

## State Emergency Response Commission

### **NRS 459.735 Contingency Account for Hazardous Materials.**

1. The Contingency Account for Hazardous Materials is hereby created in the State General Fund.
2. The Commission shall administer the Contingency Account for Hazardous Materials. Except as otherwise provided in subsection 4, the money in the Account may be expended for:
  - (a) Carrying out the provisions of [NRS 459.735](#) to [459.773](#), inclusive;
  - (b) Carrying out the provisions of 42 U.S.C. §§ 11001 et seq. and 49 U.S.C. §§ 5101 et seq.;
  - (c) Maintaining and supporting the operations of the Commission and local emergency planning committees;
  - (d) Training and equipping state and local personnel to respond to accidents, motor vehicle crashes and incidents involving hazardous materials;
  - (e) The operation of training programs and a training center for handling emergencies relating to hazardous materials and related fires pursuant to [NRS 477.045](#); and
  - (f) Any other purpose authorized by the Legislature.
3. All money received by this State pursuant to 42 U.S.C. §§ 11001 et seq. or 49 U.S.C. §§ 5101 et seq. must be deposited with the State Treasurer to the credit of the Contingency Account for Hazardous Materials. In addition, all money received by the Commission from any source must be deposited with the State Treasurer to the credit of the Contingency Account for Hazardous Materials. The State Controller shall transfer from the Contingency Account to the Operating Account of the State Fire Marshal such money collected pursuant to [chapter 477](#) of NRS as is authorized for expenditure in the budget of the State Fire Marshal for use pursuant to paragraph (e) of subsection 2.
4. Any fees deposited with the State Treasurer for credit to the Contingency Account for Hazardous Materials pursuant to subsection 5 of [NRS 482.379365](#) must be accounted for separately and must be expended to provide financial assistance to this State or to local governments in this State to support preparedness to combat terrorism, including, without limitation, planning, training and purchasing supplies and equipment, or for any other purpose authorized by the Legislature.
5. Upon the presentation of budgets in the manner required by law, money to support the operation of the Commission pursuant to this chapter, other than its provision of grants, must be provided by direct legislative appropriation from the State Highway Fund or other legislative authorization to the Contingency Account for Hazardous Materials.
6. The interest and income earned on the money in the Contingency Account for Hazardous Materials, after deducting any applicable charges, must be credited to the Account.
7. All claims against the Contingency Account for Hazardous Materials must be paid as other claims against the State are paid.

(Added to NRS by [1987, 1752](#); A [1989, 747](#); [1991, 1110, 1773, 1828](#); [1993, 140, 1317, 1318](#); [1999, 3352](#); [2001, 1833](#); [2001 Special Session, 143](#) [2003, 274, 362](#); [2010, 26th Special Session, 19](#); [2015, 1684](#))

**NRS 459.738 Creation of Commission; appointment and terms of members; appointment of Chair or Co-Chairs; employment of staff.**

1. The State Emergency Response Commission is hereby created for the purpose of carrying out the provisions of 42 U.S.C. §§ 11001 et seq. and other matters relating thereto.
2. The Commission consists of not more than 25 members appointed by the Governor. The Governor shall, to the extent practicable, appoint persons to the Commission who have technical expertise in responding to emergencies.
3. The term of each member of the Commission is 4 years. A member may be reappointed, and there is no limit on the number of terms that a member may serve.
4. The Governor shall appoint one or more of the members of the Commission to serve as Chair or Co-Chairs.
5. The Commission may employ, within the limits of legislative appropriations, such staff as is necessary to the performance of its duties.

(Added to NRS by [1991, 1108](#); A [1997, 2544](#); [2001, 903](#))

**NRS 459.740 Adoption of regulations; acceptance of gifts and grants of money and other revenues.** The Commission may:

1. Adopt regulations for the purpose of enforcing its responsibilities pursuant to 42 U.S.C. §§ 11001 et seq.
2. Accept gifts and grants of money and other revenues for the purpose of enforcing its responsibilities pursuant to 42 U.S.C. §§ 11001 et seq.

