

**PROPOSED REGULATION OF THE
STATE EMERGENCY RESPONSE COMMISSION**

LCB File No. R074-15

REVISED – NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Public Workshop/Hearing to Solicit Comments
for the Amendment of Hazardous Material Regulations
of the State Emergency Response Commission**

The State Emergency Response Commission, located at 107 Jacobsen Way, Carson City, NV 89711, (775) 684-7511, is proposing the amendment of regulations pertaining to Chapter 459 of Nevada Administrative Code. A workshop has been set for 2:00pm, on Thursday, January 21, 2016, at NV Department of Transportation, 1263 South Stewart Street (3rd Floor Large Room), Carson City. The workshop will be video-conferenced to NV Department of Transportation, 1951 Idaho Street (Conference Room), Elko and NV Department of Transportation, 123 East Washington Avenue (Conference Room in Building A), Las Vegas. The purpose of the workshop is to solicit comments from interested persons on the following general topic that may be addressed in the proposed regulation:

- R074-15 A periodic, comprehensive review and update to the regulations of the State Emergency Response Commission to comply with existing statutory requirements; and other matters properly relating thereto. A summary of the changes are as follows:
1. Extending involvement to include the Nevada Inter-Tribal Planning Commission in accordance with existing federal law and grant opportunities that currently are not being pursued.
 2. Removal of a Local Emergency Planning Committee (LEPC) ineligibility period that may last up to one year for deficient plan submittal and allowing the next regularly scheduled meeting of the Commission to reinstate the LEPC upon satisfactory correction of the submitted plan.
 3. Removing a requirement that the State Fire Marshal or the Division of Emergency Management must issue a denial of training letter to a LEPC before they may request training from the Commission. In their place, a provision is inserted that allows a LEPC to apply to the Commission for training funds if the State Fire Marshal or the Division of Emergency Management has not scheduled and will not be able to schedule the requested training within a reasonable amount of time.
 4. Changes to the process for a LEPC to redirect awarded grant funds from their original purpose to some other use without coming before the Commission for approval. Currently, only the Chair of the Funding Committee is required to approve the redirection of funds, opening the Commission to audit, conflict and potential perception of the misuse of funds issues.

5. A reduction in copy fees from an hourly charge, no longer allowed by statute, to a per page cost of \$0.50 to comply with the Nevada Public Records Act. Note that existing Department and Division policies waive all copy fees for requests where the cost is \$25.00 or less in accordance with the Nevada Public Records Act.
6. Restructuring the fees for services and regulatory activities of the Commission to follow the outline authorized in NRS 459.744. There are no changes in fees charged to businesses subject to the current fee schedule.
7. Revision to the collection procedure for delinquent fees to reflect current statutory requirements for the State Controller's Office to take appropriate action.
8. Revision of the process for correcting an overpayment of fees from a business in order to make the process more workable.
9. Revision to the process for an applicant to appeal the action or decision of a staff member or the Commission. Current practice provides for appeals to be received only by a staff member without the requirement that the matter be forwarded to the Commission as a whole. The revision will require the Chair of the Commission to receive and place an appeal on the agenda of the next regularly scheduled Commission meeting.
10. Condensing numerous repetitive sections into concise and more useable material and making other similar changes without affecting content.
11. Various minor editorial changes, replacement of archaic terminology and similar corrections throughout the chapter are included.

A copy of all materials relating to the proposal may be obtained at the public workshop or by contacting the State Emergency Response Commission at 107 Jacobsen Way, Carson City, NV 89711, (775) 684-7511. A reasonable fee for copying may be charged. A copy of the materials may also be obtained at the following websites: <http://serc.nv.gov> / <http://fire.nv.gov> / <https://notice.nv.gov> / <https://www.leg.state.nv.us/App/Notice/A>

Written comments will be accepted in advance of the public workshop until January 20, 2016 or following the public workshop until February 22, 2016. Please send written comments to the SERC office, by fax to (775) 684-7519 or by email to tbeauregard@dps.state.nv.us

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Nevada State Emergency Response Commission	Carson City, NV
Nevada State Fire Marshal Division offices	Carson City, Elko and Las Vegas, NV
Nevada State Public Works Board	Carson City, NV
Nevada State Board of Professional Engineers and Land Surveyors	Reno, NV
Nevada Board of Architecture	Las Vegas, NV
Nevada State Contractor's Board	Reno and Henderson, NV

Carson City Library
900 North Rook Street
Carson City, NV 89701-3101

Churchill County Library
553 South Main Street
Fallon, NV 89406-3306

Las Vegas Library District Headquarters
833 Las Vegas Boulevard North
Las Vegas, NV 89101-2062

Douglas County Public Library
1625 Library Lane
Minden, NV 89423-0337

Elko County Library
720 Court Street
Elko, NV 89801-3397

Esmeralda County Library
PO Box 430
Goldfield, NV 89013-0430

Eureka County Library
10190 Monroe Street
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library
625 South Broad Street
Battle Mountain, NV 89820

Lincoln County Library
63 Main Street
Pioche, NV 89043

Lyon County Library System
20 Nevin Way
Yerington, NV 89447-2399

Carson City Chamber of Commerce
1900 South Carson Street
Carson City, NV 89701

Churchill County Chamber of Commerce
85 North Taylor Street
Fallon, NV 89406

Las Vegas Chamber of Commerce
3720 Howard Hughes Parkway
Las Vegas, NV 89169

Carson Valley Chamber of Commerce
1477 US Highway 395, #A
Gardnerville, NV 89410

Elko County Chamber of Commerce
1405 Idaho Street
Elko, NV 89801

Esmeralda County Chamber of Commerce
165 Crook Avenue
Goldfield, NV 89013

Eureka County Chamber of Commerce
PO Box 14
Eureka, NV 89316

Humboldt County Chamber of Commerce
30 West Winnemucca Boulevard
Winnemucca, NV 89446

Lander County Chamber of Commerce
625 South Broad Street
Battle Mountain, NV 89820

Lincoln County Chamber of Commerce
PO Box 202
Caliente, NV 89008

Lyon County/Dayton Chamber of Commerce
555 US Highway 50 East
Dayton, NV 89403

Lyon County/Fernley Chamber of Commerce
70 North West Street
Fernley, NV 89408

Lyon County/Mason Valley Chamber of Commerce
227 South Main Street
Yerington, NV 89447

Lyon County/Silver Springs Chamber of Commerce
1050 US Highway 50
Silver Springs, NV 89429

Mineral County Library
PO Box 1390
Hawthorne, NV 89415

Mineral County Chamber of Commerce
822 5th Street
Hawthorne, NV 89415

Tonopah Public Library
PO Box 449
Tonopah, NV 89049

Nye County Chamber of Commerce
1301 South Highway 160
Pahrump, NV 89048

Pershing County Library
1125 Central Avenue
Lovelock, NV 89409

Pershing County Chamber of Commerce
1005 West Broadway Avenue
Lovelock, NV 89409

Storey County Treasurer & Clerk's Office
Drawer D
Virginia City, NV 89440

Virginia City of Storey County Chamber of Commerce
PO Box 464
Virginia City, NV 89440

Washoe County Library System
301 South Center Street
Reno, NV 89501-2102

Washoe County Chamber of Commerce
449 South Virginia Street, Second Floor
Reno, NV 89501

White Pine County Library
950 Campton Street
Ely, NV 89301

White Pine County Chamber of Commerce
636 Aultman Street
Ely, NV 89301

**PROPOSED REGULATION OF THE
STATE EMERGENCY RESPONSE COMMISSION**

LCB File No. R074-15

Revised – Small Business Impact Statement

Pursuant to NRS 233B.0609(1), the State Emergency Response Commission is required to make a determination whether its proposed regulations will: (a) impose a direct and significant economic burden upon small business, and (b) directly restrict the formation, operation, or expansion of small business. NRS 233B.0382 defines a small business to be any business that employs 150 or fewer employees.

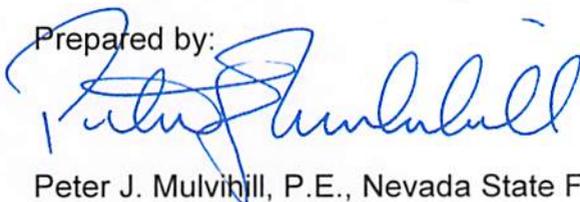
The staff has considered the two factors in NRS 233B.0608(1) and also acknowledges the following:

1. The State Emergency Response Commission is statutorily directed by NRS 459.740 to create regulations for the purposes of enforcing its responsibilities pursuant to 42 U.S.C § 11001 et seq.
2. The proposed amendments provide for the required periodic review and accomplish a reduction in redundant regulations producing a concise and predictable means and methods to implement the Commission's responsibilities.
3. No fees are created or increased by these regulations.
4. Removal of an outdated fee for production of public records that is no longer permitted by statute is in the proposed amendments. The Commission staff will follow established state law and adopted department and division policies without the need for duplicative regulation.

Therefore, the staff makes the following finding:

1. The proposed regulation will not impose a direct and significant economic burden upon small business and will not directly restrict the formation, operation, or expansion of small business.

