

Attachment F

Nevada Statutes and Codes References

CHAPTER 239C – HOMELAND SECURITY

NRS 239C.080 “Response agency” defined. “Response agency” means an agency of this state or of a political subdivision that provides services related to law enforcement, firefighting, emergency medical care or public safety, including, without limitation, the Nevada National Guard.

(Added to NRS by 2003, 2452)

NRS 239C.250 Response plans of political subdivisions: Confidentiality.

1. Each political subdivision shall adopt and maintain a response plan. Each new or revised plan must be filed within 10 days after adoption or revision with:

(a) The Division of Emergency Management of the Department of Public Safety; and

(b) Each response agency that provides services to the political subdivision.

2. The response plan required by subsection 1 must include:

(a) A drawing or map of the layout and boundaries of the political subdivision;

(b) A drawing or description of the streets and highways within, and leading into and out of, the political subdivision, including any approved routes for evacuation;

(c) The location and inventory of emergency response equipment and resources within the political subdivision;

(d) The location of any unusually hazardous substances within the political subdivision;

(e) A telephone number that may be used by residents of the political subdivision to receive information and to make reports with respect to an act of terrorism or related emergency;

(f) The location of one or more emergency response command posts that are located within the political subdivision;

(g) A depiction of the location of each police station, sheriff’s office and fire station that is located within the political subdivision;

(h) Plans for the continuity of the operations and services of the political subdivision, which plans must be consistent with the provisions of NRS 239C.260; and

(i) Any other information that the Commission may determine to be relevant.

3. A plan filed pursuant to the requirements of this section, including any revisions adopted thereto, is confidential and must be securely maintained by the entities with whom it is filed pursuant to subsection 1. An officer, employee or other person to whom the plan is entrusted by the entity with whom it is filed shall not disclose the contents of such a plan except:

(a) Upon the lawful order of a court of competent jurisdiction; or

(b) As is reasonably necessary in the case of an act of terrorism or related emergency.

(Added to NRS by 2003, 2458)

CHAPTER 244 – COUNTIES: GOVERNMENT

NRS 244.2961 Creation and administration of district; regulation of explosive, combustible or inflammable material; ordinance regarding fees for transporting sick or injured persons to medical facility; duties of employees.

1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where

explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. If the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt:

(a) An ordinance:

(1) Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

(2) Establishing a schedule of such fees; or

(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.

3. The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

4. All persons employed to perform the functions of the fire department are employees of the county for all purposes.

(Added to NRS by 1979, 925; A 1985, 257; 1989, 75, 194; 1999, 1857; 2001, 999)

NRS 244.2963 Assumption of certain rights, duties, liabilities and obligations. If the board of county commissioners establishes a district for a fire department, the department:

1. Assumes all rights, duties, liabilities and obligations of any fire department in any unincorporated town in the county which is subject to the provisions of NRS 269.500 to 269.625, inclusive.

2. Assumes all rights, duties, liabilities and obligations of any county fire protection district only upon dissolution of the district as provided in chapter 474 of NRS.

(Added to NRS by 1979, 926; A 1989, 75)

NRS 244.2965 Boundaries of district.

1. Subject to the limitations contained in subsection 2, a board of county commissioners which establishes a district for a county fire department shall establish the boundaries of the district which must include only the area which the department is to serve, and may alter those boundaries by ordinance.

2. The district must not include any territory within the boundaries of an incorporated city.

(Added to NRS by 1979, 926, A 1979, 926; 1981, 757; 1989, 75)

CHAPTER 277 – COOPERATIVE AGREEMENTS: STATE, COUNTIES, CITIES, DISTRICTS AND OTHER PUBLIC AGENCIES

NRS 277.045 Cooperative agreements between political subdivisions for performance of governmental functions; budget for expenses.

1. Except as limited by NRS 280.105 and 711.175, any two or more political subdivisions of this state, including, without limitation, counties, incorporated cities and towns, unincorporated towns, school districts and special districts, may enter into a cooperative agreement for the performance of any governmental function. Such an agreement may include the furnishing or exchange of personnel, equipment, property or facilities of any kind, or the payment of money.

2. Every such agreement must be by formal resolution or ordinance of the governing body of each political subdivision included, and must be spread at large upon the minutes, or attached in full thereto as an exhibit, of each governing body.

3. Each participating political subdivision shall provide in its annual budget for any expense to be incurred under any such agreement, the money for which is not made available through grant, gift or other source.

(Added to NRS by 1965, 651; A 1967, 698; 1981, 645; 1985, 665; 1987, 535; 2003, 1230)

CHAPTER 353 – STATE FINANCIAL ADMINISTRATION

DISASTER RELIEF ACCOUNT

NRS 353.2705 Definitions. As used in NRS 353.2705 to 353.2771, inclusive, unless the context otherwise requires, the words and terms defined in NRS 353.2707 to 353.2731, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1997, 2538; A 1999, 3129; 2003, 20th Special Session, 195)

NRS 353.2707 “Account” defined. “Account” means the Disaster Relief Account created by NRS 353.2735.

(Added to NRS by 2003, 20th Special Session, 195)

NRS 353.271 “Disaster” defined. “Disaster” means a fire, flood, earthquake, drought, explosion, civil disturbance, crisis involving violence on school property, at a school activity or on a school bus, or any other occurrence or threatened occurrence that, regardless of cause:

1. Results in, or may result in, widespread or severe damage to property or injury to or the death of persons in this state; and

2. As determined by:

(a) The Governor; or

(b) The governing body of a local government pursuant to NRS 414.090 and the Division pursuant to NRS 353.2753,

requires immediate action to protect the health, safety and welfare of the residents of this state.

(Added to NRS by 1997, 2538; A 1999, 3129; 2001, 1335)

NRS 353.2712 “Division” defined. “Division” means the Division of Emergency Management of the Department of Public Safety.

(Added to NRS by 1999, 3128; A 2001, 2599)

NRS 353.2715 “Eligible project” defined. “Eligible project” means a project that:

1. Is related to a disaster; and

2. Is proposed, coordinated or conducted by a public or nonprofit private entity that has been designated and approved as qualifying and eligible to receive federal grant money for the disaster from a federal disaster assistance agency.

(Added to NRS by 1997, 2538)

NRS 353.272 “Fund” defined. Repealed. (See chapter 5, Statutes of Nevada 2003, 20th Special Session.)

NRS 353.2725 “Grant match” defined. “Grant match” means the share of a grant provided by a federal disaster assistance agency that must be matched by a state or local government.

(Added to NRS by 1997, 2538)

NRS 353.2731 “Local government” defined. “Local government” has the meaning ascribed to it in NRS 354.474.

(Added to NRS by 1997, 2538)

NRS 353.2753 Requests for grants and loans: Preliminary assessment of damages by Division; report of damages; determination of whether event constitutes disaster; regulations.

1. A state agency or local government may request the Division to conduct a preliminary assessment of the damages related to an event for which the state agency or local government seeks a grant or loan from the Account.

2. Upon receipt of such a request, the Division shall investigate the event or cause the event to be investigated to make a preliminary assessment of the damages related to the event and shall make or cause to be made a written report of the damages related to the event.

3. As soon as practicable after completion of the investigation and preparation of the report of damages, the Division shall:

(a) Determine whether the event constitutes a disaster for which the state agency or local government may seek a grant or loan from the Account; and

(b) Submit the report prepared pursuant to this section and its written determination regarding whether the event constitutes a disaster to the state agency or local government.

4. The Division shall prescribe by regulation the information that must be included in a report of damages, including, without limitation, a description of the damage caused by the event, an estimate of the costs to repair such damage and a specification of whether the purpose of the project is for repair or replacement, emergency response or mitigation.

(Added to NRS by 1999, 3129; A 2003, 20th Special Session, 197)

NRS 353.2754 Requests for grants and loans: Determination that event constitutes disaster required as condition for local governments. A local government may request a grant or loan from the Account if:

1. Pursuant to NRS 414.090, the governing body of the local government determines that an event which has occurred constitutes a disaster; and

2. After the Division conducts a preliminary assessment of the damages pursuant to NRS 353.2753, the Division determines that an event has occurred that constitutes a disaster.

(Added to NRS by 1999, 3128; A 2003, 20th Special Session, 198)

NRS 353.2755 Requests for grants and loans: Conditions; contents; recommendation of State Board of Examiners.

1. A state agency or local government may submit a request to the State Board of Examiners for a grant or loan from the Account as provided in NRS 353.2705 to 353.2771, inclusive, if:

(a) The agency or local government finds that, because of a disaster, it is unable to pay for an expense or grant match specified in NRS 353.274, 353.2745 or 353.2751 from money appropriated or otherwise available to the agency or local government;

(b) The request has been approved by the chief administrative officer of the state agency or the governing body of the local government; and

(c) If the requester is an incorporated city, the city has requested financial assistance from the county and was denied all or a portion of the requested assistance.

2. A request for a grant or loan submitted pursuant to subsection 1 must be made within 60 days after the disaster and must include:

(a) A statement setting forth the amount of money requested by the state agency or local government;

(b) An assessment of the need of the state agency or local government for the money requested;

(c) If the request is submitted by a local government that has established a fund pursuant to NRS 354.6115 to mitigate the effects of a natural disaster, a statement of the amount of money that is available in that fund, if any, for the payment of expenses incurred by the local government as a result of a disaster;

(d) A determination of the type, value and amount of resources the state agency or local government may be required to provide as a condition for the receipt of a grant or loan from the Account;

(e) A written report of damages prepared by the Division and the written determination made by the Division that the event constitutes a disaster pursuant to NRS 353.2753; and

(f) If the requester is an incorporated city, all documents which relate to a request for assistance submitted to the board of county commissioners of the county in which the city is located.

➡ Any additional documentation relating to the request that is requested by the State Board of Examiners must be submitted within 6 months after the disaster unless the State Board of Examiners and the Interim Finance Committee grant an extension.

3. Upon the receipt of a complete request for a grant or loan submitted pursuant to subsection 1, the State Board of Examiners:

(a) Shall consider the request; and

(b) May require any additional information that it determines is necessary to make a recommendation.

4. If the State Board of Examiners finds that a grant or loan is appropriate, it shall include in its recommendation to the Interim Finance Committee the proposed amount of the grant or loan. If the State Board of Examiners recommends a grant, it shall include a recommendation regarding whether or not the state agency or local government requires an advance to avoid severe financial hardship. If the State Board of Examiners recommends a loan for a local government, it shall include the information required pursuant

to subsection 1 of NRS 353.2765. If the State Board of Examiners finds that a grant or loan is not appropriate, it shall include in its recommendation the reason for its determination.

5. The provisions of this section do not prohibit a state agency or local government from submitting more than one request for a grant or loan from the Account.

6. As used in this section, the term "natural disaster" has the meaning ascribed to it in NRS 354.6115.

(Added to NRS by 1997, 2540; A 1999, 1659, 3131; 2003, 20th Special Session, 198)

NRS 353.276 Requests for grants and loans: Action by Interim Finance Committee; limitation.

1. The State Board of Examiners shall submit a recommendation for each request for a grant or loan made pursuant to NRS 353.2755 to the Director of the Legislative Counsel Bureau. Upon receipt of the recommendation, the Director shall notify the Chairman of the Interim Finance Committee of that recommendation. The Chairman shall call a meeting of the Committee to consider the recommendation.

2. The Interim Finance Committee may reject any recommendation of the State Board of Examiners and independently evaluate and act upon any request submitted pursuant to NRS 353.2755.

3. If the Interim Finance Committee finds that a grant or loan from the Account is appropriate and may be made in accordance with the provisions of NRS 353.2705 to 353.2771, inclusive, it shall, by resolution:

(a) Establish the amount and purpose of the grant or loan.

(b) Except as otherwise provided in this paragraph, provide for the transfer of that amount from the Account to the appropriate state agency or local government. If the request is for a grant, the Interim Finance Committee shall authorize disbursement of the grant from the Account on the basis of reimbursement for costs unless it determines that disbursement in that manner would cause severe financial hardship to the state agency or local government. If the Interim Finance Committee determines that disbursement on the basis of reimbursement of costs would cause severe financial hardship, the Interim Finance Committee may authorize an advance of money to the state agency or local government in an amount not to exceed 25 percent of the total estimated cost of the projects for which the grant is requested.

4. No grant or loan from the Account may be made by the Interim Finance Committee to increase the salaries of any officers or employees of the State or a local government.

(Added to NRS by 1997, 2541; A 1999, 3133; 2003, 20th Special Session, 199)

NRS 353.2765 Repayment of loans by local governments: Schedule; use of money received from Federal Government.

1. In addition to any applicable requirements set forth in NRS 353.2751, if the Interim Finance Committee approves a loan to a local government pursuant to the provisions of NRS 353.2705 to 353.2771, inclusive, the approval must include a schedule for the repayment of the loan. The schedule must specify:

(a) A period of not more than 10 years for the repayment of the loan; and

(b) The rate of interest, if any, for the loan.

2. Except as otherwise provided in subsection 3, if a local government receives a loan from the Account and, before the loan is repaid, the local government receives money from the Federal Government for a grant match or any of the expenses set forth in subsection 1 of NRS 353.2751 for which the local government received the loan, the local government shall deposit with the State Treasurer for credit to the Account an amount of money equal to the money it received from the Federal Government for the grant match or the expenses.

3. Any money deposited with the State Treasurer for credit to the Account pursuant to subsection 2 must be used to pay the unpaid balance of the loan specified in subsection 2. If any money remains after that payment is made, the remaining money must be paid to the local government to whom the loan was made.

(Added to NRS by 1997, 2541; A 2003, 20th Special Session, 200)

NRS 353.2771 Provision of resources of agencies and local governments required for grant or loan.

