. The agency whose regulation is made the subject of the declaratory action shall be made a party to the action.

2. An agency may institute an action for declaratory judgment to establish the validity of any one or more of its own regulations.

3. Actions for declaratory judgment provided for in subsections 1 and 2 shall be in accordance with the Uniform Declaratory Judgments Act ([chapter 30](#) of NRS), and the Nevada Rules of Civil Procedure. In all actions under subsections 1 and 2, the plaintiff shall serve a copy of the complaint upon the Attorney General, who is also entitled to be heard.

(Added to NRS by 1965, 965; A 1969, 317; [1977, 1388](#))

NRS 233B.115 Legislative Commission: Review of forms; revision and resubmission by agency; procedure upon refusal of agency to revise form.

1. Any person who objects to the content of a form required by an agency to be used in submitting an application, making a declaration or providing other information may request the Legislative Commission to determine whether the information required and the instructions for its preparation conform to the statutory authority pursuant to which the agency requires it. The Legislative Commission may also make such a determination on its own motion.

2. If the Legislative Commission finds that any part of the information or instructions does not conform to statutory authority, the Legislative Counsel shall so notify the agency.

3. After notification by the Legislative Counsel of the Legislative Commission's objection to the form, the agency may revise the form to conform to statutory authority and resubmit it to the Legislative Commission. The agency shall not use the form until it has submitted a revised version to the Legislative Commission and the Commission has approved the form.

4. If the agency refuses to revise the form, it shall not use the form until after the expiration of the first 30 days of the next regular session of the Legislature. Before the 30th day of the next regular session the Legislature may, by concurrent resolution, declare that the form must not be used. The Legislative Counsel shall thereupon notify the agency that it shall not use the form. If the Legislature has not so declared by the 30th day of the session, the Legislative Counsel shall promptly notify the agency that it may use the form.

(Added to NRS by [1985, 655](#); A [1987, 1582](#); [1997, 277](#); [1999, 2206](#))

NRS 233B.120 Petitions for declaratory orders and advisory opinions; disposition. Each agency shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency. Declaratory orders disposing of petitions in such cases shall have the same status as agency decisions. A copy of the declaratory order or advisory opinion shall be mailed to the petitioner.

(Added to NRS by 1965, 966)

ADJUDICATION OF CONTESTED CASES

NRS 233B.121 Notice of hearing in contested case; contents of notice; representation by counsel; opportunity to respond and present evidence; informal disposition; contents of record; transcriptions; findings of fact.

1. In a contested case, all parties must be afforded an opportunity for hearing after reasonable notice.
 2. The notice must include:
 - (a) A statement of the time, place and nature of the hearing.
 - (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - (c) A reference to the particular sections of the statutes and regulations involved.
 - (d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.
 3. Any party is entitled to be represented by counsel.
 4. Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved. An agency may by regulation authorize the payment of fees and reimbursement for mileage to witnesses in the same amounts and under the same conditions as for witnesses in the courts of this state.
 5. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. If an informal disposition is made, the parties may waive the requirement for findings of fact and conclusions of law.
 6. The record in a contested case must include:
 - (a) All pleadings, motions and intermediate rulings.
 - (b) Evidence received or considered.
 - (c) A statement of matters officially noticed.
 - (d) Questions and offers of proof and objections, and rulings thereon.
 - (e) Proposed findings and exceptions.
 - (f) Any decision, opinion or report by the hearing officer presiding at the hearing.
 7. Oral proceedings, or any part thereof, must be transcribed on request of any party.
 8. Findings of fact must be based exclusively on substantial evidence and on matters officially noticed.
- (Added to NRS by 1967, 808; A [1977, 56, 1062](#); [1985, 350](#))

NRS 233B.122 Certain members of agency prohibited from taking part in adjudication; replacement of disqualified officer.

1. No agency member who acts as an investigator or prosecutor in any contested case may take any part in the adjudication of such case.
 2. If an officer of an agency disqualifies himself or herself or is disqualified from participating in the adjudication of any contested case in which a decision will be rendered which is subject to judicial review, the officer shall send within 3 working days after the disqualification a notice of it to the authority which appointed him or her to the agency. The appointing authority shall within 5 working days after receiving the notice appoint a person to serve in the place of the disqualified officer only for the purpose of participating in the adjudication of the contested case.
 3. The person appointed under subsection 2 shall have the same qualifications required by law of the officer whom the person replaces and is entitled to the same salary and per diem and travel expenses allowed to that officer.
- (Added to NRS by 1967, 808; A [1977, 661](#))

NRS 233B.123 Evidence. In contested cases:

1. Irrelevant, immaterial or unduly repetitious evidence must be excluded. Evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary

offers may be made and must be noted in the record. Subject to the requirements of this subsection, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. Documentary evidence may be received in the form of authenticated copies or excerpts, if the original is not readily available. Upon request, parties must be given an opportunity to compare the copy with the original.