Prepared by:



Peter J. Mulvihill, P.E., Nevada State Fire Marshal
Co-Chair of the State Emergency Response Commission
107 Jacobsen Way
Carson City, NV 89711

PLANNING FOR AND RESPONDING TO DISCHARGE OF HAZARDOUS MATERIAL

General Provisions

NAC 459.9912 Definitions. ([NRS 459.740](#)) As used in [NAC 459.9912](#) to [459.99189](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 459.99121](#) to [459.99128](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000; A by R133-03, 3-26-2004; R177-05, 6-1-2006)

NAC 459.99121 "Bylaws Committee" defined. ([NRS 459.740](#)) "Bylaws Committee" means the committee established by the Commission to review annually the bylaws of a local emergency planning committee.

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

NAC 459.99122 "Commission" defined. ([NRS 459.740](#)) "Commission" means the State Emergency Response Commission.

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000)—(Substituted in revision for NAC 459.9913)

NAC 459.99123 "Emergency plan" defined. ([NRS 459.740](#)) "Emergency plan" means an emergency plan established by a local emergency planning committee pursuant to [NAC 459.99133](#) to respond to an emergency caused by the release of a hazardous material.

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

NAC 459.99124 "Extremely hazardous material" defined. ([NRS 459.740](#)) "Extremely hazardous material" has the meaning ascribed to it in [NRS 459.7022](#).

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000)—(Substituted in revision for NAC 459.9914)

NAC 459.99125 "Facility" defined. ([NRS 459.740](#)) "Facility" includes any group of activities which are involved in the storage, use or manufacture of extremely hazardous materials, are located on one or more contiguous properties and are owned, operated or controlled by the same person.

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

NAC 459.99126 "Funding Committee" defined. ([NRS 459.740](#)) "Funding Committee" means the committee established by the Commission to assist the Commission in matters concerning funding.

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

NAC 459.991265 "Local emergency planning committee" defined. ([NRS 459.740](#)) "Local emergency planning committee" means the committee appointed by the Commission pursuant to 42 U.S.C. § 11001.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

NAC 459.99127 "Person" defined. ([NRS 459.740](#)) "Person" includes any agency or political subdivision of this State.

(Added to NAC by St. Emergency Response Comm'n, eff. 8-25-92; A by R034-00, 6-20-2000)—(Substituted in revision for NAC 459.9915)

NAC 459.99128 “Planning and Training Subcommittee” defined. ([NRS 459.740](#)) “Planning and Training Subcommittee” means the subcommittee appointed by the Funding Committee to assist the Committee in matters concerning planning and training for emergency response.

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

Emergency Planning

NAC 459.99131 Powers and duties of Commission. ([NRS 459.740](#)) In accordance with the requirements of 42 U.S.C. §§ 11001 et seq., the Commission will:

1. Designate emergency planning districts in this State to facilitate the preparation and implementation of emergency plans. The Commission may revise the designation of an emergency planning district at its discretion.

2. Designate the facilities that are within the jurisdiction of each emergency planning district.

3. Within 30 days after the designation of an emergency planning district, establish a local emergency planning committee for the emergency planning district and appoint the members to serve on the local emergency planning committee. The Commission may, at its discretion, revise the appointment of any member to a local emergency planning committee. An interested person may petition the Commission for a modification of the membership of a local emergency planning committee.

4. Supervise and coordinate the activities of each local emergency planning committee.

5. Through the Planning and Training Subcommittee, annually review the emergency plan of each local emergency planning committee and approve the emergency plan if it complies with the guidelines for emergency plans published by the National Response Team established pursuant to the National Contingency Plan set forth in 42 U.S.C. § 9605. The Commission may make recommendations to a local emergency planning committee for revisions of the emergency plan to ensure coordination of the emergency plan with the emergency plan established by any other local emergency planning committee.

6. Through the Bylaws Committee, annually review the bylaws of each local emergency planning committee to ensure compliance with federal and state laws and regulations.

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

NAC 459.99132 Local emergency planning committees: Administrative duties. ([NRS 459.740](#)) Each local emergency planning committee shall:

1. Appoint a chair;

2. Adopt rules for the performance of its duties and functions;

3. Annually submit to the Bylaws Committee a copy of its bylaws and a list of the members of the local emergency planning committee;

4. Hold quarterly meetings;

5. Submit to the Commission a copy of the agenda and minutes of every meeting;

6. Annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, inventory forms and any follow-up notices are available for public review pursuant to 42 U.S.C. § 11044;

7. Submit to the Commission an affidavit of publication stating that the local emergency planning committee has complied with the requirement of subsection 6; and

8. Submit to the Commission a Compliance Certification Form indicating that the local emergency planning committee has complied with administrative requirements.

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

NAC 459.99133 Emergency plans: Establishment, review and approval; correction of deficiencies; failure to comply. ([NRS 459.740](#))

1. Each local emergency planning committee shall:

(a) In compliance with the guidelines for emergency plans published by the National Response Team established pursuant to the National Contingency Plan set forth in 42 U.S.C. § 9605, establish an emergency plan;

(b) Annually review the emergency plan; and

(c) On or before January 31 of each year, submit the emergency plan to the Planning and Training Subcommittee for review and approval.

2. If the Planning and Training Subcommittee identifies any deficiency in the emergency plan submitted by the local emergency planning committee and notifies the local emergency planning committee of the deficiency, the local emergency planning committee shall, within 45 days after receipt of notification by the Planning and Training Subcommittee:

(a) Revise the emergency plan to correct the deficiency; and

(b) Submit the revised emergency plan to the Planning and Training Subcommittee for approval.

3. If a local emergency planning committee fails to submit an emergency plan on or before January 31 of each year pursuant to subsection 1 or fails to submit a revised emergency plan within 45 days after receipt of notification of any deficiency pursuant to subsection 2, the local emergency planning committee is ineligible for any funding available from the Commission until the Planning and Training Subcommittee reviews and approves the emergency plan in February of the following year.

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

NAC 459.99134 Emergency plans: Implementation; report; failure to comply. ([NRS 459.740](#))

1. Each local emergency planning committee shall:

(a) Annually implement the emergency plan required pursuant to [NAC 459.99133](#) by exercise, drill or response to a real event; and

(b) Submit to the Commission a report of the exercise, drill or response to a real event.

2. If a local emergency planning committee fails to meet the requirements of this section, the Commission may suspend the current unencumbered funds of the local emergency planning committee and deem the local emergency planning committee ineligible for any future grants until the requirements of this section are met.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

Funding for Local Emergency Planning Committees

NAC 459.99135 Authority of Commission: Grants of money from Contingency Account for Hazardous Materials. ([NRS 459.735](#), [459.740](#)) Pursuant to [NRS 459.742](#) and in accordance with the provisions set forth in [NAC 459.99138](#) to [459.99146](#), inclusive, the Commission may:

1. Use the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees for the operating, planning, training and equipment needs of the local emergency planning committees to carry out the emergency plans of the local emergency planning committees;

2. Use the fees collected pursuant to subsection 4 of [NRS 482.379365](#) and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees for the planning, training, supply and equipment needs of the local emergency planning committees to support preparedness to combat terrorism; and

3. Use any money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees for the planning and training needs of the local emergency planning committees to carry out the emergency plans of the local emergency planning committees.

(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)

NAC 459.99136 Requests for funding: Submission; approval of amount; scope. ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee or an authorized representative acting on behalf of a local emergency planning committee may submit an application for a grant pursuant to the provisions of [NAC 459.99138](#) to [459.99146](#), inclusive. The Commission may approve the application for the grant but will not provide funding for the grant unless the local emergency planning committee has met and approved the amount of funding requested in the application.

2. In submitting an application for a grant pursuant to [NAC 459.99138](#) to [459.99146](#), inclusive, a local emergency planning committee may request funding to provide planning, training and equipment to certain persons and entities, including, without limitation:

- (a) State and local entities;
- (b) Private companies;
- (c) Nonprofit corporations;
- (d) Public utilities owned and operated by political subdivisions of the State; and
- (e) General improvement districts involved in preventing and responding to incidents involving hazardous materials or mitigating such incidents.

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

NAC 459.99137 Dissemination of application forms for grants. ([NRS 459.735](#), [459.740](#)) The Commission will send application forms for grants to each local emergency planning committee not later than 6 weeks before the deadline for submission of an application for a grant to the Commission by the local emergency planning committees.

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

NAC 459.99138 Provision of money from proceeds of certain fees to pay for operating costs. ([NRS 459.735](#), [459.740](#)) If a local emergency planning committee is in compliance with all applicable provisions of the Nevada Revised Statutes and the Nevada Administrative Code relating to local emergency planning committees and the official policies of the Commission, the Commission may provide a portion of the money from fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, to the local emergency planning committee for reasonable and appropriate operating costs of the local emergency planning committee, as determined by the Commission, including, without limitation, office supplies, overhead expenses and costs related to meetings of the local emergency planning committee.

(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)

NAC 459.99139 Requests for money from proceeds of certain fees to pay for planning. ([NRS 459.735](#), [459.740](#)) A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, for planning that is necessary to carry out the emergency plan of the local emergency planning committee or pursuant to subsection 4 of [NRS 482.379365](#) for planning to support preparedness to combat terrorism.

(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)

NAC 459.99141 Requests for money from proceeds of certain fees to pay for training.
([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, for training that is necessary to carry out the emergency plan of the local emergency planning committee or pursuant to subsection 4 of [NRS 482.379365](#) for training to support preparedness to combat terrorism.

2. Except for grant money to attend a training conference, a local emergency planning committee may not request grant money from the Commission pursuant to subsection 1:

(a) To pay for training that is necessary to carry out the emergency plan of the local emergency planning committee unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

(b) To pay for training to support preparedness to combat terrorism unless the local emergency planning committee previously submitted a request to the Division of Emergency Management of the Department of Public Safety to participate in a training program provided by the Division and the Division declined to provide such training.