1. Except as otherwise provided in this section, no grant or loan may be made from the Account to a state agency or local government unless, as a condition of making the grant or loan, the state agency or local government agrees to provide an amount of its resources equal to at least 25 percent of the grant or

loan. The State Board of Examiners shall determine the type, value and amount of the resources, including money, labor, materials, supplies and equipment, that is required to be provided by the state agency or local government.

2. If a state agency or local government submits a request for a grant or loan pursuant to NRS 353.2755 and:

(a) It maintains a policy of insurance providing coverage for damages, injuries or other losses incurred because of a disaster; or

(b) If the request is submitted by a local government, it has established a district for the control of floods pursuant to NRS 543.170 to 543.830, inclusive,

the State Board of Examiners may recommend that the state agency or local government provide a portion of its resources in an amount that is less than the amount required pursuant to subsection 1.

3. The State Board of Examiners may, if it determines that the state agency or local government is unable to provide any portion of its resources as its contribution for the receipt of a grant or loan, recommend that the state agency or local government not be required to provide any portion of its resources as a condition for the receipt of the grant or loan.

(Added to NRS by 1997, 2542; A 2003, 20th Special Session, 200)

CHAPTER 414 - EMERGENCY MANAGEMENT

NRS 414.020 Policy and purpose.

1. Because of the existing and increasing possibility of the occurrence of emergencies or disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, from a fire, flood, earthquake, storm or other natural causes, or from technological or man-made catastrophes, and in order to ensure that the preparations of this state will be adequate to deal with such emergencies or disasters, and generally to provide for the common defense and to protect the public welfare, and to preserve the lives and property of the people of the State, it is hereby found and declared to be necessary:

(a) To create a state agency for emergency management and to authorize the creation of local organizations for emergency management in the political subdivisions of the State.

(b) To confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the State the emergency powers provided in this chapter.

(c) To assist with the rendering of mutual aid among the political subdivisions of the State and with other states and to cooperate with the Federal Government with respect to carrying out the functions of emergency management.

2. It is further declared to be the purpose of this chapter and the policy of the State that all functions of emergency management in this state be coordinated to the maximum extent with the comparable functions of the Federal Government, including its various departments and agencies, of other states and localities and of private agencies of every type, providing for the most effective preparation and use of the nation's man power, resources and facilities for dealing with any emergency or disaster that may occur.

[2:293:1953]—(NRS A 1965, 340; 1983, 167; 1999, 1242)

NRS 414.030 Definitions. As used in this chapter, the words and terms defined in NRS 414.031 to 414.038, inclusive, have the meanings ascribed to them in those sections.

[3:293:1953]—(NRS A 1983, 168, 1353; 1993, 1614)

NRS 414.0315 "Chief" defined. "Chief" means the Chief of the Division of Emergency Management of the Department of Public Safety.

(Added to NRS by 1993, 1614; A 2001, 2606)

NRS 414.033 "Coordinator" defined. "Coordinator" means the Coordinator of Search and Rescue.

(Added to NRS by 1983, 1351)

NRS 414.0335 "Disaster" defined. "Disaster" means an occurrence or threatened occurrence for which, in the determination of the Governor, the assistance of the Federal Government is needed to supplement the

efforts and capabilities of state agencies to save lives, protect property and protect the health and safety of persons in this state, or to avert the threat of damage to property or injury to or the death of persons in this state.

(Added to NRS by 1999, 1241)

NRS 414.0345 “Emergency” defined. “Emergency” means an occurrence or threatened occurrence for which, in the determination of the Governor, the assistance of state agencies is needed to supplement the efforts and capabilities of political subdivisions to save lives, protect property and protect the health and safety of persons in this state, or to avert the threat of damage to property or injury to or the death of persons in this state.

(Added to NRS by 1999, 1242)

NRS 414.035 “Emergency management” defined. “Emergency management” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize injury and repair damage resulting from emergencies or disasters caused by enemy attack, sabotage or other hostile action, by fire, flood, earthquake, storm or other natural causes, or by technological or man-made catastrophes, including, without limitation, a crisis involving violence on school property, at a school activity or on a school bus. These functions include, without limitation:

1. The provision of support for search and rescue operations for persons and property in distress.
2. Organized analysis, planning and coordination of available resources for the mitigation of, preparation for, response to or recovery from emergencies or disasters.

(Added to NRS by 1983, 1351; A 1999, 1242; 2001, 1337)

NRS 414.036 “Local organization for emergency management” defined. “Local organization for emergency management” means an organization created in accordance with the provisions of this chapter by state or local authority to perform local functions of emergency management.

(Added to NRS by 1983, 1352)

NRS 414.037 “Mobile support unit” defined. “Mobile support unit” means an organization for emergency management created in accordance with the provisions of this chapter by state or local authority to be dispatched by the Governor to supplement local organizations for emergency management in a stricken area.

(Added to NRS by 1983, 1352)

NRS 414.038 “Political subdivision” defined. “Political subdivision” means a city or county.

(Added to NRS by 1983, 1352)

NRS 414.040 Division of Emergency Management: Creation; Chief; powers and duties.

1. A Division of Emergency Management is hereby created within the Department of Public Safety. The Chief of the Division is appointed by and holds office at the pleasure of the Director of the Department of Public Safety. The Division is the State Agency for Emergency Management and the State Agency for Civil Defense for the purposes of the Compact ratified by the Legislature pursuant to NRS 415.010. The Chief is the State’s Director of Emergency Management and the State’s Director of Civil Defense for the purposes of that Compact.

2. The Chief may employ technical, clerical, stenographic and other personnel as may be required, and may make such expenditures therefor and for other expenses of his office within the appropriation therefor, or from other money made available to him for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

3. The Chief, subject to the direction and control of the Director, shall carry out the program for emergency management in this state. He shall coordinate the activities of all organizations for emergency management within the State, maintain liaison with and cooperate with agencies and organizations of other states and of the Federal Government for emergency management and carry out such additional duties as may be prescribed by the Director.

4. The Chief shall assist in the development of comprehensive, coordinated plans for emergency management by adopting an integrated process, using the partnership of governmental entities, business and industry, volunteer organizations and other interested persons, for the mitigation of, preparation for,

response to and recovery from emergencies or disasters. In adopting this process, he shall conduct activities designed to:

(a) Eliminate or reduce the probability that an emergency will occur or to reduce the effects of unavoidable disasters;

(b) Prepare state and local governmental agencies, private organizations and other persons to be capable of responding appropriately if an emergency or disaster occurs by fostering the adoption of plans for emergency operations, conducting exercises to test those plans, training necessary personnel and acquiring necessary resources;

(c) Test periodically plans for emergency operations to ensure that the activities of state and local governmental agencies, private organizations and other persons are coordinated;

(d) Provide assistance to victims, prevent further injury or damage to persons or property and increase the effectiveness of recovery operations; and

(e) Restore the operation of vital community life-support systems and return persons and property affected by an emergency or disaster to a condition that is comparable to or better than what existed before the emergency or disaster occurred.

5. The Division shall perform the duties required pursuant to NRS 353.2753 at the request of a state agency or local government.

[4:293:1953]—(NRS A 1959, 787; 1961, 657; 1963, 1332; 1965, 341, 704; 1967, 1497; 1971, 1436; 1981, 673, 1280, 1286; 1983, 168; 1993, 825, 1614; 1995, 579; 1999, 44, 1243, 3120; 2001, 225, 2606)

NRS 414.060 Powers and duties of Governor.

1. The Governor is responsible for carrying out the provisions of this chapter, and in the event of an emergency or disaster beyond local control, may assume direct operational control over all or any part of the functions of emergency management within this state.

2. In performing his duties under this chapter, the Governor may cooperate with the Federal Government, with other states and with private agencies in all matters pertaining to emergency management in this state and the nation.

3. In performing his duties under this chapter and to effect its policy and purpose, the Governor may:

(a) Make, amend and rescind the necessary orders and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him in this chapter, with due consideration of the plans provided by the Federal Government.

(b) Prepare a comprehensive state emergency management plan and develop a program for emergency management in this state to be integrated into and coordinated with the plans of the Federal Government and of other states for emergency management to the fullest possible extent, and coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state to be integrated into and coordinated with the plan and program of this state to the fullest possible extent.

(c) In accordance with the plan and program for the emergency management in this state, procure supplies and equipment, institute planning, training and exercise programs, carry out public information programs, and take all other preparatory steps, including the partial or full mobilization of organizations for emergency management in advance of an actual emergency or disaster, to ensure the availability of adequately trained and equipped forces in time of need.

(d) Make such studies and surveys of industries, resources and facilities in this state as may be necessary to ascertain the capabilities of the State for emergency management and plan for the most efficient use thereof.

(e) On behalf of this state, enter into mutual aid agreements with other states and coordinate mutual aid plans between political subdivisions of this state.

(f) Delegate any administrative authority vested in him under this chapter, and provide for the subdelegation of any such authority.

(g) Cooperate with the President of the United States and the heads of the Armed Forces, the agency of the United States for emergency management and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to emergency management in the State and nation, including the direction or control of:

(1) Mobilizing forces for emergency management and other tests and exercises.

(2) Mechanical devices to be used in connection with warnings and signals for emergencies or disasters.

(3) The effective screening or extinguishing of all lights and lighting devices and appliances.

(4) Coordinating the efforts of all public utilities in terminating and restoring service to the general public during an emergency or disaster.

(5) The conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster.

(6) Public meetings or gatherings.

(7) The evacuation and reception of the general public during an attack or an emergency or disaster.

[6:293:1953]—(NRS A 1965, 342; 1981, 674; 1983, 169; 1999, 1244)

NRS 414.070 Additional powers of Governor during emergency or disaster. The provisions of this section are operative only during the existence of a state of emergency or declaration of disaster. The existence of such an emergency or disaster may be proclaimed by the Governor or by resolution of the Legislature if the Governor in his proclamation, or the Legislature in its resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural, technological or man-made emergency or disaster of major proportions has actually occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. Any such emergency or disaster, whether proclaimed by the Governor or by the Legislature, terminates upon the proclamation of the termination thereof by the Governor, or the passage by the Legislature of a resolution terminating the emergency or disaster. During the period when a state of emergency or declaration of disaster exists or continues, the Governor may exercise the following additional powers:

1. To enforce all laws and regulations relating to emergency management and to assume direct operational control of any or all forces, including, without limitation, volunteers and auxiliary staff for emergency management in the State.

2. To sell, lend, lease, give, transfer or deliver materials or perform services for the purpose of emergency management on such terms and conditions as the Governor prescribes and without regard to the limitations of any existing law, and to account to the State Treasurer for any funds received for such property.

3. To procure, by purchase, condemnation, seizure or other means, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency management without regard to the limitations of any existing law. He shall make compensation for the property so seized, taken or condemned on the following basis:

(a) If property is taken for temporary use, the Governor, within 90 days after the taking, shall fix the amount of compensation to be paid therefor. If the property is returned to the owner in a damaged condition, or is not returned to the owner, the Governor shall fix within 90 days the amount of compensation to be paid for the damage or failure to return the property. Whenever the Governor deems it advisable for the State to take title to property taken under this section, he shall forthwith cause the owner of such property to be notified thereof in writing by registered or certified mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of the notice with the Secretary of State.

(b) Within the 90-day period prescribed in paragraph (a), the Governor shall make an offer in writing to the person or persons entitled to receive it of the amount of money proposed to be paid as full compensation. If the offer is accepted, the money must be paid out of such fund, funds or other sources as are available and no further action either in law or in equity may ever be maintained in connection therewith. If the offer of payment is refused, the person or persons entitled thereto have the same rights as plaintiffs in actions of eminent domain insofar as the fixing of damages and compensation is concerned, NRS 37.060, 37.070, 37.080 and 37.090, so far as applicable, apply, and proceedings must be had in conformity therewith so far as possible. Such action must be commenced within 1 year after the receipt of the offer of settlement from the Governor.

4. To provide for and compel the evacuation of all or part of the population from any stricken or threatened area or areas within the State and to take such steps as are necessary for the receipt and care of those persons.

5. Subject to the provisions of the State Constitution, to remove from office any public officer having administrative responsibilities under this chapter for willful failure to obey an order or regulation adopted pursuant to this chapter. Such removal must be upon charges after service upon the officer of a copy of the charges and after giving him an opportunity to be heard in his defense. Pending the preparation and

disposition of charges, the Governor may suspend the officer for a period not exceeding 30 days. A vacancy resulting from removal or suspension pursuant to this section must be filled as provided by law.

6. To perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.

[7:293:1953]—(NRS A 1983, 170; 1999, 1245)

NRS 414.080 Mobile support unit.

1. The Governor or his duly designated representative may create and establish such number of mobile support units as may be necessary to reinforce organizations for emergency management in stricken areas and with due consideration of the plans of the Federal Government and of other states. He may appoint a commander for each such unit who has primary responsibility for the organization, administration and operation of the unit. Mobile support units may be called to duty upon orders of the Governor and shall perform their functions in any part of the State, or, upon the conditions specified in this section, in other states.

2. Personnel of mobile support units while on duty, whether within or without the State:

(a) If they are employees of the State, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of the State, and whether serving within or without that political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.

(c) If they are not employees of the State or a political subdivision thereof, are entitled to compensation by the State at \$10 per day and to the same rights and immunities as are provided by law for the employees of the State. All personnel of mobile support units, while on duty, are subject to the operational control of the authority in charge of activities for emergency management in the area in which they are serving, and must be reimbursed for all actual and necessary travel and subsistence expenses.

3. The State may reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as members of a mobile support unit, for all payments for death, disability or injury of such employees incurred in the course of duty, and for all losses of or damage to supplies and equipment of the political subdivision resulting from the operation of such mobile support unit.