(Added to NRS by [1987, 1753](#); A [1991, 1111](#); [2001, 904](#))

**NRS 459.742 Powers of Commission.** The Commission, in carrying out its duties and within the limits of legislative appropriations and other available money, may:

1. Enter into contracts, leases or other agreements or transactions;
2. Provide grants of money to local emergency planning committees to improve their ability to respond to emergencies involving hazardous materials;
3. Assist with the development of comprehensive plans for responding to such emergencies in this State;
4. Provide technical assistance and administrative support to the Telecommunications Group of the Communication and Computing Unit of the Division of Enterprise Information Technology Services of the Department of Administration for the development of systems for communication during such emergencies;
5. Provide technical and administrative support and assistance for training programs;
6. Develop a system to provide public access to data relating to hazardous materials;
7. Support any activity or program eligible to receive money from the Contingency Account for Hazardous Materials;
8. Adopt regulations setting forth the manner in which the Division of Emergency Management of the Department shall:
  - (a) Allocate money received by the Division which relates to hazardous materials or is received pursuant to 42 U.S.C. §§ 11001 et seq. or 49 U.S.C. §§ 5101 et seq.; and
  - (b) Approve programs developed to address planning for and responding to emergencies involving hazardous materials; and
9. Coordinate the activities administered by state agencies to carry out the provisions of this chapter, 42 U.S.C. §§ 11001 et seq. and 49 U.S.C. §§ 5101 et seq.

(Added to NRS by [1991,1108](#); A [1993, 1318, 1635](#); [1995, 579](#); [1997, 3090](#); [2001, 904, 2627](#); [2003, 17](#))

**NRS 459.744 Establishment and payment of fees.** The Commission shall establish by regulation:

1. A schedule of fees for its services and regulatory activities. The fees must be set at an amount which approximates the cost to the Commission of performing those services and activities.
2. A fee, not to exceed \$15,000 per year, to be paid, except as otherwise provided in subsection 5, by each person who stores an extremely hazardous material in an amount greater than the threshold planning quantity established for such material in 40 C.F.R. Part 355, Appendix A or B. The fee must include:
  - (a) A filing fee for each facility in which such material is stored; and
  - (b) A surcharge for each ton of such material stored in excess of 1 ton and must be paid on or before March 1 of each year for the preceding calendar year.
3. A fee, not to exceed \$2,000 per year, to be paid by each person who manufactures for transport an extremely hazardous material in an amount greater than the threshold planning quantity established for such material in 40 C.F.R. Part 355, Appendix A or B. The fee must include:
  - (a) A filing fee for each facility in which such material is manufactured; and
  - (b) A surcharge for each ton of such material which is manufactured for transport in this State and must be paid on or before January 31 of each year for the preceding calendar year.
4. A reporting fee, not to exceed \$15,000 per year, to be paid, except as otherwise provided in subsection 5, by each person who is required to submit a toxic chemical release form pursuant to 42 U.S.C. §§ 11001 et seq., which becomes due upon the filing of the form.
5. A method for limiting the amount of fees established pursuant to subsections 2 and 4 so that the aggregate amount of the fees imposed on a person during any calendar year does not exceed \$15,000.

(Added to NRS by [1991, 1109](#); A [1995, 454](#); [1999, 254](#); [2001, 904](#); [2003, 826](#); [2005, 54](#))

### **Responding to Spills, Accidents, Motor Vehicle Crashes and Incidents**

**NRS 459.748 Definitions.** As used in [NRS 459.750](#) to [459.770](#), inclusive:

1. “Does not act promptly and appropriately” means that the person:
  - (a) Cannot be notified of the incident within 2 hours after the initial attempt to contact the person;
  - (b) Does not, within 2 hours after receiving notification of the incident, make an oral or written commitment to clean and decontaminate the affected area properly;
  - (c) Does not act upon the commitment within 24 hours after making it;
  - (d) Does not clean and decontaminate the affected area properly; or
  - (e) Does not act immediately to clean and decontaminate the affected area properly, if the inaction of the person presents an imminent and substantial hazard to human health, public safety or the environment.

2. “Responding” means any efforts to mitigate, attempt to mitigate or assist in the mitigation of the effects of a spill or accident or motor vehicle crash involving hazardous material, including, without limitation, efforts to:
  - (a) Contain and dispose of the hazardous material.
  - (b) Clean and decontaminate the area affected by the spill, accident or crash.
  - (c) Investigate the occurrence of the spill, accident or crash.