(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)

NAC 459.99142 Requests for money from proceeds of certain fees to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission for planning or training, request grant money from the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, for services to be provided by a consultant or contractor which relate to planning or training to carry out the emergency plan of the local emergency planning committee or pursuant to subsection 4 of [NRS 482.379365](#) for planning or training to support preparedness to combat terrorism.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) Two or more competitive bids that were submitted to the local emergency planning committee by consultants or contractors;

(b) An itemized list of the scope of the services to be provided by the consultant or contractor who was selected by the local emergency planning committee; and

(c) An itemized quote for the costs of the services to be provided by the consultant or contractor.

(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)

NAC 459.99143 Requests for money from proceeds of certain fees to pay for equipment.
([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, for equipment that is necessary to carry out the emergency plan of the local emergency planning committee or pursuant to subsection 4 of [NRS 482.379365](#) for equipment to support preparedness to combat terrorism.

2. Except as otherwise provided in this subsection, the request for equipment must be for equipment designated on the list of appropriate equipment for matters relating to emergency response of hazardous materials or to support preparedness to combat terrorism that is provided by the Commission. The local emergency planning committee may include a request for equipment not designated on the list provided by the Commission if the local emergency planning committee includes a quote for the cost of the equipment in the application.

(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)

NAC 459.99144 Requests for money from federal funding to pay for planning. ([NRS 459.735](#), [459.740](#)) A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for planning that is necessary to carry out the emergency plan of the local emergency planning committee.

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

NAC 459.99145 Requests for money from federal funding to pay for training. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a local emergency planning committee may, in its application for a grant from the Commission, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for training that is necessary to carry out the emergency plan of the local emergency planning committee.

2. Except for money to attend a training conference, a local emergency planning committee may not request grant money from the Commission pursuant to subsection 1 to pay for training unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

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

NAC 459.99146 Requests for money from federal funding to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission for planning or training, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for services to be provided by a consultant or contractor which relate to planning or training to carry out the emergency plan of the local emergency planning committee.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) Two or more competitive bids that were submitted to the local emergency planning committee by consultants or contractors;

(b) An itemized list of the scope of the services to be provided by the consultant or contractor who was selected by the local emergency planning committee; and

(c) An itemized quote for the costs of the services of the consultant or contractor.

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

NAC 459.99147 Review of applications and award of money. ([NRS 459.735](#), [459.740](#)) The Commission may:

1. Place each application for grant money that is submitted to the Commission on an agenda for consideration at a future meeting of the Commission;

2. Review each application for grant money that is submitted by a local emergency planning committee; and

3. Award grant money to a local emergency planning committee based on the following factors:

(a) The availability of money for grants in the Contingency Account for Hazardous Materials;

(b) Whether the application for grant money satisfies the conditions set forth in [NAC 459.99138](#) to [459.99146](#), inclusive; and

(c) Whether the local emergency planning committee has complied with all applicable statutes, regulations and policies.

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

NAC 459.99148 Documentation of awards of money. ([NRS 459.735](#), [459.740](#)) Upon the determination of the Commission to award a grant to a local emergency planning committee, the Commission will prepare documentation of the award and keep such documentation on file with the Commission.

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

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 459.99151 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 459.99156 Request to revise use of money after award of grant. ([NRS 459.735](#), [459.740](#))

1. If circumstances pertaining to the use of grant money change after the award of a grant to a local emergency planning committee, the local emergency planning committee shall submit to the Commission a request, on a form approved by the Commission, to revise the use of the grant money for another purpose.

2. If the request to revise the use of grant money constitutes a change of 10 percent or more of the total amount of the grant or constitutes a significant change to the scope of the intent of the original grant application, before the local emergency planning committee may carry out the change, the request must be:

(a) Approved by the Chair of the Funding Committee; and

(b) If required by the Chair of the Funding Committee, reviewed and approved by the Funding Committee on the record at a meeting of the Funding Committee.

3. The Chair of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a meeting to review the request. The local emergency planning committee will be notified of any action taken concerning the request within 5 working days after the action is taken.

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

Funding for State Agencies

NAC 459.99161 Authority of Commission: Allocation of money from Contingency Account for Hazardous Materials. ([NRS 459.735](#), [459.740](#)) Pursuant to paragraph (d) of subsection 2 of [NRS 459.735](#) and in accordance with the provisions set forth in [NAC 459.99163](#) to [459.99167](#), inclusive, the Commission may:

1. Allocate the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, and deposited in the Contingency Account for Hazardous Materials to state agencies for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials;
2. Allocate the fees collected pursuant to subsection 4 of [NRS 482.379365](#) and deposited in the Contingency Account for Hazardous Materials to state agencies for the planning, training, supply and equipment needs of state and local personnel to support preparedness to combat terrorism; and
3. Allocate any money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 and deposited in the Contingency Account for Hazardous Materials to state agencies for training and equipping state and local personnel to respond to accidents and incidents involving 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)

NAC 459.99162 Application for allocation of money; determination and approval of amount to request. ([NRS 459.735](#), [459.740](#)) In accordance with the provisions set forth in [NAC 459.99163](#) to [459.99167](#), inclusive, a state agency which wishes to provide training or equipment to state and local personnel to respond to accidents and incidents involving hazardous materials may submit an application to the Commission for an allocation of money for such training or equipment from the Contingency Account for Hazardous Materials on a form approved by the Commission. Before such a state agency may submit an application for an allocation of money pursuant to the provisions of [NAC 459.99163](#) to [459.99167](#), inclusive, the head of the state agency must determine and approve, based upon the needs of the state agency, the amount of funding the state agency will request in the application.

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

NAC 459.99163 Requests for money from proceeds of certain fees to pay for training. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, for training state and local personnel to respond to accidents and incidents involving hazardous materials or pursuant to subsection 4 of [NRS 482.379365](#) for training to support preparedness to combat terrorism.

2. Except for an allocation of money to attend a training conference, a state agency may not request money from the Commission pursuant to subsection 1:

(a) To pay for training state and local personnel to respond to accidents and incidents involving hazardous materials unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

(b) To pay for training to support preparedness to combat terrorism unless the state agency previously submitted a request to the Division of Emergency Management of the Department of Public Safety to participate in a training program provided by the Division and the Division declined to provide such training.

(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)

NAC 459.99164 Requests for money from proceeds of certain fees to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, for services to be provided by a consultant or contractor which relate to the training of state and local personnel to respond to accidents and incidents involving hazardous materials or pursuant to subsection 4 of [NRS 482.379365](#) for training to support preparedness to combat terrorism.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) Two or more competitive bids that were submitted to the state agency by consultants or contractors;

(b) An itemized list of the scope of the services to be provided by the consultant or contractor who was selected by the state agency; and

(c) An itemized quote for the costs of the services to be provided by the consultant or contractor.

(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)

NAC 459.99165 Requests for money from proceeds of certain fees to pay for equipment. ([NRS 459.735](#), [459.740](#))

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to [NAC 459.9918](#) to [459.991825](#), inclusive, for equipping state and local personnel to respond to accidents and incidents involving hazardous materials or pursuant to subsection 4 of [NRS 482.379365](#) for equipment to support preparedness to combat terrorism.

2. Except as otherwise provided in this subsection, the request for equipment must be for equipment designated on the list of appropriate equipment for matters relating to emergency response of hazardous materials or to support preparedness to combat terrorism that is provided by the Commission. The state agency may include a request for equipment not designated on the list provided by the Commission if the state agency includes a quote for the cost of the equipment in the application.

(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)

NAC 459.99166 Requests for money from federal funding to pay for training. ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request an allocation from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for training state and local personnel to respond to accidents or incidents involving hazardous materials.

2. Except for grant money to attend a training conference, a state agency may not request money from the Commission pursuant to subsection 1 to pay for training unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training.

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

NAC 459.99167 Requests for money from federal funding to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request an allocation from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for services to be provided by a consultant or contractor which relate to planning or training state and local personnel to respond to accidents and incidents involving hazardous materials.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) Two or more competitive bids that were submitted to the state agency by consultants or contractors;

(b) An itemized list of the scope of the services to be provided by the consultant or contractor who was selected by the state agency; and

(c) An itemized quote for the costs of the services to be provided by the consultant or contractor.

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

NAC 459.99168 Review of applications and allocation of money. ([NRS 459.735](#), [459.740](#))

The Commission may:

1. Place each application for an allocation of money from the Contingency Account for Hazardous Materials that is submitted to the Commission by a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials on an agenda for consideration at a future meeting of the Commission;

2. Review each application for an allocation of money that is submitted by a state agency; and

3. Allocate money to a state agency:

(a) Based on the availability of money in the Contingency Account for Hazardous Materials; and

(b) If the application for an allocation of money satisfies the conditions set forth in [NAC 459.99163](#) to [459.99167](#), inclusive.

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

NAC 459.99169 Documentation of allocations of money. ([NRS 459.735](#), [459.740](#)) Upon the determination of the Commission to allocate money to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials, the Commission will prepare documentation of the allocation of money and keep such documentation on file with the Commission.

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

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)

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)

NAC 459.99177 Request to revise use of money after allocation. ([NRS 459.735](#), [459.740](#))

1. If circumstances pertaining to the use of money change after the Commission approves the allocation of money to a state agency, the state agency shall submit to the Commission a request, on a form approved by the Commission, to revise the use of the money for another purpose.