[8:293:1953]—(NRS A 1983, 172)

NRS 414.090 Local organization for emergency management; powers of political subdivision in event of emergency or disaster.

1. Each political subdivision of this state may establish a local organization for emergency management in accordance with the state emergency management plan and program for emergency management. Such a political subdivision may confer or authorize the conferring upon members of the auxiliary police the powers of police officers, subject to such restrictions as it imposes. Each local organization for emergency management must have a director who must be appointed by the executive officer or governing body of the political subdivision, and who has direct responsibility for the organization, administration and operation of the local organization for emergency management subject to the direction and control of the executive officer or governing body. Each local organization for emergency management shall perform functions of emergency management within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of NRS 414.100.

2. In carrying out the provisions of this chapter, each political subdivision in which any emergency or disaster described in NRS 414.020 occurs may enter into contracts and incur obligations necessary to combat such an emergency or disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such an emergency or disaster. Each political subdivision may exercise the powers vested under this section in the light of the exigencies of the extreme emergency or disaster without regard to time-consuming procedures and formalities prescribed by law, except constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditure of public funds.

[9:293:1953]—(NRS A 1983, 172; 1999, 1246)

NRS 414.100 Agreements for reciprocal aid. The director of each local organization for emergency management may, in collaboration with other public and private agencies within this State, develop or cause to be developed agreements for reciprocal aid and assistance in case of an emergency or disaster for which the local organization requires such assistance. Such agreements must be consistent with the State's emergency management plan and program for emergency management, and in time of emergency or disaster each local organization for emergency management shall render assistance in accordance with the provisions of such agreements.

[10:293:1953]—(NRS A 1983, 173; 1999, 1247)

NRS 414.130 Appropriations; acceptance of services, gifts, grants and loans.

1. Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of the political subdivision for the payment of expenses of its local organization for emergency management.

2. Whenever the Federal Government or any agency or officer thereof offers to the State, or through the State to any political subdivision thereof, services, equipment, supplies, materials, or money by way of gift, grant or loan, for purposes of emergency management, the State, acting through the Governor and, if the provisions of NRS 353.335 require it, with the approval of the Interim Finance Committee, or such political subdivision, acting with the consent of the Governor and through its executive officer or governing body, may accept the offer, and upon acceptance the Governor of the State or executive officer or governing body of the political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, or money on behalf of the State or political subdivision, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

3. Whenever any person, firm or corporation offers to the State or to any political subdivision thereof services, equipment, supplies, materials, or money by way of gift, grant or loan, for purposes of emergency management, the State, acting through the Governor and, if the provisions of NRS 353.335 require it, with the approval of the Interim Finance Committee, or a political subdivision, acting through its executive officer or governing body, may accept the offer, and upon acceptance the Governor of the State or executive officer or governing body of the political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, or money on behalf of the State or the political subdivision, subject to the terms of the offer.

[13:293:1953]—(NRS A 1979, 620; 1983, 174)

NRS 414.135 Emergency Assistance Subaccount: Creation; administration by Division of Emergency Management; expenditures; report; regulations.

1. There is hereby created the Emergency Assistance Subaccount within the Disaster Relief Account created pursuant to NRS 353.2735. Beginning with the fiscal year that begins on July 1, 1999, the State Controller shall, at the end of each fiscal year, transfer the interest earned during the previous fiscal year on the money in the Disaster Relief Account to the Subaccount in an amount not to exceed \$500,000.

2. The Division of Emergency Management of the Department of Public Safety shall administer the Subaccount. The Division may adopt regulations authorized by this section before, on or after July 1, 1999.

3. All expenditures from the Subaccount must be approved in advance by the Division. Except as otherwise provided in subsection 4, all money in the Subaccount must be expended solely to:

(a) Provide supplemental emergency assistance to this state or to local governments in this state that are severely and adversely affected by a natural, technological or man-made emergency or disaster for which available resources of this state or the local government are inadequate to provide a satisfactory remedy; and

(b) Pay any actual expenses incurred by the Division for administration during a natural, technological or man-made emergency or disaster.

4. Beginning with the fiscal year that begins on July 1, 1999, if any balance remains in the Subaccount at the end of a fiscal year and the balance has not otherwise been committed for expenditure, the Division may, with the approval of the Interim Finance Committee, allocate all or any portion of the remaining balance, not to exceed \$250,000, to this state or to a local government to:

(a) Purchase equipment or supplies required for emergency management;

(b) Provide training to personnel related to emergency management; and

(c) Carry out the provisions of NRS 392.600 to 392.656, inclusive.

5. Beginning with the fiscal year that begins on July 1, 1999, the Division shall, at the end of each quarter of a fiscal year, submit to the Interim Finance Committee a report of the expenditures made from the Subaccount for the previous quarter.

6. The Division shall adopt such regulations as are necessary to administer the Subaccount.

7. The Division may adopt regulations to provide for reimbursement of expenditures made from the Subaccount. If the Division requires such reimbursement, the Attorney General shall take such action as is necessary to recover the amount of any unpaid reimbursement plus interest at a rate determined pursuant to NRS 17.130, computed from the date on which the money was removed from the Account, upon request by the Division.

(Added to NRS by 1997, 2543; A 1999, 1248, 3121; 2001, 1337, 2607; 2003, 180; 2003, 20th Special Session, 206)

CHAPTER 459 - HAZARDOUS MATERIALS

REGULATION OF HIGHLY HAZARDOUS SUBSTANCES AND EXPLOSIVES

NRS 459.380 Legislative declaration. The Legislature hereby declares that the purposes of NRS 459.380 to 459.3874, inclusive, are to:

1. Protect the health, safety and general welfare of the residents of this State from the effects of the improper handling of hazardous chemicals or explosives at the point where:

- (a) The chemicals are produced, used or stored in this State; or
- (b) The explosives are manufactured for sale in this State;

2. Ensure that the employees of this State who are required to work with hazardous chemicals or explosives are guaranteed a safe and healthful working environment;

3. Protect the natural resources of this State by preventing and mitigating accidental or unexpected releases of hazardous chemicals into the environment; and

4. Ensure the safe and adequate handling of:

- (a) Hazardous chemicals that are produced, used, stored or handled in this State; and
- (b) Explosives that are manufactured for sale in this State.

(Added to NRS by 1991, 1994; A 1999, 1125)

NRS 459.3802 Definitions. As used in NRS 459.380 to 459.3874, inclusive, unless the context otherwise requires, the words and terms defined in NRS 459.3806 to 459.38125, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1991, 1994; A 1999, 1125, 1919, 2007; 2003, 1595)

NRS 459.3806 "Division" defined. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NRS by 1991, 1994)

NRS 459.38075 "Facility" defined. "Facility" means a building, equipment and contiguous area where:

- 1. Highly hazardous substances are produced, used, stored or handled; or
- 2. Explosives are manufactured for sale.

(Added to NRS by 1991, 1994; A 1999, 1125; 2003, 1595)—(Substituted in revision for NRS 459.381)

NRS 459.3809 "Process" defined. "Process" means:

1. Any activity that involves a highly hazardous substance or explosive, including, without limitation, the use, storage, manufacture, handling or on-site movement, or any combination thereof of the substance or explosive.

2. A group of vessels that are used in connection with such an activity, including vessels that are:

(a) Interconnected; or

(b) Separate, but located in such a manner that a highly hazardous substance or explosive could potentially be released, including, without limitation, the release, fire or explosion in one vessel that could cause a release, fire or explosion in another vessel.

3. As used in this section:

(a) "Explosive" means any material designated as subject to regulation as an explosive pursuant to NRS 459.3816; and

(b) "Highly hazardous substance" means a substance designated as highly hazardous pursuant to NRS 459.3816.

(Added to NRS by 1999, 2006; A 2003, 1595)

NRS 459.3814 Applicability of statutory provisions: Excluded activities. The provisions of NRS 459.380 to 459.3874, inclusive, do not apply to:

1. The transportation of any hazardous substances within or through this State which is regulated by the State or the United States Department of Transportation.

2. Any final use of anhydrous ammonia for an agricultural purpose, including storage of the substance on the premises of a farm.

3. Activities which are regulated pursuant to both 30 U.S.C. §§ 801 et seq. and 42 U.S.C. § 7412(r).

(Added to NRS by 1991, 1994; A 1993, 149, 837; 1997, 1398; 2003, 1596)

Administration

NRS 459.3816 Designation of highly hazardous substances and explosives: Regulations; amendment.

1. The State Environmental Commission shall adopt regulations:

(a) Designating a list of highly hazardous substances, including, without limitation, any chemical, the release of which into the environment or the involvement of which in a fire or explosion would produce a significant likelihood that persons exposed would suffer death or substantial bodily harm as a consequence of the exposure; and

(b) Designating for each such substance a quantity which requires the regulation of that substance pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto.

2. The Division shall regularly examine sources of information available to it, including, without limitation, studies, guidelines and regulations of the Federal Government and the provisions set forth in 29 U.S.C. § 655 and 42 U.S.C. § 7412(r), and may propose that the State Environmental Commission add or delete a substance or otherwise amend the list of substances and quantities adopted pursuant to subsection 1.

3. The State Environmental Commission shall adopt regulations designating specific materials that are subject to regulation as explosives pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto.

4. The Division shall regularly examine sources of information available to it, including, without limitation, studies, guidelines and regulations of the Federal Government and the provisions set forth in 18 U.S.C. §§ 841, et seq., and shall consult with the Division of Industrial Relations of the Department of Business and Industry to determine materials that should be regulated as explosives. The Division may propose that the State Environmental Commission add or delete a material or otherwise amend the list of materials adopted pursuant to subsection 3.

(Added to NRS by 1991, 1995; A 1993, 590, 1630; 1997, 1398; 1999, 1116, 1212; 2001, 79; 2003, 1597)

NRS 459.3818 State Environmental Commission to adopt regulations; Division to administer and enforce statutory provisions and regulations; involvement of interested persons; applicability of statutory provisions to dealers of liquefied petroleum gas.

1. In addition to the regulations required to be adopted pursuant to NRS 459.380 to 459.3874, inclusive, the State Environmental Commission shall adopt such other regulations as are necessary to carry out the purposes and enforce the provisions of NRS 459.380 to 459.3874, inclusive. The regulations must include, without limitation:

(a) Specifications for the applicability of the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto;

(b) The establishment of a program for the prevention of accidental releases of chemicals that satisfies the provisions of the chemical process safety standard set forth pursuant to 29 U.S.C. § 655;

(c) Provisions necessary to enable the Division to administer and enforce the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto;

- (d) Requirements for the registration of a facility with the Division; and
 - (e) Provisions to ensure that the public is involved in the process of evaluating proposed regulatory actions that may affect the public.
2. The Division shall:
- (a) Administer and enforce the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto; and
 - (b) Make every effort to involve advisory councils on hazardous materials, where they exist, the governing bodies of local governments and other interested persons in explaining actions taken pursuant to those sections and the regulations adopted pursuant thereto.
3. The State Environmental Commission must apply the provisions of NRS 459.380 to 459.3874, inclusive, to dealers of liquefied petroleum gas who sell, fill, refill, deliver or are permitted to deliver any liquefied petroleum gas in a manner that is consistent with 42 U.S.C. § 7412(r)(4)(B).
4. As used in this section, "liquefied petroleum gas" has the meaning ascribed to it in NRS 590.475.
(Added to NRS by 1991, 1998; A 2003, 1601)

NRS 459.3819 Inspections by state and local agencies of facilities where explosives are manufactured, used, processed, handled, moved on site or stored.

1. The Division shall enter into cooperative agreements with state and local agencies to provide inspections of facilities where explosives are manufactured, or where an explosive is used, processed, handled, moved on site or stored in relation to its manufacture. The Division shall schedule the inspections in such a manner as to provide an opportunity for participation by:
- (a) A representative of the fire-fighting agency that exercises jurisdiction over the facility;
 - (b) A representative of the law enforcement agency that exercises jurisdiction over the facility; and
 - (c) Representatives of the Division and any other state agency responsible for minimizing risks to persons and property posed by such facilities.
2. The owner or operator of such a facility shall make the facility available for the inspections required by this section at such times as are designated by the Division.
3. Any inspection of a facility conducted pursuant to this section is in addition to, and not in lieu of, any other inspection of the facility required or authorized by state statute or regulation, or local ordinance.
4. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.
(Added to NRS by 1999, 1918; A 2003, 1601)

NRS 459.38195 Investigation of certain accidents: Powers and duties of Division; duty of owner or operator of facility to cooperate.

1. The Division may investigate an accident occurring in connection with a process that involves one or more highly hazardous substances or explosives at a facility which results in an uncontrolled emission, fire or explosion and which presented an imminent and substantial danger to the health of the employees of the facility, the public health or the environment, to determine the cause of the accident if the owner or operator of the facility:
- (a) Is unwilling to commence and has not commenced an investigation in a timely manner; or
 - (b) Is not capable of and has not retained expertise capable of conducting an investigation.
2. If the Division chooses to conduct such an investigation, the owner or operator of the facility shall, in a manner consistent with the safety of the employees of the Division and the facility, and without placing an undue burden on the operation of the facility, cooperate with the Division by:
- (a) Allowing the Division:
 - (1) To investigate the accident site and directly related facilities, including, without limitation, control rooms;
 - (2) To examine physical evidence; and
 - (3) If practicable, to inspect equipment both externally and internally;
 - (b) Providing the Division with pertinent documents; and
 - (c) Allowing the Division to conduct independent interviews of the employees of the facility, subject to all rights of the facility and the employees to be represented by legal counsel, management representatives and union representatives during the interviews.

3. To the maximum extent feasible, the Division shall coordinate any investigation it conducts pursuant to this section with investigations conducted by other agencies with jurisdiction over the facility to minimize any adverse impact on the facility and its employees.