3. Every witness shall declare, by oath or affirmation, that he or she will testify truthfully.

4. Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, impeach any witness, regardless of which party first called the witness to testify, and rebut the evidence against him or her.

5. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the specialized knowledge of the agency. Parties must be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they must be afforded an opportunity to contest the material so noticed. The experience, technical competence and specialized knowledge of the agency may be utilized in the evaluation of the evidence.

(Added to NRS by 1967, 808; A [1977, 57](#); [1997, 1603](#))

NRS 233B.1233 Administration of oath or affirmation to witness. Unless limited by a specific statute, any person authorized to preside over a hearing in a contested case may administer oaths or affirmations to witnesses appearing before him or her in the hearing.

(Added to NRS by [1981, 80](#))

NRS 233B.1235 Person with communications disability entitled to services of interpreter at hearing. A witness during his or her testimony at a hearing of a contested case, who is a person with a communications disability as defined in [NRS 50.050](#), is entitled to the services of an interpreter at public expense in accordance with the provisions of [NRS 50.050](#) to [50.053](#), inclusive. The interpreter must be appointed by the person who presides at the hearing.

(Added to NRS by [1979, 657](#); A [2001, 1777](#); [2007, 172](#))

NRS 233B.124 Procedure when majority of agency's officers rendering final decision have not heard case or read record: Service of proposal for decision; oral argument. Where, in a contested case, a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file, within 20 days, exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this section.

(Added to NRS by 1967, 809)

NRS 233B.125 Contents of adverse written decision or order; notice; copies. A decision or order adverse to a party in a contested case must be in writing or stated in the record. Except as provided in subsection 5 of [NRS 233B.121](#), a final decision must include findings of fact and conclusions of law, separately stated. Findings of fact and decisions must be based upon substantial evidence. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency regulations, a party submitted proposed findings of fact, the decision must include a ruling upon each proposed finding. Parties must be notified either personally or by certified mail of any decision or order. Upon request a copy of the decision or order must be delivered or mailed forthwith to each party and to the party's attorney of record.

(Added to NRS by 1967, 809; A [1985, 351](#))

NRS 233B.126 Limitations on communications of agency's members or employees rendering decision or making findings of fact and conclusions of law. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or the party's representative, except upon notice and opportunity to all parties to participate. An agency member may, subject to the provisions of [NRS 233B.123](#):

1. Communicate with other members of the agency.
 2. Have the aid and advice of one or more personal assistants.
- (Added to NRS by 1967, 809)

NRS 233B.127 Applicability of chapter to grant, denial or renewal of license; expiration of license; notice of adverse action by agency; summary suspension of license.

1. When the grant, denial or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this chapter concerning contested cases apply.

2. When a licensee has made timely and sufficient application for the renewal of a license or for a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

3. No revocation, suspension, annulment or withdrawal of any license is lawful unless, before the institution of agency proceedings, the agency gave notice by certified mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. An agency's order of summary suspension may be issued by the agency or by the Chair of the governing body of the agency. If the order of summary suspension is issued by the Chair of the governing body of the agency, the Chair shall not participate in any further proceedings of the agency relating to that order. Proceedings relating to the order of summary suspension must be instituted and determined within 45 days after the date of the order unless the agency and the licensee mutually agree in writing to a longer period.

(Added to NRS by 1967, 810; A [2005, 1002](#); [2007, 557](#); [2009, 651](#))

NRS 233B.130 Judicial review; requirements for petition; statement of intent to participate; petition for rehearing.

1. Any party who is:

- (a) Identified as a party of record by an agency in an administrative proceeding; and
- (b) Aggrieved by a final decision in a contested case,

➤ is entitled to judicial review of the decision. Where appeal is provided within an agency, only the decision at the highest level is reviewable unless a decision made at a lower level in the agency is made final by statute. Any preliminary, procedural or intermediate act or ruling by an agency in a contested case is reviewable if review of the final decision of the agency would not provide an adequate remedy.

2. Petitions for judicial review must:

- (a) Name as respondents the agency and all parties of record to the administrative proceeding;
- (b) Be instituted by filing a petition in the district court in and for Carson City, in and for the county in which the aggrieved party resides or in and for the county where the agency proceeding occurred; and
- (c) Be filed within 30 days after service of the final decision of the agency.

➤ Cross-petitions for judicial review must be filed within 10 days after service of a petition for judicial review.

3. The agency and any party desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon the agency and every party within 20 days after service of the petition.