2. If the request to revise the use of money constitutes a change of 10 percent or more of the total amount of the money allocated or constitutes a significant change to the scope of the intent of the original application, before the state agency may carry out the change, the request must be:

- (a) Approved by the Chair of the Funding Committee; and
- (b) If required by the Chair of the Funding Committee, reviewed and approved by the Funding Committee on the record at a meeting of the Funding Committee.

3. The Chair of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a meeting to review the request. The state agency will be notified of any action taken concerning the request within 5 working days after the action is taken.

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

Imposition and Payment of Fees

NAC 459.9918 Fees for certain services and regulatory activities of Commission. ([NRS 459.740](#), [459.744](#)) The Commission will charge a person for whom it performs a service or regulatory activity the fees set forth in the following schedule:

1. For processing a report filed with the Commission pursuant to 40 C.F.R. Part 370, Subpart B, except for a report of an extremely hazardous material pursuant to [NAC 459.99181](#)..... \$100
2. For each hour or fraction thereof that an employee, agent, contractor or other designee of the Commission spends in responding to a request for information, except for a request for information made pursuant to 40 C.F.R. Part 370, Subpart C..... \$50

(Added to NAC by St. Emergency Response Comm'n by R034-00, eff. 6-20-2000; A by R133-03, 3-26-2004)—(Substituted in revision for NAC 459.9916)

NAC 459.99181 Fees for storage of extremely hazardous materials. ([NRS 459.704](#), [459.740](#), [459.744](#))

1. The filing fee required pursuant to paragraph (a) of subsection 2 of [NRS 459.744](#) is \$100 for each facility in which extremely hazardous material is stored.

2. The surcharge required pursuant to paragraph (b) of subsection 2 of [NRS 459.744](#) is \$100 per ton for each ton of material stored in excess of 1 ton.

(Added to NAC by St. Emergency Response Comm'n, eff. 8-25-92; A by R077-98, 9-25-98; R034-00, 6-20-2000; R133-03, 3-26-2004; R177-05, 6-1-2006)

NAC 459.99182 Fees for manufacture for transport of extremely hazardous material. ([NRS 459.704](#), [459.740](#), [459.744](#))

1. The filing fee required pursuant to paragraph (a) of subsection 3 of [NRS 459.744](#) is \$100.

2. The surcharge required pursuant to paragraph (b) of subsection 3 of [NRS 459.744](#) is \$100 for each ton of material which is manufactured for transport in this State.

3. In accordance with subsection 3 of [NRS 459.744](#), the Commission will not require any person to pay more than \$2,000 in fees imposed pursuant to this section for any calendar year.

(Added to NAC by St. Emergency Response Comm'n, eff. 8-25-92; A by R077-98, 9-25-98; R034-00, 6-20-2000; R133-03, 3-26-2004)—(Substituted in revision for NAC 459.9919)

NAC 459.991825 Reporting fee for submission of toxic chemical release form. ([NRS 459.704](#), [459.740](#), [459.744](#)) The reporting fee required pursuant to subsection 4 of [NRS 459.744](#) is \$500 for each person who is required to submit a toxic chemical release form pursuant to 42 U.S.C. §§ 11001 et seq.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

NAC 459.99183 Failure to pay required fee when due. ([NRS 459.704](#), [459.740](#))

1. If a person fails to pay a fee required pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#) on or before the applicable due date, the Commission will send a written notice to the person stating that the fee has not been paid and notifying the person of the provisions of subsection 2.

2. If a person fails to pay a fee required pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#) within 90 days after receiving written notification of failure to pay pursuant to subsection 1, the Commission will submit the matter to the Attorney General to initiate proceedings against the person.

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

NAC 459.991835 Limitation on amount of certain fees. ([NRS 459.704](#), [459.740](#), [459.744](#)) The Commission will not require any person to pay more than \$7,500 in fees imposed pursuant to subsection 1 of [NAC 459.9918](#), [NAC 459.99181](#) or [459.991825](#) for any calendar year.

(Added to NAC by St. Emergency Response Comm'n by R177-05, eff. 6-1-2006)

NAC 459.99184 Overpayment of required fee. ([NRS 459.704](#), [459.740](#)) If a person has overpaid a fee required pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#), the Commission will:

1. Send a written notice to the person indicating the amount of the overpayment; and

2. Unless the person submits a request for a refund of the amount of the overpayment, credit the account of the person in the amount of the overpayment to be applied toward future fees imposed upon the person pursuant to [NAC 459.9918](#), [459.99181](#), [459.99182](#) or [459.991825](#).

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

Appeals

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)

**PROPOSED REGULATION OF THE
STATE EMERGENCY RESPONSE COMMISSION**

LCB File No. R074-15

November 3, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-4, 22 and 23, NRS 459.740; §§5-18, NRS 459.735 and 459.740; §19, NRS 459.704, 459.740 and 459.744; §§20 and 21, NRS 459.704 and 459.740.

A REGULATION relating to emergency planning; requiring that certain information relating to hazardous materials be available to the public at no cost; revising provisions relating to the grants and allocations provided by the State Emergency Response Commission for emergency planning and responding to certain accidents, motor vehicle crashes and incidents; revising provisions relating to the submission of an application for a grant or allocation to the Commission; revising provisions relating to the submission of a financial report to the Commission; requiring a person who does not pay certain fees charged by the Commission by the due date to pay a late fee; revising provisions relating to appeals of decisions of the Commission; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Emergency Response Commission to adopt regulations to carry out the provisions of the federal Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq. **Section 1** of this regulation requires that certain information relating to hazardous materials filed with the Commission be provided to the public at no cost. **Section 3** of this regulation revises the definition of “local emergency planning committee” to include the Inter-Tribal Emergency Response Commission. **Section 4** of this regulation provides that if a local emergency planning committee fails to provide an emergency plan to the Planning and Training Subcommittee within a certain period, the emergency plan may be reviewed at the next meeting of the Planning and Training Subcommittee rather than in February of the following year.

Sections 5-18 of this regulation combine existing regulations relating to the provision of funding to local emergency planning committees and state agencies by the Commission for emergency planning and responding to accidents, motor vehicle crashes and incidents involving hazardous materials. **Section 6** clarifies that the Commission may approve an application for funding for all or part of the amount requested or may deny the application. **Section 6** also provides that a state agency may also request funding to provide planning, training or equipment to certain persons and entities. **Section 7** provides that the Commission will notify each local

emergency planning committee and state agency before the deadline for submission of an application for a grant or allocation. **Section 10** requires a request for a grant or allocation for equipment, training or services provided by a consultant or contractor to include two or more competitive bids, an itemized list of the equipment or services and an itemized quote of the equipment or services. Additionally, **section 10** provides that any money allocated to a state agency by the Commission is subject to the State purchasing statutes and regulations.

Section 15 provides that a request for advance funding for certain expenditures will be verified and processed by the staff of the Commission. If a local emergency planning committee or state agency fails to return advance funding to the Commission that was unused or in excess of an expenditure authorized in a grant or allocation, **section 15** also specifies that the Commission may withhold additional funding from the local emergency planning committee or state agency until the advance funding is returned. **Section 17** provides that if a financial report is more than 60 days past due, the Commission: (1) will withhold, rather than may withhold, funding from the local emergency planning committee or state agency until the report is submitted; and (2) may deny any requests from the local emergency planning committee or state agency to reimburse expenditures authorized in a grant or allocation. **Section 18** provides that a request to revise the use of a grant or allocation of money must be approved by the Commission, not the Chair of the Funding Committee, at the next regularly scheduled meeting of the Commission.

Sections 19-21 of this regulation revise the existing fee provisions relating to hazardous materials and services of the Commission. **Section 19** adds a late fee to the existing fees, providing that if a person fails to pay certain required fees by the date on which the fees are due, the person will be charged a late fee of 10 percent of the total amount of the fees due. **Section 20** provides that if a person fails to pay certain required fees, the Commission: (1) will provide written or electronic notice to the person; (2) after 60 days, will submit the matter to the State Controller, rather than the Attorney General, for collection proceedings; and (3) may refer the matter to the appropriate agency for legal proceedings. **Section 22** revises the procedures for appealing a decision to the Commission.

Sec. 1. Chapter 459 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Pursuant to subsection 6 of NRS 459.742, 42 U.S.C. §§ 11001 et seq. and 49 U.S.C. §§ 5101 et seq., information filed with the Commission relating to hazardous materials is a public record.

2. Upon request, information relating to hazardous materials filed with the Commission will be provided at no cost to any person requesting such information.

Sec. 2. NAC 459.9912 is hereby amended to read as follows:

459.9912 As used in NAC 459.9912 to 459.99189, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 459.99121 to 459.99128, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 459.991265 is hereby amended to read as follows:

459.991265 “Local emergency planning committee” means ~~the~~ *a* committee appointed by the Commission pursuant to 42 U.S.C. § 11001 ~~H~~, *and includes the Inter-Tribal Emergency Response Commission.*

Sec. 4. NAC 459.99133 is hereby amended to read as follows:

459.99133 1. Each local emergency planning committee shall:

(a) In compliance with the guidelines for emergency plans published by the National Response Team established pursuant to the National Contingency Plan set forth in 42 U.S.C. § 9605, establish an emergency plan;

(b) Annually review the emergency plan; and

(c) On or before January 31 of each year, submit the emergency plan to the Planning and Training Subcommittee for review and approval.