4. The Division may contract for the services of a technical expert in conducting an investigation pursuant to this section and may recover its costs for such services from the owner or operator of the facility.

5. If an investigation is conducted by the Division pursuant to this section, all costs incurred by the Division in conducting the investigation, including, without limitation, the costs of services provided pursuant to subsection 4, may be recovered by the Division from the owner or operator of the facility at which the accident occurred.

6. The State Environmental Commission may adopt regulations setting forth the procedures governing an investigation conducted by the Division pursuant to this section and the procedures for the recovery by the Division of all costs incurred by the Division in conducting the investigation.

(Added to NRS by 2003, 1594)

NRS 459.382 Reports of regulatory agencies; review of requirements of regulatory agencies; final authority of Division.

1. The Health Division of the Department of Human Resources, the Division of Industrial Relations of the Department of Business and Industry and any other governmental entity or agency of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances shall submit to the Division of Environmental Protection such reports as the Division deems necessary to carry out the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The reports must be submitted at such times and contain such information as required by the Division.

2. The State Environmental Commission shall adopt by regulation common reporting forms to be used by such governmental entities and agencies when reporting information related to hazardous substances and facilities.

3. The Division shall review the rules, regulations, standards, codes and safety orders of other governmental entities and agencies of the State responsible for minimizing risks to persons and property posed by facilities and hazardous substances to ensure that they are sufficient to carry out the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto.

4. If the Division and any other governmental entity or agency of the State have coexisting jurisdiction over the regulation of facilities or hazardous substances located at such facilities, the Division has the final authority to take such actions as are necessary to carry out the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto.

(Added to NRS by 1991, 1998; A 1993, 594, 1634; 2003, 1602)

NRS 459.3822 Records, reports and other information of facility: Submission by owner or operator of facility; availability for public inspection; confidentiality of information protected as trade secret; regulations.

1. The owner or operator of a facility shall, upon request, submit any records, reports or other information to the Division that the Division deems necessary to administer and enforce the provisions of NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto.

2. Except as otherwise provided in this section, any records, reports or other information obtained pursuant to NRS 459.380 to 459.3874, inclusive, or any regulation adopted pursuant thereto must be made available to the public for inspection and copying.

3. The Division shall protect the confidentiality of any information obtained by the Division, including, without limitation, any information obtained through an observation made by the Division during a visit to a facility if:

(a) The owner or operator of the facility from which the information was obtained or which was visited requests such protection; and

(b) The information satisfies the conditions for protection as a trade secret pursuant to subsection 4.

4. Information is entitled to protection as a trade secret under this section only if:

(a) The information has not been disclosed to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a state or local government, an employee of such a person, or a person who is bound by an agreement of confidentiality, and the owner

or operator of the facility has taken reasonable measures to protect the confidentiality of the information and intends to continue to take such measures;

(b) The information is not required to be disclosed, or otherwise made available, to the public under any other federal or state law;

(c) Disclosure of the information is likely to cause substantial harm to the competitive position of the owner or operator of the facility; and

(d) The chemical identity of a substance, if that is the information, is not readily discoverable through analysis of the product containing it or scientific knowledge of how such a product must be made.

5. The State Environmental Commission shall adopt regulations for the protection of the confidentiality of information entitled to protection as a trade secret pursuant to this section.

6. The person requesting the copy or copies of the public records, shall tender or pay to the Division such fee as may be prescribed for the service of copying.

(Added to NRS by 1991, 2008; A 2003, 1603)

NRS 459.3824 Annual fees; Fund for Precaution Against Chemical Accidents.

1. The owner or operator of a facility shall pay to the Division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the State Environmental Commission and any additional fee imposed by the Commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The State Environmental Commission may impose an additional fee upon the owner or operator of a facility in an amount determined by the Commission to be necessary to enable the Division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto. The additional fee must be based on a graduated schedule adopted by the Commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the Division shall send the owner or operator of a facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The State Environmental Commission may modify the amount of the annual fee required pursuant to this section and the timing for payment of the annual fee:

(a) To include consideration of any fee paid to the Division for a permit to construct a new process or commence operation of a new process pursuant to NRS 459.3829; and

(b) If any regulations adopted pursuant to NRS 459.380 to 459.3874, inclusive, require such a modification.

5. The owner or operator of a facility shall submit, with any payment required by this section, the business license number assigned by the Department of Taxation upon compliance by the owner with NRS 360.780.

6. All fees, fines, penalties and other money collected pursuant to NRS 459.380 to 459.3874, inclusive, and any regulations adopted pursuant thereto, other than a fine collected pursuant to subsection 3 of NRS 459.3834, must be deposited with the State Treasurer for credit to the Fund for Precaution Against Chemical Accidents, which is hereby created as a special revenue fund. All interest earned on the money in the Fund must be credited to the Fund.

(Added to NRS by 1991, 1999; A 1993, 907; 1999, 1126, 2007; 2003, 346, 1604; 2003, 20th Special Session, 207)

NRS 459.3829 Permits to construct or commence operation of new process: Requirements; application; regulations; fee.

1. No owner or operator of a facility may commence construction or operation of any new process that will be subject to regulation pursuant to NRS 459.380 to 459.3874, inclusive, or any regulation adopted pursuant thereto, unless he first obtains all appropriate permits from the Division to construct the new process and commence operation of the new process. Before issuing any such permits, the Division of Environmental Protection shall consult with the Division of Industrial Relations of the Department of Business and Industry.

2. An application for such a permit must be submitted on a form prescribed by the Division of Environmental Protection.

3. The State Environmental Commission shall adopt regulations establishing the requirements for the issuance of a permit pursuant to this section. An applicant shall comply with requirements that the State

Environmental Commission establishes by regulation for the issuance of a permit before the applicant may receive a permit from the Division for the construction and operation of the process.

4. The Division may charge and collect a fee for the issuance of such a permit.

(Added to NRS by 1999, 2007; A 2003, 346, 1605)

NRS 459.3833 Program to prevent and minimize consequences of accidental release of hazardous substance: Delegation of authority and grant of money from Federal Government; regulations.

1. The State Department of Conservation and Natural Resources may, in accordance with the authority granted to it pursuant to NRS 445B.205, apply for and accept any delegation of authority and any grant of money from the Federal Government for the purpose of establishing and carrying out a program to prevent and minimize the consequences of the accidental release of hazardous substances in accordance with the provisions of 42 U.S.C. § 7412(r).

2. The State Environmental Commission may adopt regulations necessary to establish and carry out such a program.

(Added to NRS by 1997, 1397; A 2003, 1605)

Assessment of Risks Through Analysis of Hazards

NRS 459.387 Entry into facility to verify compliance with statutory requirements and regulations; issuance of order.

1. The Division may enter any facility:

(a) During normal business hours; and

(b) At any other time if there is probable cause to believe that a violation of any of the provisions of NRS 459.380 to 459.3874, inclusive, or any regulation adopted pursuant thereto, has occurred,

→ to verify compliance with the provisions of NRS 459.380 to 459.3874, inclusive, any regulation adopted pursuant thereto and the quality of all work performed pursuant to those sections, except that the owner or operator of a facility need not employ any personnel solely to assure access to the facility by the Division when this access would otherwise be impossible.

2. The State Environmental Commission shall adopt regulations establishing requirements for:

(a) The inspection of a facility; and

(b) The report of a record of inspection.

3. If the Administrator of the Division finds that any person is engaging, is about to engage or has engaged in an act or practice that violates any provision of NRS 459.380 to 459.3874, inclusive, any regulation adopted pursuant thereto, or any term or condition of a permit issued by the Division pursuant to NRS 459.380 to 459.3874, inclusive, the Administrator may issue an order:

(a) Specifying the provision, regulation, term or condition that is alleged to have been violated or which is about to be violated;

(b) Setting forth the facts alleged to constitute the violation;

(c) Prescribing any corrective action that must be taken and a reasonable time within which that action must be taken; and

(d) Requiring the person to whom the order is directed to appear before the Administrator or a hearing officer to show cause why the Division should not commence an action for appropriate relief.

4. If the Administrator finds that the handling of a highly hazardous substance or explosive at a facility presents an imminent and substantial threat to human health or the environment, the Administrator may, after the Division has inspected the site and after the Administrator has had a consultation with the owner or operator of the facility and the owner or operator fails to correct the threat, issue an order requiring the owner or operator of the facility to take necessary steps to prevent the act or eliminate the practice that constitutes the threat.

(Added to NRS by 1991, 1998; A 2003, 1607)

NRS 459.405 Definitions. As used in NRS 459.400 to 459.600, inclusive, unless the context otherwise requires, the words and terms defined in NRS 459.410 to 459.455, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1981, 880; A 1989, 1489; 1991, 842, 857, 1936; 1999, 1120; 2003, 2114)

NRS 459.415 "Department" defined. "Department" means the State Department of Conservation and Natural Resources.

(Added to NRS by 1981, 880)—(Substituted in revision for NRS 444.706)

NRS 459.430 "Hazardous waste" defined. "Hazardous waste" means any waste or combination of wastes, including, without limitation, solids, semisolids, liquids or contained gases, except household waste, which:

1. Because of its quantity or concentration or its physical, chemical or infectious characteristics may:
 - (a) Cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness; or
 - (b) Pose a substantial hazard or potential hazard to human health, public safety or the environment when it is given improper treatment, storage, transportation, disposal or other management.
 2. Is identified as hazardous by the Department as a result of studies undertaken for the purpose of identifying hazardous wastes.
- ➔ The term includes, among other wastes, toxins, corrosives, flammable materials, irritants, strong sensitizers and materials which generate pressure by decomposition, heat or otherwise.

(Added to NRS by 1981, 880; A 1999, 1121)

NRS 459.435 "Management of hazardous waste" defined. "Management of hazardous waste" means the systematic control of the generation, collection, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

(Added to NRS by 1981, 881)—(Substituted in revision for NRS 444.714)

NRS 459.470 Department designated as state agency for regulation of hazardous waste.

1. The Department is hereby designated to act as the state agency for the purposes of federal laws and regulations on hazardous waste, except that the Commission has the exclusive power to adopt regulations pursuant to NRS 459.400 to 459.600, inclusive.

2. The Department may take any action necessary and appropriate to secure the benefits of any federal law relating to hazardous waste.

(Added to NRS by 1981, 883)—(Substituted in revision for NRS 444.728)

NRS 459.475 Duties of Department. The Department shall:

1. Except as otherwise provided in NRS 459.480, enforce the Commission's regulations on hazardous waste;

2. Develop and publish a plan of management of hazardous waste in this State, including among other things, descriptions of:

- (a) Sources of hazardous waste, including information on the types and quantities of the waste;
- (b) Current practices and costs in the management of hazardous waste, including treatment, storage and disposal; and

(c) The hazards associated with the use by a consumer of a commercial product in a manner contrary to the directions for use, cautions or warnings appearing on the label of the product, if the Department determines that such a description is necessary; and

3. Cooperate with other states to bring about improved management of hazardous waste, encourage the enactment of uniform state laws relating to hazardous waste, and develop compacts between this and other states which are designed to provide for improved management of hazardous waste.

(Added to NRS by 1981, 883; A 1999, 1121)

NRS 459.480 Delegation of responsibility for enforcement of NRS 459.400 to 459.600, inclusive. The Department may delegate responsibility for the enforcement of NRS 459.400 to 459.600, inclusive, or any regulations adopted pursuant to those sections to suitably qualified agencies of the political subdivisions of this State.

(Added to NRS by 1981, 883)—(Substituted in revision for NRS 444.732)

NRS 459.500 Contents of regulations; enforcement of regulations relating to transportation and handling of hazardous waste. [Effective July 1, 2004.]

1. Except as otherwise provided in NRS 459.700 to 459.780, inclusive, or 459.800 to 459.856, inclusive:

(a) Regulations of the Commission must provide:

(1) For safety in the packaging, handling, transportation and disposal of hazardous waste;

(2) For the certification of consultants involved in consultation regarding the response to and the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste;

(3) That a person employed full-time by a business to act as such a consultant is exempt from the requirements of certification if the person:

(I) Meets the applicable requirements of 29 C.F.R. § 1910.120 to manage such waste, materials or substances; and

(II) Is acting in the course of that full-time employment; and

(4) For the certification of laboratories that perform analyses for the purposes of NRS 459.400 to 459.600, inclusive, 459.610 to 459.658, inclusive, and 459.800 to 459.856, inclusive, to identify whether waste is hazardous waste or to detect the presence of hazardous waste or a regulated substance in soil or water.

(b) Regulations of the Commission may:

(1) Provide for the licensing and other necessary regulation of generators, including shippers and brokers, who cause that waste to be transported into or through Nevada or for disposal in Nevada;

(2) Require that the person responsible for a spill, leak or accident involving hazardous waste, hazardous material or a regulated substance, obtain advice on the proper handling of the spill, leak or accident from a consultant certified under the regulations adopted pursuant to paragraph (a); and

(3) Establish standards relating to the education, experience, performance and financial responsibility required for the certification of consultants.

2. The regulations may include provisions for:

(a) Fees to pay the cost of inspection, certification and other regulation, excluding any activities conducted pursuant to NRS 459.7052 to 459.728, inclusive; and

(b) Administrative penalties of not more than \$2,500 per violation or \$10,000 per shipment for violations by persons licensed by the Department, and the criminal prosecution of violations of its regulations by persons who are not licensed by the Department.

3. Designated employees of the Department and the Nevada Highway Patrol Division shall enforce the regulations of the Commission relating to the transport and handling of hazardous waste and the leakage or spill of that waste from packages.