4. A petition for rehearing or reconsideration must be filed within 15 days after the date of service of the final decision. An order granting or denying the petition must be served on all parties at least 5 days before the expiration of the time for filing the petition for judicial review. If the petition is granted, the subsequent order shall be deemed the final order for the purpose of judicial review.

5. The petition for judicial review and any cross-petitions for judicial review must be served upon the agency and every party within 45 days after the filing of the petition, unless, upon a showing of good cause, the district court extends the time for such service. If the proceeding involves a petition for judicial review or cross-petition for judicial review of a final decision of the State Contractors' Board, the district court may, on its own motion or the motion of a party, dismiss from the proceeding any agency or person who:

- (a) Is named as a party in the petition for judicial review or cross-petition for judicial review; and
- (b) Was not a party to the administrative proceeding for which the petition for judicial review or cross-petition for judicial review was filed.

6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case involving an agency to which this chapter applies.

(Added to NRS by 1965, 966; A 1969, 318; 1975, 495; [1977, 57](#); [1981, 80](#); [1989, 1651](#); [1991, 465](#); [2003, 1904](#); [2005, 1003](#); [2007, 558](#))

NRS 233B.131 Transmittal of record of proceedings to reviewing court by agency; additional evidence; modification of findings by agency.

1. Within 30 days after the service of the petition for judicial review or such time as is allowed by the court, the agency that rendered the decision which is the subject of the petition shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review, including a transcript of the evidence resulting in the final decision of the agency. The record may be shortened by stipulation of the parties to the proceedings. A party unreasonably refusing to stipulate to limit the record, as determined by the court, may be assessed by the court any additional costs. The court may require or permit subsequent corrections or additions to the record.

2. If, before submission to the court, an application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence and any rebuttal evidence be taken before the agency upon such conditions as the court determines.

3. After receipt of any additional evidence, the agency:

(a) May modify its findings and decision; and

(b) Shall file the evidence and any modifications, new findings or decisions with the reviewing court.

(Added to NRS by [1989, 1649](#))

NRS 233B.133 Memoranda of points and authorities: Time for filing memorandum and reply; request for hearing; required form.

1. A petitioner or cross-petitioner who is seeking judicial review must serve and file a memorandum of points and authorities within 40 days after the agency gives written notice to the parties that the record of the proceeding under review has been filed with the court.

2. The respondent or cross-petitioner shall serve and file a reply memorandum of points and authorities within 30 days after service of the memorandum of points and authorities.

3. The petitioner or cross-petitioner may serve and file reply memoranda of points and authorities within 30 days after service of the reply memorandum.

4. Within 7 days after the expiration of the time within which the petitioner is required to reply, any party may request a hearing. Unless a request for hearing has been filed, the matter shall be deemed submitted.

5. All memoranda of points and authorities filed in proceedings involving petitions for judicial review must be in the form provided for appellate briefs in [Rule 28](#) of the Nevada Rules of Appellate Procedure.

6. The court, for good cause, may extend the times allowed in this section for filing memoranda.

(Added to NRS by [1989, 1649](#))

NRS 233B.135 Judicial review: Manner of conducting; burden of proof; standard for review.

1. Judicial review of a final decision of an agency must be:

(a) Conducted by the court without a jury; and

(b) Confined to the record.

➤ In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.

2. The final decision of the agency shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.

3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the agency;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Arbitrary or capricious or characterized by abuse of discretion.
(Added to NRS by [1989, 1650](#))

NRS 233B.140 Procedure for stay of final decision; ruling by court.

1. A petitioner who applies for a stay of the final decision in a contested case shall file and serve a written motion for the stay on the agency and all parties of record to the proceeding at the time of filing the petition for judicial review.

2. In determining whether to grant a stay, the court shall consider the same factors as are considered for a preliminary injunction under [Rule 65](#) of the Nevada Rules of Civil Procedure.

3. In making a ruling, the court shall:

(a) Give deference to the trier of fact; and

(b) Consider the risk to the public, if any, of staying the administrative decision.

↪ The petitioner must provide security before the court may issue a stay.

(Added to NRS by 1967, 810; A [1977, 58](#); [1989, 1652](#))

NRS 233B.150 Appeal from final judgment of district court. An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to [Section 4 of Article 6](#) of the Nevada Constitution. The appeal shall be taken as in other civil cases.