2. If the Planning and Training Subcommittee identifies any deficiency in the emergency plan submitted by the local emergency planning committee and notifies the local emergency planning committee of the deficiency, the local emergency planning committee shall, within 45 days after receipt of notification by the Planning and Training Subcommittee:

(a) Revise the emergency plan to correct the deficiency; and

(b) Submit the revised emergency plan to the Planning and Training Subcommittee for approval.

3. If a local emergency planning committee fails to submit an emergency plan on or before January 31 of each year pursuant to subsection 1 or fails to submit a revised emergency plan within 45 days after receipt of notification of any deficiency pursuant to subsection 2, the local emergency planning committee is ineligible for any funding available from the Commission until the Planning and Training Subcommittee reviews and approves the emergency plan ~~in February of the following year.~~ *at the next regularly scheduled meeting of the Planning and Training Subcommittee.*

Sec. 5. NAC 459.99135 is hereby amended to read as follows:

459.99135 Pursuant to NRS *459.735 and* 459.742 and in accordance with the provisions set forth in NAC 459.99138 ~~to~~, *459.99139 and* 459.99146, ~~inclusive,~~ the Commission may:

1. Use the fees collected by the Commission pursuant to NAC 459.9918 ~~to 459.991825,~~ ~~inclusive,~~ and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees *or allocate money to state agencies* for ~~the~~:

(a) The operating, planning, training and equipment needs of the local emergency planning committees ~~to carry~~ *or state agencies, as applicable, in carrying* out the emergency plans of the local emergency planning committees ~~to~~ *or state agencies; or*

(b) Training and equipping state and local personnel to respond to accidents, motor vehicle crashes and incidents involving hazardous materials;

2. Use the fees collected pursuant to subsection 4 of NRS 482.379365 and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees *or allocate money to state agencies* for the planning, training, supply and equipment needs of the local emergency planning committees *or state agencies, as applicable,* to support preparedness to combat terrorism; and

3. Use any money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees *or allocate money to state agencies* for ~~{the}~~ :

(a) *The* planning and training needs of the local emergency planning committees ~~{to carry}~~ *or state agencies, as applicable, in carrying* out the emergency plans of the local emergency planning committees ~~{}~~ *or state agencies; or*

(b) *Training and equipping state and local personnel to respond to accidents, motor vehicle crashes and incidents involving hazardous materials.*

Sec. 6. NAC 459.99136 is hereby amended to read as follows:

459.99136 1. A local emergency planning committee, ~~{or}~~ an authorized representative acting on behalf of a local emergency planning committee *or the head of a state agency* may submit an application ~~{for a grant}~~ *to the Commission* pursuant to the provisions of NAC 459.99138 ~~{to}~~ *459.99139 and* 459.99146 . ~~{, inclusive.}~~ The Commission may approve the application for *all or part of* the ~~{grant but}~~ *amount requested or deny the application. If the Commission denies the application, the local emergency planning committee or state agency may reapply for a grant or allocation, as applicable.*

2. *The Commission* will not provide funding for ~~{the}~~ :

(a) A grant unless ~~{the}~~, *before submitting the application, the* local emergency planning committee has met and approved the amount of funding requested in the application ~~{~~

~~—2.}~~ ; *or*

(b) *An allocation unless, before submitting the application, the head of the state agency has determined and approved the amount of funding requested in the application.*

3. In submitting an application for a grant *or allocation* pursuant to NAC 459.99138 ~~to~~, *459.99139 and* 459.99146, ~~inclusive,~~ a local emergency planning committee *or state agency, as applicable*, may request funding to provide planning, training and equipment to certain persons and entities, including, without limitation:

- (a) State and local entities;
- (b) Private companies;
- (c) Nonprofit corporations;
- (d) ~~Public utilities~~ *Utilities* owned and operated by political subdivisions of the State; and
- (e) General improvement districts involved in preventing and responding to incidents

involving hazardous materials or mitigating such incidents.

Sec. 7. NAC 459.99137 is hereby amended to read as follows:

459.99137 The Commission will ~~send application forms for grants to~~ *notify* each local emergency planning committee *and state agency* not later than 6 weeks before the deadline for submission of an application for a grant *or allocation, as applicable*, to the Commission. ~~by the local emergency planning committees.~~

Sec. 8. NAC 459.99138 is hereby amended to read as follows:

459.99138 If a local emergency planning committee is in compliance with all applicable provisions of the Nevada Revised Statutes and the Nevada Administrative Code relating to local emergency planning committees, ~~and the official policies of the Commission,~~ the Commission may provide a portion of the money from fees collected by the Commission pursuant to NAC 459.9918 ~~to 459.991825, inclusive,~~ to the local emergency planning committee for reasonable and appropriate operating costs of the local emergency planning committee, as determined by the

Commission, including, without limitation, office supplies, overhead expenses and costs related to meetings of the local emergency planning committee.

Sec. 9. NAC 459.99139 is hereby amended to read as follows:

459.99139 ~~{A}~~

1. Except as otherwise provided in subsection 2, a local emergency planning committee or state agency may, in its application for a grant or allocation, as applicable, from the Commission, request ~~{grant}~~ money to carry out its emergency plan or to train state and local personnel to respond to accidents, motor vehicle crashes and incidents involving hazardous materials, as applicable, for:

(a) Planning, training, equipment or services to be provided by a consultant or contractor that relate to planning or training from the ~~{fees}~~ :

(1) Fees collected by the Commission pursuant to NAC 459.9918 ~~{to 459.991825, inclusive, for planning that is necessary to carry out the emergency plan of the local emergency planning committee}~~ ; or

(2) Money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005; or ~~{pursuant}~~

(b) Planning to support preparedness to combat terrorism from the fees collected by the Commission pursuant to subsection 4 of NRS 482.379365 . ~~{for planning to support preparedness to combat terrorism.}~~

2. A local emergency planning committee or state agency may not request a grant or allocation, as applicable, from the Commission for training in accordance with:

(a) Paragraph (a) of subsection 1 unless a training program provided by the State Fire Marshall pursuant to NRS 477.039 cannot be provided within the 6-month period immediately following the date on which the request for a grant or allocation is made.

(b) Paragraph (b) of subsection 1 unless a training program provided by the Division of Emergency Management of the Department of Public Safety cannot be provided within the 6-month period immediately following the date on which the request for a grant or allocation is made.

Sec. 10. NAC 459.99146 is hereby amended to read as follows:

459.99146 1. ~~{A local emergency planning committee may, in its application for a grant from the Commission for planning or training, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for services to be provided by a consultant or contractor which relate to planning or training to carry out the emergency plan of the local emergency planning committee.~~

~~—2.}~~ A request to the Commission for a grant or allocation made pursuant to ~~{subsection 1}~~ *this section and NAC 459.99138 and 459.99139* must include, without limitation:

(a) Two or more competitive bids that were submitted to the local emergency planning committee *or state agency* by *equipment vendors, training providers*, consultants or contractors;

(b) An itemized list of the *equipment or* scope of the services to be provided by the *equipment vendor, training provider*, consultant or contractor ~~{who was}~~ selected by the local emergency planning committee ~~{;}~~ *or state agency*; and

(c) An itemized quote for the costs of the *equipment or* services of the *equipment vendor, training provider*, consultant or contractor.

2. The expenditure of any money allocated by the Commission to a state agency pursuant to this section is subject to the provisions of chapter 333 of NRS and chapter 333 of NAC.

Sec. 11. NAC 459.99147 is hereby amended to read as follows:

459.99147 The Commission ~~{may:}~~ *will:*

1. Place each application for *a grant* ~~{money}~~ *or allocation* that is submitted to the Commission *and meets the application guidelines, as determined by the staff of the Commission,* on an agenda for consideration at a future meeting of the Commission;
2. Review each application for *a grant* ~~{money}~~ *or allocation* that is submitted by a local emergency planning committee ~~{:}~~ *or state agency, as applicable;* and
3. Award *a grant* ~~{money}~~ to a local emergency planning committee *or allocate money to a state agency* based on the following factors:
 - (a) The availability of money for grants *or allocations* in the Contingency Account for Hazardous Materials;
 - (b) Whether the application ~~{for grant money}~~ satisfies the conditions set forth in NAC 459.99138 ~~{to}~~ *459.99139 and* 459.99146 ; ~~{, inclusive;}~~ and
 - (c) Whether the local emergency planning committee *or state agency* has complied with all applicable statutes ~~{:}~~ *and* regulations . ~~{and policies.}~~

Sec. 12. NAC 459.99148 is hereby amended to read as follows:

459.99148 Upon the determination of the Commission to award a grant to a local emergency planning committee ~~{:}~~ *or allocate money to a state agency,* the Commission will prepare documentation of the ~~{award}~~ *grant or allocation, as applicable,* and keep such documentation on file with the Commission.

Sec. 13. NAC 459.99149 is hereby amended to read as follows:

459.99149 Before any ~~{grant}~~ money may be distributed by the Commission to a local emergency planning committee ~~{}~~ *or state agency*, the local emergency planning committee *or state agency, as applicable*, must complete and submit to the Commission the following forms provided by the Commission:

1. The Certified Assurances ~~{Form}~~ *For State Agencies form*, indicating that the local emergency planning committee *or state agency* agrees to comply with the rules and regulations governing the grant ~~{money awarded in the grant.}~~ *or allocation, as applicable*. The form must be signed by ~~{the chair}~~ :

(a) For a local emergency planning committee, an authorized representative of the local emergency planning committee and a designee of the appropriate ~~{governmental}~~ entity for which the ~~{grant}~~ money has been awarded ~~{}~~ ; and

(b) For a state agency, an authorized representative of the state agency.