(Added to NRS by 1981, 882; A 1985, 1990; 1987, 1755; 1989, 1489; 1993, 847; 1997, 2002; 1999, 3349; 2001, 899; 2003, 2115, effective July 1, 2004)

NRS 459.535 Account for Management of Hazardous Waste: Use.

1. Except as otherwise provided in NRS 459.537 and subsection 2 of this section, the money in the Account for the Management of Hazardous Waste may be expended only to pay the costs of:

(a) The continuing observation or other management of hazardous waste;

(b) Establishing and maintaining a program of certification of consultants involved in the clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks or the clean up of spills of or accidents involving hazardous waste, hazardous material or a regulated substance;

(c) Training persons to respond to accidents or other emergencies related to hazardous materials, including any basic training by the State Fire Marshal which is necessary to prepare personnel for advanced training related to hazardous materials;

(d) Establishing and maintaining a program by the Public Utilities Commission of Nevada to inspect and otherwise ensure the safety of any shipment of hazardous materials transported by rail car through or within the State; and

(e) Financial incentives and grants made in furtherance of the program developed pursuant to paragraph (c) of subsection 2 of NRS 459.485 for the minimization, recycling and reuse of hazardous waste.

2. Money in the Account for the Management of Hazardous Waste may be expended to provide matching money required as a condition of any federal grant for the purposes of NRS 459.800 to 459.856, inclusive.

(Added to NRS by 1985, 903; A 1989, 775, 1490, 1491; 1991, 843, 1772; 1993, 839; 1997, 2003)

NRS 459.560 Inspections. Any authorized representative or employee of the Commission or the Department may, for the purpose of carrying out his duties pursuant to NRS 459.400 to 459.600, inclusive, or to enforce a regulation adopted pursuant to those sections:

1. Enter any place where waste or a substance which the Department has reason to believe may be hazardous waste or a hazardous substance is or may have been generated, stored, transported, treated, disposed of or otherwise handled;
2. Inspect and obtain samples of any waste or substance which the Department has reason to believe may be hazardous waste or a hazardous substance, including samples from any vehicle in which waste or substance is being transported, and samples of containers and labels; and
3. Inspect and copy any records, reports, information or test results relating to the management of hazardous wastes or hazardous substances.

(Added to NRS by 1981, 885; A 1991, 858)

NRS 459.700 Definitions. As used in NRS 459.700 to 459.780, inclusive, unless the context otherwise requires, the words and terms defined in NRS 459.7005 to 459.7032, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1987, 1750; A 1989, 278; 1991, 1109; 1993, 139, 264, 840, 842, 848, 851; 1995, 546; 1999, 3350)

NRS 459.7016 "Department" defined. "Department" means the Department of Public Safety.

(Added to NRS by 1993, 845; A 2001, 2626)

NRS 459.7018 "Director" defined. "Director" means the Director of the Department of Public Safety.

(Added to NRS by 1993, 845; A 2001, 2627)

NRS 459.702 "Division" defined. "Division" means the Nevada Highway Patrol Division of the Department of Public Safety.

(Added to NRS by 1993, 845; A 2001, 2627)

NRS 459.718 Notification of Division regarding certain accidents or incidents.

1. A person responsible for the care, custody or control of a hazardous material which is involved in an accident or incident occurring during the transportation of the hazardous material by a motor carrier, including any accident or incident occurring during any loading, unloading or temporary storage of the hazardous material while it is subject to active shipping papers and before it has reached its ultimate consignee, shall notify the Division, consistent with the requirements of 49 C.F.R. § 171.15, as soon as practicable if, as a result of the hazardous material:

- (a) A person is killed;
- (b) A person receives injuries that require hospitalization;
- (c) Any damage to property exceeds \$50,000;
- (d) There is an evacuation of the general public for 1 hour or more;
- (e) One or more major transportation routes or facilities are closed or shut down for 1 hour or more;
- (f) There is an alteration in the operational flight pattern or routine of any aircraft;
- (g) Any radioactive contamination is suspected;
- (h) Any contamination by an infectious substance is suspected;
- (i) There is a release of a liquid marine pollutant in excess of 450 liters or a solid marine pollutant in excess of 400 kilograms; or
- (j) Any situation exists at the site of the accident or incident which, in the judgment of the person responsible for the care, custody or control of the hazardous material, should be reported to the Division.

2. The notification required pursuant to this section must include:

- (a) The name of the person providing the notification;
- (b) The name and address of the motor carrier represented by that person;
- (c) The telephone number where that person can be contacted;
- (d) The date, time and location of the accident or incident;
- (e) The extent of any injuries;
- (f) The classification, name and quantity of the hazardous material involved, if that information is available; and

(g) The type of accident or incident, the nature of the hazardous material involved and whether there is a continuing danger to life at the scene of the accident or incident.

3. A person may satisfy the requirements of this section by providing the information specified in subsection 2 to the person who responds to a telephone call placed to:

(a) The number 911 in an area where that number is used for emergencies; or

(b) The number zero in an area where the number 911 is not used for emergencies.

(Added to NRS by 1999, 3347; A 2001, 902)

NRS 459.725 Powers and duties of Director: Administration of provisions; regulations; agreements.

1. The Director is responsible for administering the provisions of NRS 459.7052 to 459.728, inclusive, and, subject to the limitations contained in those provisions, may adopt such regulations as he deems necessary for that purpose. The regulations adopted pursuant to this section must be consistent with any applicable statutes and regulations of the Federal Government.

2. The Director shall adopt regulations:

(a) For the security of the Repository for Information Concerning Hazardous Materials in Nevada so that it is adequately protected from fire, theft, loss, destruction, other hazards and unauthorized access.

(b) Prescribing the manner in which information concerning hazardous materials is submitted to the Division by state and local governmental agencies.

(c) Providing for the imposition of fees to pay the cost of:

(1) Any registration and permitting required to carry out the uniform program; and

(2) Any other regulation pursuant to the provisions of NRS 459.7052 to 459.728, inclusive.

➔ Money received by the Department from the fees imposed pursuant to this paragraph must be deposited with the State Treasurer for credit to the State Highway Fund and used only to carry out the provisions of NRS 459.7052 to 459.728, inclusive.

3. The Director, on behalf of this State, may enter into any agreements with:

(a) The Federal Government;

(b) Other states; and

(c) A national repository established to assist in the administration of the uniform program,

➔ as are appropriate for the administration of the uniform program.

(Added to NRS by 1987, 1752; A 1993, 850; 1999, 3351)

NRS 459.727 Provisions inapplicable to transportation by governmental vehicle. Except as otherwise required by federal law, the provisions of NRS 459.7052 to 459.728, inclusive, and the regulations adopted pursuant thereto do not apply to the transportation of a hazardous material by any vehicle which is owned and operated by the Federal Government, this State or any political subdivision of this State.

(Added to NRS by 1999, 3348)

NRS 459.728 Provisions supersede and preempt local regulation of transportation; exceptions.

1. Except as otherwise provided in subsection 2, the provisions of NRS 459.7052 to 459.728, inclusive, and the regulations adopted pursuant thereto supersede and preempt any ordinance or regulation adopted by the governing body of a political subdivision of this State governing the transportation of a hazardous material upon a public highway of this State.

2. The provisions of subsection 1 do not apply to any ordinance or regulation:

(a) For the control of traffic generally; or

(b) Which is approved by the Board of Directors of the Department of Transportation pursuant to paragraph (b) of subsection 3 of NRS 484.779.

(Added to NRS by 1999, 3348)

State Emergency Response Commission

NRS 459.735 Contingency Account for Hazardous Materials. [Effective through September 30, 2005, and after that date if the Department of Motor Vehicles has received at least 1,000 applications for the issuance of a license plate pursuant to NRS 482.379365.]

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 and, except as otherwise provided in subsection 4, the money in the Account may be expended only 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 and incidents involving hazardous materials; and
- (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.

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 solely 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.

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)

NRS 459.735 Contingency Account for Hazardous Materials. [Effective October 1, 2005, if the Department of Motor Vehicles has not received at least 1,000 applications for the issuance of a license plate pursuant to NRS 482.379365.]

- 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, and the money in the Account may be expended only 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 and incidents involving hazardous materials; and
 - (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.

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. 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.

5. 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.

6. 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, effective October 1, 2005, if the Department of Motor Vehicles has not received at least 1,000 applications for the issuance of a license plate pursuant to NRS 482.379365)

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 Unit of the Communication and Computing Division of the Department of Information Technology 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 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 of \$500 to be paid 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.
(Added to NRS by 1991, 1109; A 1995, 454; 1999, 254; 2001, 904; 2003, 826)

Responding to Spills, Accidents 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 him;
 - (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 his inaction 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 of or accident 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 or accident.
 - (c) Investigate the occurrence of the spill or accident.
- (Added to NRS by 1993, 838)

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

(Added to NRS by 1987, 1753)

NRS 459.755 Use of Contingency Account for Hazardous Materials to pay for costs of cleaning and decontamination of area affected by spill or accident. If the person responsible for hazardous material involved in a spill or accident does not act promptly and appropriately to clean and decontaminate the affected area, and if his inaction 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 involving hazardous material;
2. Coordinating the efforts of state, local and federal agencies responding to a spill of or an accident 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 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)

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 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 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)

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 or accident of the amount of any costs incurred by the county or city in responding to the spill of or accident involving hazardous material.

(Added to NRS by 1987, 1754; A 1993, 841)

NRS 459.773 Development and dissemination of reference guide regarding response to accidents 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 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 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 and incidents involving hazardous materials and students enrolled in training programs for responding to accidents and incidents involving hazardous materials.

(Added to NRS by 1993, 139)

NRS 459.792 Scope of immunity: State Emergency Response Commission; local emergency planning committees; persons providing equipment, advice or other assistance.

1. The State Emergency Response Commission, each local emergency planning committee appointed by the Commission, and their respective members are immune from liability for the death of or injury to persons, and for injury to property, resulting from the performance of their functions under this chapter and under 42 U.S.C. §§ 11001 et seq.

2. Except as limited by NRS 459.794 and 459.796, a person who provides equipment, advice or other assistance in mitigating or attempting to mitigate the effects of a discharge of hazardous material, or in preventing, cleaning up or disposing of such a discharge, or in attempting to prevent, clean up or dispose of such a discharge, is immune from liability for the death of or injury to persons, and for injury to property, resulting from those activities.

(Added to NRS by 1993, 823; A 2001, 905)

NRS 459.794 Exclusions from immunity: Damages from gross negligence or misconduct; persons causing discharge; persons receiving compensation for assistance. The immunity provided by subsection 2 of NRS 459.792 does not apply to:

1. Damages resulting from the person's gross negligence or his intentional, reckless or wanton misconduct;

2. A person:

(a) Whose act or failure to act was a cause of the discharge; or

(b) Who receives compensation other than:

(1) Reimbursement for his actual expenses in voluntarily providing the equipment, advice or other assistance; or

(2) Compensation from his regular employer for the time during which he is engaged in rendering the assistance or advice.

(Added to NRS by 1993, 823)

NRS 459.7022 "Extremely hazardous material" defined. "Extremely hazardous material" means any material or combination of materials listed in Appendix A or B of Part 355 of Title 40 of the Code of Federal Regulations.

(Added to NRS by 1993, 845)

NRS 459.7024 “Hazardous material” defined. “Hazardous material” means any substance or combination of substances, including any hazardous material, hazardous waste, hazardous substance or marine pollutant:

1. Of a type and amount for which a vehicle transporting the substance must be placarded pursuant to 49 C.F.R. Part 172;
 2. Of a type and amount for which a uniform hazardous waste manifest is required pursuant to 40 C.F.R. Part 262; or
 3. Which is transported in bulk packaging, as defined in 49 C.F.R. § 171.8.
- (Added to NRS by 1993, 845; A 1999, 3350)

CHAPTER 477 - STATE FIRE MARSHAL

NRS 477.030 Duties; powers.

1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

- (a) The prevention of fire.
- (b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, “public assembly” means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

The regulations of the State Fire Marshal apply throughout the State, but, except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction.

2. The State Fire Marshal may set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this state, including the threads used on fire hose couplings and hydrant fittings.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Human Resources in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the system.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

→ on request or as he deems necessary.

10. In a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement.

(Added to NRS by 1965, 961; A 1967, 152; 1973, 301, 1166, 1406; 1975, 10, 567, 1575; 1977, 1465; 1979, 125, 1331; 1983, 1389; 1985, 329, 1762; 1987, 2281; 1989, 1928; 1991, 1897; 1993, 334, 581, 2725, 2739; 1999, 1075, 1858; 2001, 125, 1101, 1992)

NRS 477.039 Training programs.

1. The State Fire Marshal shall:

(a) Furnish and administer programs for the training of firemen;

(b) Describe the programs that are available for training of firemen and notify fire departments of the availability of these programs;

(c) Administer a program to certify firemen, whenever requested to do so, for successful completion of a training program;

(d) Develop a program to train instructors;

(e) Assist other agencies and organizations to prepare and administer training programs;

(f) Carry out the provisions of paragraphs (a) to (e), inclusive, in accordance with recommendations submitted to him by the Fire Service Standards and Training Committee and the regulations adopted by the Committee; and

(g) Establish a regional hazardous materials training facility and furnish training programs concerning hazardous materials for emergency personnel, agencies and other persons.

2. The State Fire Marshal may enter into agreements for the procurement of necessary services or property, may accept gifts, grants, services or property for the training programs and may charge fees for training programs, materials or services provided.

(Added to NRS by 1981, 1589; A 1989, 1522; 1995, 822)

NRS 477.045 Hazardous materials: Training program for response to spills; permit for storage; surcharge for permit.

1. The State Fire Marshal shall establish a statewide training program for response to spills of hazardous materials and related fires. The State Fire Marshal shall require persons who store hazardous materials to obtain a permit to do so. The State Fire Marshal shall collect a surcharge of \$60 for each such permit issued in the State. The surcharge is in addition to any other fee charged for the issuance of such a permit.