(Added to NRS by 1967, 811; A [2013, 1768](#))

STATE OF NEVADA

STATE EMERGENCY RESPONSE COMMISSION

ORIGINATED BY: Karen J. Kennard REVISED BY: Karen J. Pabón	ORIGINATED DATE: 01/12/06 REVISED DATE: 01/08/15	APPROVED BY: SERC
DATE ISSUED: 09/06/02	DATE EFFECTIVE: 01/12/06	SUBJECT: Requirement of Original Signatures; Use of Faxed and/or E-Mailed Documents
PROCESSED BY:	SPECIAL INSTRUCTIONS:	POLICY NO: SERC 8.13

No NAC is applicable to this policy

PRINCIPLE:

The State Emergency Response Commission (SERC) will accept all documents via hard copy or electronic transaction. Certain documents will require hard copy follow up to ensure proper program management, document review and records retention. This policy is written in accordance with the provisions of NRS 719.010 et seq.

POLICY FOR LEPCs:

- A. The SERC will accept all documents via physical delivery or electronic transaction. Submissions must come from or be signed by the LEPC Chair or Co-chair as the LEPC point of contact.
 1. All documents received by SERC must contain required signatures and content pursuant to SERC policies. Signatures must be in a form and format that can be validated by SERC. Electronic signatures must conform to requirements of NRS 719.
 2. All documents received during normal business hours, 8 am to 5 pm, Monday through Friday excluding holidays will be received stamped that day. Documents received after 5 pm will be received stamped the following work day.
 3. All documents postmarked by the due date will be accepted as timely.
- B. Documents submitted via electronic transaction will be accepted with the following conditions:

1. The SERC may request hard copy documentation as necessary to validate signatures, ensure visual clarity of electronic submittals of poor quality, or for file format not acceptable or available to the SERC.
2. All grant applications, Certified Assurances and grant awards submitted to the SERC pursuant to SERC policy 8.2, 8.2a, and 8.3 must be followed up with a hard copy within 30 days of the electronic transaction. This will ensure proper program management; provide for effective review by SERC staff and committees; and ensure accessibility during the records retention period.
3. An appeal submitted to the SERC pursuant to SERC policy 8.12 must be followed up with a hard copy within 30 days of the electronic transaction. The hard copy must include the original signature of the LEPC Chair or Co-chair. This will ensure proper program management and accessibility during the records retention period.
4. The LEPC's Hazardous Materials Emergency Response Plan and/or plan updates submitted to the SERC pursuant to SERC policy 8.1 must be followed up with a hard copy within 30 days of the electronic transaction. This will ensure proper program management; provide for effective review by SERC committees; and ensure accessibility for the records retention period.
5. Financial Reports over twenty pages submitted via electronic transaction must be followed up with a hard copy before reimbursement will be processed. This will ensure proper program management; provide for effective review; and ensure accessibility during the records retention period.

POLICY FOR STATE AGENCIES:

- A. The SERC will accept all documents via physical delivery or electronic transaction. Submissions must come from or be signed by the Project Manager as the agency point of contact.
 1. All documents received by SERC must contain required signatures and content pursuant to SERC policies. Signatures must be in a form and format that can be validated by SERC. Electronic signatures must conform to requirements of NRS 719.
 2. All documents received during normal business hours, 8 am to 5 pm, Monday through Friday excluding holidays will be received stamped that day. Documents received after 5 pm will be received stamped the following work day.

B. Documents submitted via electronic transaction will be accepted with the following conditions:

1. The SERC may request hard copy documentation as necessary to validate signatures, ensure visual clarity of electronic submittals of poor quality, or for file format not acceptable or available to the SERC.
2. All applications, Certified Assurances and awards submitted to the SERC pursuant to SERC policy 8.2, 8.2a, and 8.3 must be followed up with a hard copy within 30 days of the electronic transaction. This will ensure proper program management; provide for effective review by SERC staff and committees; and ensure accessibility during the records retention period.
3. An appeal submitted to the SERC pursuant to SERC policy 8.12 must be followed up with a hard copy within 30 days of the electronic transaction. The hard copy must include the original signature of the Project Manager. This will ensure proper program management and accessibility of the documents during the records retention period.
4. A Hazardous Materials Emergency Response Plan and/or plan updates submitted to the SERC pursuant to SERC policy 8.1 must be followed up with a hard copy within 30 days of the electronic transaction. This will ensure proper program management; provide for effective review by SERC committees; and ensure accessibility during the records retention period.
5. Financial Reports over twenty pages submitted via electronic transaction must be followed up with a hard copy before reimbursement will be processed. This will ensure proper program management; provide for effective review; and ensure accessibility during the records retention period.

PROCEDURES:

- A. LEPCs and state agencies must be cognizant of possible e-mail/firewall restrictions. Submission of documents via electronic transaction may be delayed or rejected due to size and therefore not received by a due date. Electronic transaction should be made in a manner to ensure successful and timely submission.

With regards to the emailed items being mailed within 30 days of the electronic transaction – what if the meeting and/or event is before the 30 days is up?