2. The *LEPC Compliance Certification* ~~{Form}~~ *form*, indicating that the local emergency planning committee *or state agency* has complied with the administrative requirements for a grant ~~{}~~ *or allocation, as applicable*.

Sec. 14. NAC 459.99151 is hereby amended to read as follows:

459.99151 1. Except as otherwise provided in NAC 459.99152, the ~~{grant}~~ money awarded to a local emergency planning committee *or allocated to a state agency* by the Commission will be disbursed on the basis of reimbursement for expenditures authorized in the grant ~~{}~~ *or allocation, as applicable*.

2. If a local emergency planning committee *or state agency* seeks to be reimbursed for an expenditure authorized in the grant ~~{}~~ *or allocation, as applicable*, the local emergency planning committee *or 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 ~~{}~~ *for which the money was granted or allocated, as applicable.*

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 ~~{}~~ *or state agency.*

4. Within 5 working days after receiving a request for reimbursement, the *staff of 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 *or state agency* is requesting reimbursement is authorized in the grant. If the ~~{Commission approves the request,}~~ *expenditure is authorized,* the *staff of the* Commission will process the payment within 1 working day after ~~{approval of the request,}~~ *the audit has been completed.*

Sec. 15. NAC 459.99152 is hereby amended to read as follows:

459.99152 1. If a local emergency planning committee *or state agency* has an expected expenditure exceeding \$2,000, the local emergency planning committee *or state agency, as applicable,* 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 *staff of the* Commission will verify that the expenditure for which the local emergency planning committee *or state agency* is requesting advance funding is authorized in the grant ~~{}~~ *or allocation, as applicable.* If the ~~{Commission approves the}~~ request ~~{}~~ *meets the criteria approved by the Commission for advance funding, as determined by the staff of the Commission,* the *staff of*

the Commission will process the payment to the local emergency planning committee ~~{}~~ *or state agency, as applicable.*

4. Within 30 days after a check for advance funding is ~~{issued to}~~ *received by* a local emergency planning committee ~~{}~~ *or state agency*, the local emergency planning committee *or state agency, as applicable*, 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}~~ *received by* a local emergency planning committee ~~{}~~ *or state agency*, the local emergency planning committee *or state agency, as applicable*, must return to the Commission the amount of the advance funding within 45 days after the ~~{issuance}~~ *receipt* 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 *or state agency, as applicable*, 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}~~ *receipt* of the check for advance funding.

7. If a local emergency planning committee *or state agency* 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.}~~ *or state agency, as applicable, until the amount of the advance funding is returned.*

8. As used in this section, “advance funding” means an advance of the ~~{grant}~~ money awarded *or allocated* to pay for any expenditures ~~{}~~ *authorized by the Commission.*

Sec. 16. NAC 459.99153 is hereby amended to read as follows:

459.99153 Unless a financial report is submitted pursuant to NAC 459.99151 or 459.99152, a local emergency planning committee *or state agency* 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.

Sec. 17. NAC 459.99154 is hereby amended to read as follows:

459.99154 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~~ *authorized representative* of the local emergency planning committee *or 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 designee of the appropriate governmental entity for which the grant has been awarded ~~+~~ *or the head of the state agency, as applicable.*

3. Is at least 60 days past due, the Commission ~~may in the future~~ :

(a) Will withhold funding from the local emergency planning committee or state agency that is required to submit the financial report ~~+~~ until the financial report has been submitted to the Commission.

(b) May deny a request from the local emergency planning committee or state agency for reimbursement of expenditures authorized in a grant or allocation, as applicable.

Sec. 18. NAC 459.99156 is hereby amended to read as follows:

459.99156 1. If circumstances pertaining to the use of a grant ~~money~~ *or allocation* change after the award of a grant to a local emergency planning committee ~~+~~ *or an allocation to*

a state agency, the local emergency planning committee *or state agency, as applicable*, shall submit to the Commission a request ~~[, on a form approved by the Commission,]~~ to revise the use of the ~~[grant]~~ money for another purpose.

2. If the request to revise the use of ~~[grant]~~ money constitutes a change of 10 percent or more of the total amount of the grant *or allocation* or constitutes a significant change to the scope of the intent of the original ~~[grant]~~ application, before the local emergency planning committee *or state agency, as applicable*, may carry out the change, the request must be ~~[-~~

~~—(a) Approved]~~ *approved* by the ~~[Chair of the Funding Committee; and~~

~~—(b) If required by the Chair of the Funding Committee, reviewed and approved by the~~

~~Funding Committee on the record at a meeting of the Funding Committee.]~~ *Commission at the next regularly scheduled meeting of the Commission.*

3. ~~[The Chair of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a meeting to review the request.]~~ The local emergency planning committee *or state agency, as applicable*, will be notified of any action taken concerning the request within 5 working days after the action is taken.

Sec. 19. NAC 459.9918 is hereby amended to read as follows:

459.9918 *1.* The Commission will charge a person for whom it performs a service or regulatory activity the fees set forth in the following schedule:

~~[1. For processing a report filed with the Commission pursuant to 40 C.F.R. Part 370,~~
Subpart

~~B, except for a report of an extremely hazardous material pursuant to NAC 459.99181.....\$100~~

~~—2.— For each hour or fraction thereof that an employee, agent, contractor or other designee of the Commission spends in responding to a request for information, except for a request for information made pursuant to 40 C.F.R. Part 370, Subpart C—\$50}~~

(a) Pursuant to subsection 2 of NRS 459.744:

(1) The filing fee required for each facility in which extremely hazardous material is stored is \$100; and

(2) The surcharge required for each ton of extremely hazardous material stored in excess of 1 ton is \$100 per ton.

(b) Pursuant to subsection 3 of NRS 459.744:

(1) The filing fee required for each facility in which extremely hazardous material is manufactured is \$100; and

(2) The surcharge required for each ton of extremely hazardous material manufactured for transport in this State is \$100 per ton.

(c) Pursuant to subsection 4 of NRS 459.744, the reporting fee required for each person who is required to submit a toxic chemical release form is \$500.

2. Except as otherwise provided in subsection 3, if a fee required pursuant to this section has not been paid by the date on which payment is due, a late charge will be assessed as an administrative fee for processing in the amount of 10 percent of the total amount of the fees due. The charge will be assessed beginning at the end of the first business day after the fee is due and every 30 days thereafter. No person may store or manufacture for transport an extremely hazardous material until the fees required pursuant to this section are paid.

3. The Commission will not require any one person to pay, in the aggregate, more than \$7,500 in fees imposed pursuant to subsections 1 and 2 for any calendar year.

Sec. 20. NAC 459.99183 is hereby amended to read as follows:

459.99183 ~~{1}~~ If a person fails to pay a fee required pursuant to NAC 459.9918 ~~{,~~
~~459.99181, 459.99182 or 459.991825 on}~~ :

1. On or before the applicable due date, the Commission will send a written *or electronic* notice to the person stating that the fee has not been paid . ~~{and notifying the person of the provisions of subsection 2.}~~

~~2. {If a person fails to pay a fee required pursuant to NAC 459.9918, 459.99181, 459.99182 or 459.991825 within 90}~~ *Within 60* days after receiving written *or electronic* notification of failure to pay pursuant to subsection 1, the Commission will submit the matter to the ~~{Attorney General}~~ *State Controller pursuant to NRS 353C.195* to initiate *collection* proceedings against the person.

3. The Commission may refer the matter to the appropriate agency to initiate legal proceedings.

Sec. 21. NAC 459.99184 is hereby amended to read as follows:

459.99184 If a person has overpaid a fee required pursuant to NAC 459.9918 ~~{,~~ ~~459.99181,~~
~~459.99182 or 459.991825,}~~ *and notifies the Commission in writing of the overpayment or the Commission discovers the overpayment in the normal course of business,* the Commission will

~~{~~

~~—1.— Send a written notice to the person indicating the amount of the overpayment; and~~

~~—2.— Unless the person submits a request for a refund of the amount of the overpayment,}~~

credit the account of the person in the amount of the overpayment to be applied toward future

fees imposed upon the person pursuant to NAC 459.9918 ~~{,~~ ~~459.99181, 459.99182 or~~

~~459.991825.], unless the person submits a written request to the Commission for a refund of the amount of the overpayment.~~

Sec. 22. NAC 459.99189 is hereby amended to read as follows:

459.99189 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~~ *Chair* of the Commission. The appeal must be filed in writing, including the grounds for the appeal and any supporting documentation, within 35 *calendar* 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~~ *Chair* or his or her designee shall ~~present a report to~~ *place the item on the agenda for the next meeting of* 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~~ *3* days before the date of the meeting in which an appeal will be heard, the ~~Executive Director~~ *Chair* 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}~~ *appeal* 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}~~ *Chair* or his or her designee shall mail to the participant by first-class mail notice of the decision of the Commission within ~~{15}~~ *30* days after the decision is rendered.

7. ~~{A decision by the}~~ *The* Commission ~~{regarding an appeal is final.}~~ *will reconsider its decision only if the local emergency planning committee or state agency presents substantial, new information to the Commission that a reasonable person would consider to be relevant to the appeal.*

Sec. 23. NAC 459.99141, 459.99142, 459.99143, 459.99144, 459.99145, 459.99161, 459.99162, 459.99163, 459.99164, 459.99165, 459.99166, 459.99167, 459.99168, 459.99169, 459.99171, 459.99172, 459.99173, 459.99174, 459.99175, 459.99177, 459.99181, 459.99182, 459.991825 and 459.991835 are hereby repealed.