(Added to NRS by [1993, 838](#); A [2015, 1685](#))

**NRS 459.750 Responsibility for cleaning and decontamination of area affected by spill, accident or motor vehicle crash.** Any person who possessed or had in his or her care any hazardous material involved in a spill, accident or motor vehicle crash requiring the cleaning and decontamination of the affected area is responsible for that cleaning and decontamination.

(Added to NRS by [1987, 1753](#); A [2015, 1685](#))

**NRS 459.755 Use of Contingency Account for Hazardous Materials to pay for costs of cleaning and decontamination of area affected by spill, accident or motor vehicle crash.** If the person responsible for hazardous material involved in a spill, accident or motor vehicle crash does not act promptly and appropriately to clean and decontaminate the affected area, and if the inaction of the person presents an imminent and substantial hazard to human health, public safety, any property or the environment, money from the Contingency Account for Hazardous Materials may be expended to pay the costs of:

1. Responding to a spill of or an accident or motor vehicle crash involving hazardous material;
2. Coordinating the efforts of state, local and federal agencies responding to a spill of or an accident or motor vehicle crash involving hazardous material;
3. Managing the cleaning and decontamination of an area for the disposal of hazardous material or the site of a spill of or an accident or motor vehicle crash involving hazardous material; or
4. Removing or contracting for the removal of hazardous material which presents an imminent danger to human health, public safety or the environment.

(Added to NRS by [1987, 1753](#); A [1991, 1774](#); [2015, 1685](#))

**NRS 459.760 Reimbursement of expenses of responding state agency; reporting of need for additional funding; action by Attorney General.**

1. Except as otherwise provided in this subsection, any state agency accruing expenses in responding to a spill of or an accident or motor vehicle crash involving hazardous material may present an itemized accounting of those expenses with a demand for reimbursement of those expenses to the person responsible for the hazardous material. Payment of the reimbursement must be made within 60 days after the person receives notice from the agency of the amount due. The provisions of this section do not apply to a spill of or an accident or motor vehicle crash involving natural gas or liquefied petroleum gas while it is under the responsibility of a public utility.
2. If the state agency cannot recover the full amount of reimbursement from the person responsible, it may report to the Commission its need for additional funding. The Commission shall notify the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means during a regular or special session of the Legislature, or the Interim Finance Committee if the Legislature is not in session, of the state agency’s need for additional funding.

3. At the request of the state agency, and at any time after the payment for reimbursement is due, the Attorney General shall initiate recovery by legal action of the amount of any unpaid reimbursement plus interest at a rate determined pursuant to [NRS 17.130](#) computed from the date of the incident.

(Added to NRS by [1987, 1754](#); A [1993, 841](#); [2015, 1685](#))

**NRS 459.765 Deposit of reimbursement and penalty for credit to Contingency Account for Hazardous Materials.** Any reimbursement and penalty recovered by the Attorney General from a person responsible for hazardous material involved in a spill or accident or motor vehicle crash must be deposited with the State Treasurer for credit to the Contingency Account for Hazardous Materials.

(Added to NRS by [1987, 1754](#); A [1991, 1774](#); [2015, 1686](#))

**NRS 459.770 Recovery of costs incurred by responding county or city.** Any county or city in this State may adopt an ordinance authorizing its legal representative to initiate recovery by legal action from the person responsible for any hazardous material involved in a spill, accident or motor vehicle crash of the amount of any costs incurred by the county or city in responding to the spill or accident or motor vehicle crash involving hazardous material.

(Added to NRS by [1987, 1754](#); A [1993, 841](#); [2015, 1686](#))

**NRS 459.773 Development and dissemination of reference guide regarding response to accidents, motor vehicle crashes and incidents.**

1. The State Fire Marshal shall, in cooperation with local fire departments, develop a reference guide for use by state and local personnel who respond to accidents, motor vehicle crashes and incidents involving hazardous materials. The reference guide must provide information which is readily accessible regarding procedures for responding to the first critical moments of an accident, motor vehicle crash or incident involving hazardous materials.
2. The State Fire Marshal shall make available, upon request, the reference guide developed pursuant to subsection 1 to local governments, state and local personnel who respond to accidents, motor vehicle crashes and incidents involving hazardous materials and students enrolled in training programs for responding to accidents, motor vehicle crashes and incidents involving hazardous materials.

Added to NRS by [1993, 139](#); A [2015, 1686](#))