2. The revenue derived by the State Fire Marshal pursuant to this section must be deposited with the State Treasurer for credit to the Contingency Account for Hazardous Materials.
(Added to NRS by 1989, 746; A 1991, 1776)

NRS 477.047 Hazardous materials: Establishment of mobile training team to train volunteer firemen to respond to incidents.

1. The State Fire Marshal shall establish a mobile training team to train volunteer firemen to respond to incidents involving hazardous materials.
2. The State Fire Marshal shall have the goal of providing to all volunteer firemen training in compliance with the requirements for the first responder operations level set forth in 29 C.F.R. § 1910.120.
3. As used in this section, "hazardous material" has the meaning ascribed to it in NRS 459.7024.
(Added to NRS by 1993, 905; A 1993, 906)

CHAPTER 480 - ADMINISTRATION OF LAWS RELATING TO PUBLIC SAFETY

NRS 480.010 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Department" means the Department of Public Safety.
2. "Director" means the Director of the Department of Public Safety.
(Added to NRS by 2001, 2532)

DEPARTMENT OF PUBLIC SAFETY

NRS 480.100 Creation; powers and duties set forth in chapter.

1. The Department of Public Safety is hereby created.
2. The Department is vested with the powers and authority provided in this chapter and shall carry out the purposes of this chapter.
(Added to NRS by 2001, 2532)

NRS 480.110 Department to execute, administer and enforce, and perform functions and duties provided in certain other chapters and sections of NRS. Except as otherwise provided therein, the Department shall execute, administer and enforce, and perform the functions and duties provided in:

1. Chapters 176A and 213 of NRS relating to parole and probation;
2. Chapter 414 of NRS relating to emergency management;
3. Chapter 453 of NRS relating to controlled substances and chapter 454 of NRS relating to dangerous drugs;
4. Chapter 459 of NRS relating to the transportation of hazardous materials;
5. Chapter 477 of NRS relating to the State Fire Marshal; and
6. NRS 486.363 to 486.377, inclusive, relating to the education and safety of motorcycle riders.
(Added to NRS by 2001, 2532; A 2003, 415)

NRS 480.130 Divisions of Department. The Department consists of:

1. An Administrative Services Division;
2. An Investigation Division;
3. A Nevada Highway Patrol Division;
4. A Division of Emergency Management;
5. A State Fire Marshal Division;
6. A Division of Parole and Probation;
7. A Capitol Police Division; and
8. A Training Division.
(Added to NRS by 2001, 2533)

NRS 480.140 Functions and responsibilities of divisions. The primary functions and responsibilities of the divisions of the Department are as follows:

1. The Administrative Services Division shall furnish fiscal, accounting and other administrative services to the Director and the various divisions, and advise and assist the Director and the various divisions in carrying out their functions and responsibilities.

2. The Investigation Division shall:

(a) Execute, administer and enforce the provisions of chapter 453 of NRS relating to controlled substances and chapter 454 of NRS relating to dangerous drugs;

(b) Assist the Secretary of State in carrying out an investigation pursuant to NRS 293.124; and

(c) Perform such duties and exercise such powers as may be conferred upon it pursuant to this chapter and any other specific statute.

3. The Nevada Highway Patrol Division shall, in conjunction with the Department of Motor Vehicles, execute, administer and enforce the provisions of chapter 484 of NRS and perform such duties and exercise such powers as may be conferred upon it pursuant to NRS 480.360 and any other specific statute.

4. The Division of Emergency Management shall execute, administer and enforce the provisions of chapter 414 of NRS and perform such duties and exercise such powers as may be conferred upon it pursuant to chapter 414 of NRS and any other specific statute.

5. The State Fire Marshal Division shall execute, administer and enforce the provisions of chapter 477 of NRS and perform such duties and exercise such powers as may be conferred upon it pursuant to chapter 477 of NRS and any other specific statute.

6. The Division of Parole and Probation shall execute, administer and enforce the provisions of chapters 176A and 213 of NRS relating to parole and probation and perform such duties and exercise such powers as may be conferred upon it pursuant to those chapters and any other specific statute.

7. The Capitol Police Division shall assist the Chief of the Buildings and Grounds Division of the Department of Administration in the enforcement of subsection 1 of NRS 331.140.

8. The Training Division shall provide training to the employees of the Department.

(Added to NRS by 2001, 2533)

NEVADA HIGHWAY PATROL

NRS 480.330 Powers and duties of Chief; appointment of personnel to protect life and property and enforce state law.

1. The Chief of the Nevada Highway Patrol is the chief officer of the Nevada Highway Patrol and has the powers and duties provided in NRS 480.360, which must be performed under the direction and supervision of the Director.

2. When requested by the Governor to preserve order, protect life or property and enforce the laws of this State, the Chief may appoint such personnel of the Nevada Highway Patrol as may be necessary for that purpose. The salaries and expenses of the personnel incidental to those operations must be paid out of appropriations for the Department from the State General Fund.

(Added to NRS by 2001, 2535)

NRS 480.360 Duties of personnel. The duties of the personnel of the Nevada Highway Patrol are:

1. To police the public highways of this State, to enforce and to aid in enforcing thereon all the traffic laws of the State of Nevada and to enforce all other laws of this State when:

(a) In the apprehension or pursuit of an offender or suspected offender;

(b) Making arrests for crimes committed in their presence or upon or adjacent to the highways of this State; or

(c) Making arrests pursuant to a warrant in the officer's possession or communicated to him.

2. To investigate accidents on all primary and secondary highways within the State of Nevada resulting in personal injury, property damage or death, and to gather evidence to prosecute any person guilty of any violation of the law contributing to the happening of such an accident.

3. In conjunction with the Department of Motor Vehicles, to enforce the provisions of chapters 365, 366, 408, 482 to 486, inclusive, 487 and 706 of NRS.

4. To maintain the Central Repository for Nevada Records of Criminal History and to carry out the provisions of chapter 179A of NRS.

5. To enforce the provisions of laws and regulations relating to motor carriers, the safety of their vehicles and equipment, and their transportation of hazardous materials and other cargo.

6. To maintain the repository for information concerning hazardous materials in Nevada and to carry out its duties pursuant to chapter 459 of NRS concerning the transportation of hazardous materials.

7. To perform such other duties in connection with those specified in this section as may be imposed by the Director.

(Added to NRS by 2001, 2536; A 2001, 2639)

INVESTIGATION DIVISION

NRS 480.400 Definitions. As used in NRS 480.400 to 480.520, inclusive, unless the context otherwise requires, the words and terms defined in NRS 480.410 to 480.440, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 2001, 2536)

NRS 480.410 "Investigation Division" defined. "Investigation Division" means the Investigation Division of the Department.

(Added to NRS by 2001, 2536)

NRS 480.430 "Special mobile equipment" defined. "Special mobile equipment" has the meaning ascribed to it in NRS 482.123.

(Added to NRS by 2001, 2536)

NRS 480.460 Duties of Chief of Division. The Chief of the Investigation Division shall:

1. Furnish services relating to the investigation of crimes, including interrogation with the use of polygraph instruments, upon the request of the Attorney General or any sheriff, chief of police or district attorney.

2. Disseminate information relating to the dangers of the use of controlled substances and dangerous drugs.

3. Provide and operate a system of recording all information received by the Division relating to persons who have alleged connections with organized crime or have some connection with violations of laws regulating controlled substances or dangerous drugs.

4. Arrange for the purchase of controlled substances and dangerous drugs when such a purchase is necessary in an investigation of offenses relating to controlled substances and dangerous drugs.

5. Procure from law enforcement agencies and other reliable sources information relating to violators of laws which govern controlled substances and dangerous drugs, including information about their character, probable motives, circumstances of arrest, methods of operation and other pertinent information.

6. Enforce the provisions of chapter 453 of NRS.

7. Maintain the records and other information forwarded to the Division to assist in locating missing persons or identifying dead bodies.

8. Furnish information relating to any person of whom he maintains a record to any law enforcement agency.

9. Assist the Secretary of State in carrying out an investigation pursuant to NRS 293.124.

(Added to NRS by 2001, 2536)

NRS 480.480 Agreements with other law enforcement agencies; powers and responsibilities of peace officer acting pursuant to agreement. The Chief of the Investigation Division may enter into agreements with any state or local law enforcement agency in this State or in any other state to carry out the duties of the Division. A peace officer, while carrying out the duties of the Investigation Division pursuant to such an agreement, has the same powers and responsibilities as an investigator of the Investigation Division.

(Added to NRS by 2001, 2538)

CHAPTER 414 - EMERGENCY MANAGEMENT

NAC 414.010 Definitions. (NRS 414.135) As used in NAC 414.010 to 414.140, inclusive, unless the context otherwise requires, the words and terms defined in NAC 414.015 to 414.045, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.015 "Disaster" defined. (NRS 414.135) "Disaster" has the meaning ascribed to it in NRS 414.0335.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.020 "Division" defined. (NRS 414.135) "Division" means the Division of Emergency Management of the Department of Public Safety.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.025 "Emergency" defined. (NRS 414.135) "Emergency" has the meaning ascribed to it in NRS 414.0345.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.030 "Emergency Assistance Account" defined. (NRS 414.135) "Emergency Assistance Account" means the Emergency Assistance Account created by NRS 414.135.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.035 "Political subdivision" defined. (NRS 414.135) "Political subdivision" has the meaning ascribed to it in NRS 414.038.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.040 "Preliminary damage assessment" defined. (NRS 414.135) "Preliminary damage assessment" means:

1. A determination of the extent of damage caused by a natural, technological or man-made emergency or disaster; and
2. An estimation of the amount of financial assistance and payments for the deployment of physical resources needed to repair the damages.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.045 "Project" defined. (NRS 414.135) "Project" means any effort to provide a satisfactory remedy to a natural, technological or man-made emergency or disaster.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

EMERGENCY ASSISTANCE ACCOUNT

NAC 414.100 Use and distribution of money in Account. (NRS 414.135)

1. Pursuant to paragraph (a) of subsection 3 of NRS 414.135, all money in the Emergency Assistance Account must be expended to provide supplemental emergency assistance to this state or to political subdivisions in this state that are severely and adversely affected by a natural, technological or man-made emergency or disaster in the form of financial assistance or payment for the deployment of physical resources.

2. Pursuant to paragraph (b) of subsection 3 of NRS 414.135, money in the Account will be used to pay the actual expenses incurred by the Division for administration during a natural, technological or man-made emergency or disaster, including those costs necessary for the activation and continued operation of an official center for emergency operations.

3. The Division will use the money in the Emergency Assistance Account to reimburse a state agency that has contributed financial assistance or payments for the deployment of physical resources for costs exceeding their budgetary capabilities.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.105 Application for assistance: General requirements. (NRS 414.135)

1. Except as otherwise provided in subsection 3, a state agency or political subdivision that seeks assistance from the Emergency Assistance Account for an emergency or disaster must submit, in writing, an application for assistance to the Division in accordance with the requirements for the application set forth in this section.

2. A state agency or county submitting an application for assistance from the Emergency Assistance Account must submit the application for assistance directly to the Division.

3. Before a city may submit an application to the Division for assistance from the Emergency Assistance Account, the city must apply for any available assistance from the county in which the city is located.

4. An application for assistance from the Emergency Assistance Account for an emergency or disaster must be received by the Division:

(a) Within 30 days after the determination of an emergency or disaster, if the applicant is a state agency or county; or

(b) Within 45 days after the determination of an emergency or disaster, if the applicant is a city.

5. Each application for assistance from the Emergency Assistance Account must include the following:

(a) A copy of the declaration of emergency or disaster.

(b) Any official report of a governmental entity concerning any actual or potential threat to the life, health, safety or property of persons in this state.

(c) Any professional reports or certifications supporting the existence of an emergency or disaster.

(d) Any preliminary damage assessment conducted:

(1) If the applicant is a state agency, by officials of the agency and a preliminary damage assessment team deployed by the Division to arrive at a consensus pertaining to the preliminary damage assessment; or

(2) If the applicant is a political subdivision, by a preliminary damage assessment team.

(e) A full disclosure of the financial records of the applicant for a determination of the financial need of the applicant by the Division.

(f) A certification that the existing financial or physical resources of the applicant are insufficient and no other funding sources are available to support all the estimated costs in providing a satisfactory remedy to the emergency or disaster. Such a certification from a state agency must be submitted by the Budget Division of the Department of Administration.

(g) A certification that all other available resources have been exhausted, including, without limitation, interlocal agreements, mutual aid agreements and private resources.

(h) A description of all the projects to be paid, in whole or in part, by any allocation from the Emergency Assistance Account.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.110 Application for assistance: Duties of Division upon receipt. (NRS 414.135) Upon the receipt of an application for assistance from the Emergency Assistance Account, the Division will:

1. Verify the declaration of emergency or disaster.

2. Verify that the emergency or disaster meets the criteria as to a threat to the life, safety, health or property of persons in this state.

3. Review any professional reports or certifications supporting the existence of an emergency or disaster.

4. If the applicant is a state agency and a preliminary damage assessment team has not been deployed before application is made, appoint a preliminary damage assessment team to work with officials from the agency to conduct a preliminary damage assessment.

5. Review the financial records of the applicant for a determination that the applicant has exhausted or will exhaust the existing financial or physical resources as a result of the emergency or disaster.

6. Review the certification of financial need submitted by the applicant.

7. Verify that the applicant has exhausted all other available resources.

8. Review the projects submitted for approval by the Division.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.115 Allocation and expenditure of money for emergency or disaster. (NRS 414.135)

1. Except as otherwise provided in subsection 2, an allocation from the Emergency Assistance Account for an emergency or disaster must be expended within 60 days after the approval of the allocation by the Division, unless such time is extended by the Division based upon a showing of good cause by the requesting entity.