TEXT OF REPEALED SECTIONS

459.99141 Requests for money from proceeds of certain fees to pay for training. (NRS 459.735, 459.740)

1. Except as otherwise provided in subsection 2, a local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees

collected by the Commission pursuant to NAC 459.9918 to 459.991825, inclusive, for training that is necessary to carry out the emergency plan of the local emergency planning committee or pursuant to subsection 4 of NRS 482.379365 for training to support preparedness to combat terrorism.

2. Except for grant money to attend a training conference, a local emergency planning committee may not request grant money from the Commission pursuant to subsection 1:

(a) To pay for training that is necessary to carry out the emergency plan of the local emergency planning committee unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to NRS 477.039 and the State Fire Marshal declined to provide such training.

(b) To pay for training to support preparedness to combat terrorism unless the local emergency planning committee previously submitted a request to the Division of Emergency Management of the Department of Public Safety to participate in a training program provided by the Division and the Division declined to provide such training.

459.99142 Requests for money from proceeds of certain fees to pay for services of consultant or contractor. (NRS 459.735, 459.740)

1. A local emergency planning committee may, in its application for a grant from the Commission for planning or training, request grant money from the fees collected by the Commission pursuant to NAC 459.9918 to 459.991825, inclusive, for services to be provided by a consultant or contractor which relate to planning or training to carry out the emergency plan of the local emergency planning committee or pursuant to subsection 4 of NRS 482.379365 for planning or training to support preparedness to combat terrorism.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) Two or more competitive bids that were submitted to the local emergency planning committee by consultants or contractors;

(b) An itemized list of the scope of the services to be provided by the consultant or contractor who was selected by the local emergency planning committee; and

(c) An itemized quote for the costs of the services to be provided by the consultant or contractor.

459.99143 Requests for money from proceeds of certain fees to pay for equipment. (NRS 459.735, 459.740)

1. A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to NAC 459.9918 to 459.991825, inclusive, for equipment that is necessary to carry out the emergency plan of the local emergency planning committee or pursuant to subsection 4 of NRS 482.379365 for equipment to support preparedness to combat terrorism.

2. Except as otherwise provided in this subsection, the request for equipment must be for equipment designated on the list of appropriate equipment for matters relating to emergency response of hazardous materials or to support preparedness to combat terrorism that is provided by the Commission. The local emergency planning committee may include a request for equipment not designated on the list provided by the Commission if the local emergency planning committee includes a quote for the cost of the equipment in the application.

459.99144 Requests for money from federal funding to pay for planning. (NRS 459.735, 459.740) A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the money awarded to the Commission by the

Federal Government pursuant to 42 U.S.C. § 11005 for planning that is necessary to carry out the emergency plan of the local emergency planning committee.

459.99145 Requests for money from federal funding to pay for training. (NRS 459.735, 459.740)

1. Except as otherwise provided in subsection 2, a local emergency planning committee may, in its application for a grant from the Commission, request grant money from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for training that is necessary to carry out the emergency plan of the local emergency planning committee.

2. Except for money to attend a training conference, a local emergency planning committee may not request grant money from the Commission pursuant to subsection 1 to pay for training unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to NRS 477.039 and the State Fire Marshal declined to provide such training.

459.99161 Authority of Commission: Allocation of money from Contingency Account for Hazardous Materials. (NRS 459.735, 459.740) Pursuant to paragraph (d) of subsection 2 of NRS 459.735 and in accordance with the provisions set forth in NAC 459.99163 to 459.99167, inclusive, the Commission may:

1. Allocate the fees collected by the Commission pursuant to NAC 459.9918 to 459.991825, inclusive, and deposited in the Contingency Account for Hazardous Materials to state agencies for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials;

2. Allocate the fees collected pursuant to subsection 4 of NRS 482.379365 and deposited in the Contingency Account for Hazardous Materials to state agencies for the planning, training, supply and equipment needs of state and local personnel to support preparedness to combat terrorism; and

3. Allocate any money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 and deposited in the Contingency Account for Hazardous Materials to state agencies for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials.

459.99162 Application for allocation of money; determination and approval of amount to request. (NRS 459.735, 459.740) In accordance with the provisions set forth in NAC 459.99163 to 459.99167, inclusive, a state agency which wishes to provide training or equipment to state and local personnel to respond to accidents and incidents involving hazardous materials may submit an application to the Commission for an allocation of money for such training or equipment from the Contingency Account for Hazardous Materials on a form approved by the Commission. Before such a state agency may submit an application for an allocation of money pursuant to the provisions of NAC 459.99163 to 459.99167, inclusive, the head of the state agency must determine and approve, based upon the needs of the state agency, the amount of funding the state agency will request in the application.

459.99163 Requests for money from proceeds of certain fees to pay for training. (NRS 459.735, 459.740)

1. Except as otherwise provided in subsection 2, a state agency may, in its application for an allocation of money from the Commission submitted pursuant to NAC 459.99162, request money from the fees collected by the Commission pursuant to NAC 459.9918 to 459.991825,

inclusive, for training state and local personnel to respond to accidents and incidents involving hazardous materials or pursuant to subsection 4 of NRS 482.379365 for training to support preparedness to combat terrorism.

2. Except for an allocation of money to attend a training conference, a state agency may not request money from the Commission pursuant to subsection 1:

(a) To pay for training state and local personnel to respond to accidents and incidents involving hazardous materials unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to NRS 477.039 and the State Fire Marshal declined to provide such training.

(b) To pay for training to support preparedness to combat terrorism unless the state agency previously submitted a request to the Division of Emergency Management of the Department of Public Safety to participate in a training program provided by the Division and the Division declined to provide such training.

459.99164 Requests for money from proceeds of certain fees to pay for services of consultant or contractor. (NRS 459.735, 459.740)

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to NAC 459.99162, request money from the fees collected by the Commission pursuant to NAC 459.9918 to 459.991825, inclusive, for services to be provided by a consultant or contractor which relate to the training of state and local personnel to respond to accidents and incidents involving hazardous materials or pursuant to subsection 4 of NRS 482.379365 for training to support preparedness to combat terrorism.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) Two or more competitive bids that were submitted to the state agency by consultants or contractors;

(b) An itemized list of the scope of the services to be provided by the consultant or contractor who was selected by the state agency; and

(c) An itemized quote for the costs of the services to be provided by the consultant or contractor.

459.99165 Requests for money from proceeds of certain fees to pay for equipment. (NRS 459.735, 459.740)

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to NAC 459.99162, request money from the fees collected by the Commission pursuant to NAC 459.9918 to 459.991825, inclusive, for equipping state and local personnel to respond to accidents and incidents involving hazardous materials or pursuant to subsection 4 of NRS 482.379365 for equipment to support preparedness to combat terrorism.

2. Except as otherwise provided in this subsection, the request for equipment must be for equipment designated on the list of appropriate equipment for matters relating to emergency response of hazardous materials or to support preparedness to combat terrorism that is provided by the Commission. The state agency may include a request for equipment not designated on the list provided by the Commission if the state agency includes a quote for the cost of the equipment in the application.

459.99166 Requests for money from federal funding to pay for training. (NRS 459.735, 459.740)

1. Except as otherwise provided in subsection 2, a state agency may, in its application for an allocation of money from the Commission submitted pursuant to NAC 459.99162, request an

allocation from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for training state and local personnel to respond to accidents or incidents involving hazardous materials.

2. Except for grant money to attend a training conference, a state agency may not request money from the Commission pursuant to subsection 1 to pay for training unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to NRS 477.039 and the State Fire Marshal declined to provide such training.

459.99167 Requests for money from federal funding to pay for services of consultant or contractor. (NRS 459.735, 459.740)

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to NAC 459.99162, request an allocation from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for services to be provided by a consultant or contractor which relate to planning or training state and local personnel to respond to accidents and incidents involving hazardous materials.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) Two or more competitive bids that were submitted to the state agency by consultants or contractors;

(b) An itemized list of the scope of the services to be provided by the consultant or contractor who was selected by the state agency; and

(c) An itemized quote for the costs of the services to be provided by the consultant or contractor.

459.99168 Review of applications and allocation of money. (NRS 459.735, 459.740)

The Commission may:

1. Place each application for an allocation of money from the Contingency Account for Hazardous Materials that is submitted to the Commission by a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials on an agenda for consideration at a future meeting of the Commission;

2. Review each application for an allocation of money that is submitted by a state agency;
and

3. Allocate money to a state agency:

(a) Based on the availability of money in the Contingency Account for Hazardous Materials;
and

(b) If the application for an allocation of money satisfies the conditions set forth in NAC 459.99163 to 459.99167, inclusive.

459.99169 Documentation of allocations of money. (NRS 459.735, 459.740) Upon the determination of the Commission to allocate money to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials, the Commission will prepare documentation of the allocation of money and keep such documentation on file with the Commission.

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.

**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.

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.

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.

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.

459.99177 Request to revise use of money after allocation. (NRS 459.735, 459.740)

1. If circumstances pertaining to the use of money change after the Commission approves the allocation of money to a state agency, the state agency shall submit to the Commission a request, on a form approved by the Commission, to revise the use of the money for another purpose.

2. If the request to revise the use of money constitutes a change of 10 percent or more of the total amount of the money allocated or constitutes a significant change to the scope of the intent of the original application, before the state agency may carry out the change, the request must be:

(a) Approved by the Chair of the Funding Committee; and

(b) If required by the Chair of the Funding Committee, reviewed and approved by the Funding Committee on the record at a meeting of the Funding Committee.

