

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

**LCB FILE NO. R059-22I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 05/02/2022**

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 *and membership list* of a local emergency planning committee *and the Commission Bylaws*.

(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~~] *a* 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)

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

**NAC 459.?????** **“Legislative Committee” defined.** (NRS 459.740) *“Legislative Committee” means the committee established by the Commission to assist the Commission in matters concerning regulation changes and/or laws relative to the Commission’s oversight responsibilities.*

**NAC 459.?????** **“Policy Committee” defined.** (NRS 459.740) *“Policy Committee” means the committee established by the Commission to assist the Commission in matters concerning policies as needed and/or to satisfy audit findings. The Committee will also recommend policies for migration to statutes and/or other regulations.*

**NAC 459.?????** **“Radiological Committee” defined.** (NRS 459.740) *“Radiological Committee” means the committee established by the Commission to assist the Commission in matters concerning the support of State, Tribal, County and City jurisdictions and agencies utilizing the State of Nevada Preventative Radiological and Nuclear Detection Concept of Operations (ConOps) and the State of Nevada Radiological and Nuclear Detection Sustainment Plan.*

**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 Commission Bylaws and* the bylaws of each local emergency planning committee to ensure compliance with federal and state laws and regulations; *the Commission shall provide the minimum criteria to be included.*
- (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~~] *Commission*, 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 *at the same time the agenda and minutes become available to the public*;
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]~~ *Commission, for the Planning and Training Subcommittee* ~~[for review and approval]~~ *to review and approve.*
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 to participate in a training program provided by the State Fire Marshal pursuant to NRS 477.039 and the State Fire 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 *Nevada* Division of Emergency Management [~~of the Department of Public Safety~~]/ *Homeland Security* 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 *Nevada* Division of Emergency Management [~~of the Department of Public Safety~~]/ *Homeland Security* 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, 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~~] *State Controller's Office, pursuant to NRS 353C.195* 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~~] *Administrator* 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~~] *Administrator* 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~~] *Administrator* 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~~] *Administrator* 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~~] *Administrator* 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)