3. The Chair of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a meeting to review the request. The state agency will be notified of any action taken concerning the request within 5 working days after the action is taken.

459.99181 Fees for storage of extremely hazardous materials. (NRS 459.704, 459.740, 459.744)

1. The filing fee required pursuant to paragraph (a) of subsection 2 of NRS 459.744 is \$100 for each facility in which extremely hazardous material is stored.

2. The surcharge required pursuant to paragraph (b) of subsection 2 of NRS 459.744 is \$100 per ton for each ton of material stored in excess of 1 ton.

459.99182 Fees for manufacture for transport of extremely hazardous material. (NRS 459.704, 459.740, 459.744)

1. The filing fee required pursuant to paragraph (a) of subsection 3 of NRS 459.744 is \$100.
2. The surcharge required pursuant to paragraph (b) of subsection 3 of NRS 459.744 is \$100

for each ton of material which is manufactured for transport in this State.

3. In accordance with subsection 3 of NRS 459.744, the Commission will not require any person to pay more than \$2,000 in fees imposed pursuant to this section for any calendar year.

459.991825 Reporting fee for submission of toxic chemical release form. (NRS 459.704, 459.740, 459.744) The reporting fee required pursuant to subsection 4 of NRS 459.744 is \$500 for each person who is required to submit a toxic chemical release form pursuant to 42 U.S.C. §§ 11001 et seq.

459.991835 Limitation on amount of certain fees. (NRS 459.704, 459.740, 459.744)
The Commission will not require any person to pay more than \$7,500 in fees imposed pursuant to subsection 1 of NAC 459.9918, NAC 459.99181 or 459.991825 for any calendar year.

Peter Mulvihill

From: Joe Curtis <jcurtis@storeycounty.org>
Sent: Tuesday, December 15, 2015 1:55 PM
To: Peter Mulvihill
Cc: Cherie Nevin
Subject: Proposed regs of SERC

Pete:
Good day to you.
I was reviewing this LCB file No. R074-15, proposed regulation of the SERC and found some areas that concern me.

Under "Emergency Planning" NAC 459.99131/ 1 & 3:

This seems to say to me that the local (county) will no longer be responsible for its LEPC. That the Commission will establish the LEPC and will appoint its membership with discretion to revise the appointments of any member. That it will supervise and coordinate the activities of each LEPC. That is taking on a lot of duty and responsibility and time, that I doubt SERC has.

This section and the following sections in 99132 seem to be in significant conflict. 99131.1 says the commission makes the appointments of members (which is a major problem for me) and 99132.1,2,3,4 says the LEPC will determine its members and will supervise and coordinate the activities of each LEPC.

I have some difficulty with this wording as it takes all responsibility, duty, authority away from the County.

Can you clarify this for me? Because if the SERC has the responsibility then the counties are acting without authority forming their own LEPC's.

Thanks
Joe

Joe Curtis
Director
Storey County Emergency Management
cell 742-0138 Office 847-0986
email: jcurtis@storeycounty.org



Peter Mulvihill

From: Fogerson, Dave <DFogerson@eastforkfire.org>
Sent: Tuesday, January 19, 2016 11:22 AM
To: Peter Mulvihill
Cc: Fogerson, Dave; JA County Manager; 'Bob Schreihans' (rschreihans@carson.org); Darryl Cleveland (dcleveland@tmcc.edu); Joe Curtis; ecems5@eurekanv.org; Carlini, Tod
Subject: Suggested NAC459 Changes

Pete,

Please find below my comments on the proposed NAC459 changes. I intend on being at the hearing on Thursday, but in the event I cannot make it, I wanted to provide them for the record. Overall, I am very pleased by the proposed changes: they clean up and organize the regulations into an easy to follow flow. My additional comments are:

1. Eliminate the Funding Committee and the Training/Planning Subcommittee. These Committees/Subcommittees are not part of the federal requirements for Community Right to Know. They review staff's recommendations, require local government attendance to answer questions and are able to be over-ruled by the full SERC Commission. The process of submitting a grant application, having it undergo SERC staff review, then to the Training/Planning Subcommittee to determine if the equipment requested is approved for the particular LEPC, then to the Funding Committee to re-add the numbers of the grant, then to SERC for approval is a user of time from the local government perspective. The LEPC grant request originates from a locally organized group in a public, open meeting. The grant is then approved by a local government executive to submit the SERC. This indicates that the people closest to the problem in need of fixing are making the decision in a public forum. The review of the grant, asking questions of why a particular item is needed by that local government in three meetings following SERC staff review is a time drain while reducing the ability of local government to manage our local issues. It is relatively easy for me to attend the multi-hour long meeting for each committee for each grant as I am close to Carson City. When one considers the extended hours meeting for three different approvals for each grant, time adds up. Most LEPC's apply for three SERC administered grants a year. Just the time in the meeting for these three grants can add up to over 24 hours for three grants. Now apply travel time on to this and it is easy for many rural/frontier Nevada counties to spend 40-hours of staff time attending the meetings necessary for state approval of the grant request. My suggestion is for SERC staff to review the grant, send clarifying questions to the LEPC and submit to the SERC Commission for review. Streamlining the application will assist SERC members in understanding the needs local government is addressing. Reducing the meetings will also provide additional SERC funds to be used by local government and state agencies to reduce our haz mat threat in place of sending SERC Commissioners to meetings.
2. Eliminate the provision that SERC appoints LEPC members. This has not been the practice and is probably impossible for SERC Commissioners to accomplish as it is challenging for us as local government, at times, to find the appropriate members to be on a LEPC, if it were not for the personal contacts we have at the local level.
3. Eliminate any special purchasing requirements within the NAC and allow us to follow the rules outlined in NRS 332 - Purchasing: Local Governments. If we follow the same rules all the time, fewer chances exist for errors to be made. As you well know, it is important that we follow an approved process for

purchasing to maintain fairness in government. If we have to do things different for different state agencies, the chance of errors exists. These errors can be seen as non-transparent or unethical.

4. Eliminate the Bylaw review committee. This committee reviews the LEPC bylaws annually. This is easily a staff assignment to bring back any issues to the SERC Commission. It will save money on the SERC Commissioners meeting to review bylaws that do not commonly change, providing additional funds to the locals and state agencies that are dealing with the haz mat problem.
5. In lieu of the plan review by grant staff and the training/planning subcommittee, use the Department of Public Safety, Division of Emergency Management and Division of the State Fire Marshal. These two organizations either review emergency plans on a regular basis or are responsible for enforcement of regulations. These agencies are used to conducting plan review and can provide valuable feedback to ensure all of our plans work with one another as many haz mat plans are part of the bigger picture of terrorism, hazard mitigation and planning, all-hazard emergency management response and homeland security: the line between these four areas is hard to find. In fact, the hazard mitigation plan that we are required to develop has a hazardous materials component required. SERC's plan submittal would appear to be redundant.

I thank the SERC staff for their openness and willing to assist local government. I thank the SERC Commission for reviewing their regulations to see how they can make government more lean, easier to manage and transparent while being effective fiduciaries of our money, especially in reducing administrative overhead, travel and expenses thereby directing a greater amount of grant funds to local government and state agencies for actual haz mat program implementation. I would hope that cleaning up the NAC's will be followed by a review of SERC procedures so we do not have procedures that go against NRS or NAC direction. Procedure manuals should address how something is done under the law, not as a way to circumvent the law making process.

I look forward to the discussion on Thursday.

Respectfully,

Dave

David Fogerson, MPA, CFO, CEM

Deputy Fire Chief | Operations Division | [East Fork Fire District](#)

dfogerson@eastforkfire.org | (775) 782-9096 | 1694 County Road, Minden, NV 89423

Serving the fire and life safety needs of our community



Peter Mulvihill

From: Darryl Cleveland <dcleveland@tmcc.edu>
Sent: Thursday, January 21, 2016 12:59 PM
To: Peter Mulvihill
Cc: Dave Fogerson; Joe Curtis; Aaron Kenneston
Subject: Proposed SERC changes

Mr. Mulvihill, as the Chairman of the Washoe County LEPC, first my apologies for not attending today's workshop. Some unexpected circumstances arose preventing my attendance.

Regarding the proposed changes to SERC policies and procedures, I will simply echo those of Deputy Chief Fogerson from Douglas County. I am in complete agreement that all we are able to do in becoming more efficient in our processes, the better and more cost efficient with grant and taxpayer dollars. On behalf of the Washoe County LEPC, I fully support Chief Fogerson's recommendations to the SERC.

Please feel free to contact me by phone or email should you need any clarification of further information.

--

Darryl Cleveland, BS, LP
Chief Fire Officer
Director
Public & Occupational Safety Department

Regional Public Safety Training Center
5190 Spectrum Blvd
RPSTC 219-C
Reno, NV 89512

P: 775-789-5416
F: 775-789-5431
dcleveland@tmcc.edu

"Tell me and I will forget, Teach me and I may remember, Involve me and I will learn." Ben Franklin

website: www.tmcc.edu/ems/
www.tmcc.edu/firetech/
www.tmcc.edu/firetech/wildland-fire-training-program/



Public Records Notice: In accordance with Nevada Revised Statutes (NRS) Chapter 239, this email and responses, unless otherwise made confidential by law, may be subject to the Nevada Public Records laws and may be disclosed to the public upon request.