2. An allocation for a project that the Division reasonably determines to be a long-term project pertaining to the health or safety of human life must be expended within the fiscal year in which the allocation is approved by the Division, unless such time is extended by the Division based upon a showing of good cause by the requesting entity.

3. A request for an extension of the time in which an allocation is required to be expended must be submitted to the Division in writing and approved by the Division before the expiration of the period in which the allocation is required to be expended pursuant to this section.

4. Any money advanced but not expended within the period required pursuant to this section must be returned to the Emergency Assistance Account. Any money returned or obligated but not expended within the period required pursuant to this section will be made available for reallocation.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.120 Allocation and expenditure of money pursuant to subsection 4 of NRS 414.135. (NRS 414.135)

1. A state agency or political subdivision that seeks an allocation of money pursuant to subsection 4 of NRS 414.135 must submit, in writing, an application to the Division.

2. Any money allocated from the Emergency Assistance Account pursuant to subsection 4 of NRS 414.135 must be expended within 60 days after the approval of the allocation by the Division, unless such time is extended by the Division based upon a showing of good cause by the requesting entity.

3. A request for an extension of the time in which an allocation is required to be expended must be submitted to the Division in writing and approved by the Division before the expiration of the period in which the allocation is required to be expended pursuant to this section.

4. Any money advanced but not expended within the period required pursuant to this section must be returned to the Emergency Assistance Account. Any money returned or obligated but not expended within the period required pursuant to this section will be made available for reallocation.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.125 Completion of project: General requirements. (NRS 414.135)

1. Each project must be completed within 90 days after the date the application was approved by the Division, unless such time is extended by the Division based upon a showing of good cause by the requesting entity.

2. A request for an extension of time to complete a project must be submitted to the Division in writing and approved by the Division before the expiration of the period required pursuant to subsection 1.

3. If the period authorized for completion of a project is more than 90 days or is extended to more than 90 days, the applicant shall submit quarterly reports of each project to the Division. Every applicant shall submit a final report of each project to the Division not later than 30 days after the end of the period authorized to complete the project.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.130 Payments from Account on basis of reimbursement or advance funding. (NRS 414.135)

1. Except as otherwise provided in this section, all payments from the Emergency Assistance Account must be made on the basis of reimbursement.

2. Assistance will be provided from the Emergency Assistance Account on a basis of advance funding only if:

(a) The applicant is unable to begin recovery from the emergency or disaster without advance funding; and

(b) The amounts budgeted by the applicant for an emergency or disaster are not sufficient to support the purchase of equipment or supplies.

3. Advance funding will be provided at a maximum of 25 percent of the total cost of the project. Progressive advances will be provided based on the percentage of the project that has been completed and the submission of documentation evidencing all costs incurred to date.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.135 Requests for reimbursement from Account. (NRS 414.135) An applicant submitting a final request for reimbursement shall submit documentation evidencing all costs incurred for the project not later than 60 days after the completion of the project. An applicant may submit periodic requests for

reimbursement during a project that the Division determined to be a long-term project pursuant to NAC 414.115. Upon the receipt of a request for reimbursement, the Division will:

1. Review the eligibility of the project costs for money from the Emergency Assistance Account;
 2. Require documentation evidencing all costs claimed on the request for reimbursement;
 3. Verify the availability of money approved for the project; and
 4. Process any claim that has been approved by the Division for payment to the applicant.
- (Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

NAC 414.140 Applicant to reimburse Account from certain money received. (NRS 414.135) An applicant receiving money from the Emergency Assistance Account shall reimburse the Emergency Assistance Account from any money the applicant receives from:

1. Any federal, state or local governmental agency or private source for the emergency or disaster;
2. Legal action taken against any person or entity responsible for the emergency or disaster; or
3. Payments received as a result of coverage from a policy of insurance relating to the emergency or disaster,

→ not later than 30 days after the applicant receives such money.

(Added to NAC by Div. of Emergency Mgt. by R202-01, eff. 4-24-2003)

CHAPTER 459 - HAZARDOUS MATERIALS

NAC 459.010 Definitions. (NRS 459.030, 459.201) As used in NAC 459.010 to 459.950, inclusive, unless the context otherwise requires, the words and terms defined in NAC 459.012 to 459.1165, inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification; A by Bd. of Health, 4-27-84; 10-22-93; 1-18-94; 1-21-94; 7-7-94; 11-1-95; R084-98, 1-26-99; A by Dep't of Human Resources by R137-01, 5-30-2003; A by Bd. of Health by R149-03, 12-3-2003)

NAC 459.030 "Division" defined. (NRS 459.201) "Division" means the Health Division of the Department of Human Resources.

[Bd. of Health, Radiation Control Reg. § 1.2.8, eff. 2-28-80]

NAC 459.126 Inspections. (NRS 459.201)

1. Each licensee and registrant shall, at any reasonable time, permit the Division to inspect sources of radiation and the premises or facilities where sources of radiation are used or stored.

2. Each licensee and registrant shall make available to the Division for inspection, upon reasonable notice, his records maintained pursuant to these regulations.

[Bd. of Health, Radiation Control Reg. §§ 1.5-1.5.2, eff. 2-28-80]

NAC 459.128 Tests. (NRS 459.201) On instruction from the Division, each licensee and registrant shall perform or permit the Division to perform such reasonable tests as the Division deems appropriate or necessary, including, but not limited to, tests of:

1. Sources of radiation;
2. Facilities in which sources of radiation are used or stored;
3. Instruments for detection and monitoring of radiation; and
4. Other equipment and devices used in connection with the use or storage of licensed or registered sources of radiation.

[Bd. of Health, Radiation Control Reg. §§ 1.6-1.6.4, eff. 2-28-80]

Notices; Instructions and Reports to Employees; Inspections

NAC 459.780 Purpose; applicability. (NRS 459.201) NAC 459.780 to 459.794, inclusive:

1. Establish requirements for notices, instructions and reports by licensees or registrants to persons engaged in work under a license or registration and options available to those persons in connection with

the Division's inspections of licensees or registrants to ascertain compliance with the provisions of chapter 459 of NRS and regulations, orders and licenses issued thereunder regarding radiological working conditions.

2. Apply to all persons who receive, possess, use or transfer sources of radiation licensed by or registered with the Division pursuant to NAC 459.150 to 459.314, inclusive.

[Bd. of Health, Radiation Control Reg. § 10.1, eff. 2-28-80]

NAC 459.788 Inspections: Presence of representatives of licensees, registrants, employees. (NRS 459.201)

1. Each licensee or registrant shall permit the Division, at all reasonable times, an opportunity to inspect materials, machines, activities, facilities, premises and records pursuant to NAC 459.010 to 459.794, inclusive.

2. During an inspection, division inspectors may consult privately with workers, as specified in NAC 459.790. The licensee or registrant may accompany the Division's inspectors during other phases of an inspection.

3. If, at the time of an inspection, a person has been authorized by the workers to represent them during the inspection, the licensee or registrant must notify the inspectors of the authorization and give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

4. Each workers' representative must be routinely engaged in work under control of the licensee or registrant and must have received instructions as specified in NAC 459.784.

5. Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection, but only one workers' representative at a time may accompany the inspectors.

6. With the approval of the licensee or registrant and the workers' representative, a person who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, may be afforded the opportunity to accompany division inspectors during the inspection of physical working conditions.

7. Notwithstanding the other provisions of this section, division inspectors may refuse to permit accompaniment by any person who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area must be a person previously authorized by the licensee or registrant to enter that area.

[Bd. of Health, Radiation Control Reg. §§ 10.5-10.5.7, eff. 2-28-80]

REGULATION OF HIGHLY HAZARDOUS SUBSTANCES AND EXPLOSIVES

General Provisions

NAC 459.952 Definitions. (NRS 459.3818) As used in NAC 459.952 to 459.95528, inclusive, unless the context otherwise requires, the words and terms defined in NAC 459.95211 to 459.95314, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Div. of Environmental Protec., eff. 7-10-92; A by Environmental Comm'n by R121-98, 5-27-99; R041-01, 10-25-2001)

NAC 459.9524 "Division" defined. (NRS 459.3818) "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(Added to NAC by Div. of Environmental Protec., eff. 7-10-92)

NAC 459.95344 Reports of regulatory agencies: Submission; form. (NRS 459.3818, 459.382) A governmental entity or agency of the State that is required by subsection 1 of NRS 459.382 to submit a report to the Division shall do so within 10 working days after a determination is made or an action is taken related to hazards involving highly hazardous substances at a regulated facility. The report must be submitted on the following form:

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
PREVENTION OF CHEMICAL CATASTROPHE PROGRAM
GOVERNMENTAL AGENCY REPORTING FORM

A facility which produces, uses, stores or handles a highly hazardous substance designated in NRS 459.3816 is subject to the provisions of NRS 459.380 to 459.3874, inclusive. Pursuant to NRS 459.382, governmental entities or agencies of the State are required to complete the following information whenever a determination is made or an action is taken related to hazards involving highly hazardous substances at a regulated facility. Please complete this form and return it to the Nevada Division of Environmental Protection, 333 W. Nye Lane, Carson City, Nevada 89710.

NAC 459.95442 Establishment and implementation; review and coordination; written program. (NRS 459.3818, 459.3833)

1. An owner or operator shall:

(a) Establish and implement an emergency response program to protect employees, public health and the environment, which program must include:

(1) For facilities subject to 29 C.F.R. § 1910, an emergency action plan that contains the elements set forth in 29 C.F.R. § 1910.38(a);

(2) For facilities subject to 29 C.F.R. § 1910, a hazardous materials response program that contains the elements outlined in 29 C.F.R. § 1910.120(q);

(3) Procedures for informing the public and local emergency response agencies about an accidental release;

(4) Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures;

(5) Procedures and measures for emergency response after an accidental release;

(6) Procedures for the use, inspection, testing and maintenance of emergency response equipment;

(7) Training for all employees in relevant procedures for emergency response; and

(8) Procedures to review and update, as appropriate, the emergency response program to reflect changes at the facility and ensure that employees are informed of changes.

(b) Coordinate the emergency response program with the community emergency response plan developed pursuant to 42 U.S.C. § 11003. Upon request of the local emergency planning committee or emergency response officials, the owner or operator shall promptly provide to the local emergency response officials any information that is necessary for developing and implementing the community emergency response plan.

(c) Review and coordinate the emergency response program developed pursuant to paragraphs (a) and (b) with local emergency responders.

2. A written program satisfies the requirements of this section if it:

(a) Complies with other federal contingency plan regulations and the requirements set forth in subsection 1; or

(b) Complies with the requirements set forth in subsection 1 and is consistent with the approach of the National Response Team's Integrated Contingency Plan Guidance set forth in 61 Fed. Reg. 28,642-28,664 and 31,103-31,104 (1996).

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99; A by R041-01, 10-25-2001)

Inspections

NAC 459.9552 Determination of compliance. (NRS 459.3818, 459.3833, 459.387)

1. The Division:

(a) Shall conduct an annual inspection to determine compliance at each facility with a process that is subject to the Tier A Program pursuant to subsection 4 of NRS 459.387;

(b) May, in addition to the annual inspection to determine compliance, inspect a facility with a process that is subject to the Tier A Program for program compliance pursuant to subsection 1 of NRS 459.387;

(c) May inspect a facility with a process that is subject to the Tier B Program to determine whether the facility complies with program requirements, including, without limitation, compliance with:

- (1) The prevention program developed pursuant to NAC 459.95382 to 459.95435, inclusive;
- (2) The emergency response program developed pursuant to NAC 459.9544 and 459.95442; and
- (3) The requirements of the hazard assessment developed pursuant to NAC 459.95362 to 459.95378, inclusive; and

(d) May audit the components of the facility's assessment report submitted pursuant to NAC 459.95448 to 459.95468, inclusive, that contain processes subject to the Tier B Program to verify the accuracy of the report.

2. The Division shall make the records of all inspections and audits made pursuant to this section available for public review.

(Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99)

Enforcement

NAC 459.95524 Applicability. (NRS 459.3818, 459.3833, 459.387) The Division may take enforcement action at a facility with a process that is subject to:

1. The Tier A Program pursuant to NRS 459.3872 and 459.3874; and
 2. The Tier B Program pursuant to paragraph (c) of subsection 2 of NRS 459.3833 and 459.3834.
- (Added to NAC by Environmental Comm'n by R121-98, eff. 5-27-99)

TRANSPORTATION OF HAZARDOUS MATERIALS ON PUBLIC HIGHWAYS

NAC 459.975 Definitions. (NRS 459.721, 459.725) As used in NAC 459.975 to 459.991, inclusive, unless the context otherwise requires, the words and terms defined in NAC 459.97515 to 459.9758, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.97515 "Director" defined. (NRS 459.721, 459.725) "Director" means the Director of the Department of Public Safety.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.9752 "Division" defined. (NRS 459.721, 459.725) "Division" means the Nevada Highway Patrol Division of the Department of Public Safety.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.97525 "Hazardous material" defined. (NRS 459.721, 459.725) "Hazardous material" has the meaning ascribed to it in NRS 459.7024.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.9753 "Motor carrier" defined. (NRS 459.721, 459.725) "Motor carrier" means a person who owns or operates one or more motor vehicles used to transport hazardous material.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.97535 "Motor vehicle" defined. (NRS 459.721, 459.725) "Motor vehicle" has the meaning ascribed to it in NRS 706.096.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.9754 "Participating state" defined. (NRS 459.721, 459.725) "Participating state" means a state that has entered into a reciprocal agreement with this State to participate in the uniform program.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.97555 "Reciprocal agreement" defined. (NRS 459.721, 459.725) "Reciprocal agreement" means an agreement entered into by this State and another state to:

1. Participate in a program for the reciprocal registration and permitting of persons who transport hazardous material; and
2. Appoint a governing board to assist in the administration of the agreement and the interpretation of its terms.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 1-4-96)

NAC 459.976 Applicability. (NRS 459.721, 459.725) Except as otherwise provided in this section, the provisions of NAC 459.975 to 459.991, inclusive, apply to any person who transports hazardous material in this State. Except as otherwise provided by federal law, the provisions of NAC 459.975 to 459.991, inclusive, do not apply to the transportation of a hazardous material by any vehicle that is owned and operated by the Federal Government, this State or any political subdivision of this State.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94; eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.979 Registration and uniform permit required. (NRS 459.7052, 459.721, 459.725) Except as otherwise provided in NAC 459.980 and 459.984, any person who transports hazardous materials in a vehicle upon a public highway in this State shall register with and obtain a uniform permit from:

1. The Division, if:
 - (a) The person's principal place of business is located in this State; or
 - (b) The person's principal place of business is located in a state other than this State or a participating state, and the mileage over which the person transported hazardous material during the preceding year is higher in this State than any participating state;
 2. The participating state in which:
 - (a) The person's principal place of business is located; or
 - (b) The mileage over which the person transported hazardous material during the preceding year is the highest, if:
 - (1) The person's principal place of business is located in a state other than Nevada or a participating state; and
 - (2) The mileage over which the person transported hazardous material during the preceding year is higher in the participating state than in Nevada; or
 3. Any state designated by a governing board appointed pursuant to the uniform program if:
 - (a) The person petitions the governing board for such a designation; and
 - (b) The entity from whom the petitioner would otherwise be required to obtain a uniform permit pursuant to this section agrees that the designation:
 - (1) Furthers the administration of the reciprocal agreement; and
 - (2) Does not allow the petitioner to evade any pending action by that entity.
- (Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.986 Inspection of vehicles; verification of drivers' qualifications. (NRS 459.712, 459.721, 459.725)

1. Any vehicle used to transport hazardous materials in this State is subject to inspection.
2. The qualifications of the driver of a vehicle used to transport hazardous materials in this State are subject to verification.
3. Any such inspection will be conducted by employees of the Division, in conformity with the national uniform inspection procedure and vehicle and driver out-of-service standards adopted by the Commercial Vehicle Safety Alliance and by the Division.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90)

NAC 459.9865 Provision of notice before transportation of radioactive waste. (NRS 459.709, 459.721, 459.725) A person who transports radioactive waste shall notify the Division not less than 4 hours nor more than 48 hours before he begins to transport the waste in this State. As used in this section, "radioactive waste" includes low-level waste as defined in NRS 459.007.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 11-16-89, eff. 1-1-90)

NAC 459.987 Reporting certain accidents and incidents. (NRS 459.718, 459.721, 459.725)

1. Any accident or incident involving hazardous materials must be reported to the Division in the manner provided by NRS 459.718.

2. Any such report must be submitted on a form prescribed by the Division or on the form prescribed for the hazardous material incident report by the United States Department of Transportation (Form No. 5800.1).

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.989 Disciplinary action: Grounds; imposition of sanctions. (NRS 459.7058, 459.721, 459.725)

1. The Division may deny or refuse to renew a uniform permit or may take other disciplinary action as provided in this section if, in connection with the transportation of hazardous materials, the applicant or holder:

(a) Violates any out-of-service regulation of the United States Department of Transportation, compliance with which is his responsibility;

(b) Violates any provision of NRS 459.700 to 459.780, inclusive, or NAC 459.975 to 459.991, inclusive;

(c) Knowingly provides false or misleading information in his application for a uniform permit;

(d) Knowingly uses a forged uniform permit or a uniform permit which has been altered;

(e) Except as otherwise provided by NAC 459.980, allows the uniform permit to be used by a person who is not his agent or employee; or

(f) Is found to be an unsatisfactory carrier as the result of a safety review or safety management audit conducted by the United States Department of Transportation, Federal Motor Carrier Safety Administration or by the Department of Public Safety.

2. If, within any period of 12 consecutive months, the holder of a uniform permit issued by the Division accrues the designated number of violations which are grounds for disciplinary action, the Division will:

(a) For three violations, mail a warning notice to the holder at his last known address.

(b) For four violations, mail a warning notice to the holder as provided in paragraph (a) and review the status of the uniform permit with the holder in person or by telephone.

(c) For five violations, suspend the uniform permit for not less than 30 days.

(d) For six violations, suspend the uniform permit for not less than 90 days.

(e) For seven or more violations, suspend the uniform permit for not less than 12 months.

➔ In any case it deems appropriate, the Division may impose a sanction greater than that otherwise prescribed by this subsection.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.990 Disciplinary action: Notice of intended action; request for hearing; time and place of hearing. (NRS 459.7058, 459.721, 459.725)

1. Not less than 15 days before it denies, refuses to renew, or suspends a uniform permit pursuant to NAC 459.989, the Division will give notice of its intended action to the applicant or holder by certified mail sent to his principal place of business.

2. Any holder or applicant who receives a notice pursuant to subsection 1 and who is aggrieved by the intended action of the Division may make a written request for a hearing on the matter before the Director or his designee. Any such request must be made by certified mail and must be postmarked not later than 10 days after the date the holder or applicant receives the notice mailed pursuant to subsection 1.

3. If a request for a hearing is made pursuant to subsection 2, the Division will schedule the hearing for a date not later than 30 days after the date it receives the request. Any hearing held pursuant to this section must be held in Carson City.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 9-13-94, eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

NAC 459.991 Disciplinary action: Reinstatement of uniform permit. (NRS 459.721, 459.725)

1. The Division may reinstate a uniform permit which has previously been suspended pursuant to NAC 459.989 if the holder corrects the violation and otherwise complies with the provisions of NRS 459.700 to 459.780, inclusive, and NAC 459.975 to 459.991, inclusive.

2. In such a case, upon the request of the holder, the Division will give written notice to the holder by certified mail of the conditions of reinstatement and any deadline for compliance with those conditions.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, 9-30-88, eff. 1-1-89; A 11-16-89, eff. 1-1-90; 9-13-94; eff. 6-30-95; 1-4-96; A by Dep't of Pub. Safety by R168-03, 12-16-2003)

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 459.99184, 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)

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 459.99127 "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 chairman;

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

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

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

NAC 459.99133 Emergency plans: Establishment, review and approval; correction of deficiencies. (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 the revised emergency plan within 45 days after receipt of notification of any deficiency, 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)

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, 459.99181 and 459.99182 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; and

2. 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)

NAC 459.99136 Requests for funding: Determination and approval of amount; scope. (NRS 459.735, 459.740)

1. Before 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 local emergency planning committee must meet to determine and approve, based upon the needs of its emergency planning district, the amount of funding it will request 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)

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, 459.99181 and 459.99182 and deposited in the Contingency Account for Hazardous Materials 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)

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, 459.99181 and 459.99182 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 459.99141 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, 459.99181 and 459.99182 for training that is necessary to carry out the emergency plan of the local emergency planning committee.

2. 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)

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, 459.99181 and 459.99182 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) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services to be provided by the consultant or contractor, which must not exceed \$450 per day.

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

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, 459.99181 and 459.99182 for equipment that is necessary to carry out the emergency plan of the local emergency planning committee.

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 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)

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. 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)

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) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services of the consultant or contractor, which must not exceed \$450 per day.

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

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:

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

(b) If the application for grant money satisfies the conditions set forth in NAC 459.99138 to 459.99146, inclusive.

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

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 chairman of the local emergency planning committee and a designee of the appropriate governmental entity for which the grant has been awarded.

2. The Grant Eligibility 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)

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 local emergency planning committee makes the expenditure.

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)

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 chairman 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 459.99155 Annual progress reports. (NRS 459.735, 459.740)

1. On or before July 31 of each year, a local emergency planning committee which receives a grant from the Commission shall submit an annual progress report to the Commission, on a form approved by the Commission, concerning the grant awarded to the local emergency planning committee.

2. An annual progress report submitted pursuant to subsection 1 must include, without limitation:

(a) The grant activities performed during the year; and

(b) Information concerning the progress of the local emergency planning committee in achieving the goals and objectives outlined in its grant application.

3. The Commission will review each annual progress report to ensure that the activities of the local emergency planning committee are in compliance with the goals and objectives outlined in the grant.

4. If the local emergency planning committee fails to submit the annual progress report on or before July 31 of each year, the Commission may withhold funding from the local emergency planning committee in the future.

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

NAC 459.99156 Authorization and procedure 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 may 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. Except as otherwise provided in subsection 4, 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 Chairman of the Funding Committee; and

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

3. The Chairman 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 hearing 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.

4. A local emergency planning committee may appeal any action taken pursuant to this section to the Commission. If a local emergency planning committee appeals an action pursuant to this subsection, the local emergency planning committee may carry out a change described in subsection 2 upon approval by the Commission on the record at a meeting of the Commission.

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

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, 459.99181 and 459.99182 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; and

2. 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)

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, 459.99181 and 459.99182 for training state and local personnel to respond to accidents and incidents involving hazardous materials.

2. 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)

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, 459.99181 and 459.99182 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.

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

(a) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services to be provided by the consultant or contractor, which must not exceed \$450 per day.

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

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, 459.99181 and 459.99182 for equipping state and local personnel to respond to accidents and incidents involving hazardous materials.

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 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)

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. 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)

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 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) The scope of the services to be provided by the consultant or contractor; and

(b) A quote for the costs of the services to be provided by the consultant or contractor, which must not exceed \$450 per day.

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

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, 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 designee.

2. The Grant Eligibility 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)

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 state agency makes the expenditure.

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)

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 459.99176 Annual progress reports. (NRS 459.735, 459.740)

1. On or before July 31 of each year, 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 shall submit an annual progress report to the Commission, on a form approved by the Commission, concerning the money allocated to the state agency.

2. An annual progress report submitted pursuant to subsection 1 must include, without limitation:

(a) The activities performed during the year; and

(b) Information concerning the progress of the state agency in achieving the goals and objectives outlined in its application for an allocation of money.

3. The Commission will review each annual progress report to ensure that the activities of the state agency are in compliance with the goals and objectives outlined in its application for an allocation of money.

4. If the state agency fails to submit the annual progress report on or before July 31 of each year, the Commission may withhold funding from the state agency in the future.

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

NAC 459.99177 Authorization and procedure 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 for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials, the state agency may submit to the Commission a request, on a form approved by the Commission, to revise the use of the money for another purpose.

2. Except as otherwise provided in subsection 4, 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 Chairman of the Funding Committee; and

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

3. The Chairman 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 hearing 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.

4. A state agency may appeal any action taken pursuant to this section to the Commission. If the state agency appeals an action pursuant to this subsection, the state agency may carry out a change described in subsection 2 upon approval by the Commission on the record at a meeting of the Commission.

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

CHAPTER 477 - STATE FIRE MARSHAL

NAC 477.288 Interlocal agreements: Review by State Fire Marshal. (NRS 477.030)

1. A request by a local government for an interlocal agreement pursuant to the provisions of NRS 477.030 must:

(a) Identify the local government and designate those persons who will represent the local government for the purposes of the interlocal agreement.

(b) Be accompanied by an official resolution executed by the local government which petitions the State Fire Marshal to develop, in cooperation with the local government, an interlocal agreement and describes the authority or duties being requested for delegation.

2. The State Fire Marshal, upon the receipt of such a request, will assign personnel from the State Fire Marshal Division to determine if the proposed program and the ability of the personnel of the local government are substantially equivalent to the program and ability of the State Fire Marshal.

3. Personnel assigned by the State Fire Marshal pursuant to this section shall complete the review within 60 days and recommend that the request be approved, returned for further development or disapproved.

4. The State Fire Marshal is the final administrative authority and will determine which authority or duties may be assigned to the local government pursuant to the interlocal agreement. The State Fire Marshal may require reports on the activities being performed pursuant to the provisions of an interlocal agreement.

5. The State Fire Marshal may revoke an interlocal agreement with a local government if the local government fails to:

(a) Supply the required reports; or

(b) Cooperate with the State Fire Marshal in verifying the equivalency of personnel and programs.

6. The State Fire Marshal will:

(a) Notify the local government if he intends to improve, update or otherwise change any program which is part of an interlocal agreement with the local government; and

(b) Allow adequate time for the local government to adjust its personnel, programs or training to conform with the change.

(Added to NAC by St. Fire Marshal, eff. 2-17-94)

NAC 477.290 Severability. (NRS 477.030) If any of the provisions of this chapter, or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

[St. Fire Marshal, § 1.1101 subsec. d, eff. 11-27-78]

Disciplinary Action

NAC 477.315 Authority; grounds. (NRS 477.030)

1. The State Fire Marshal may refuse to issue or renew, or may suspend or revoke, any certificate of registration or license if he determines that an applicant, licensee or registrant has:

(a) Obtained or attempted to obtain a license or certificate of registration by fraud, misrepresentation or falsifying information required on an application form.

(b) Been found guilty of malpractice or incompetence.

(c) Failed to obtain the necessary tools or materials required by the State Fire Marshal for performing the work for which the license was issued.

(d) Failed to pay the annual fees for renewal of a license or certificate of registration.

(e) Violated any provision of this chapter three or more times within a 12-month period.

(f) Submitted payment for a license or certificate upon an account which has insufficient funds.

(g) Been convicted of a felony.

(h) Refused to cooperate with the State Fire Marshal in an investigation.

(i) Created an imminent hazard to life. For the purposes of this paragraph, an "imminent hazard to life" exists when:

(1) A system to detect, suppress or protect against fire is reduced to less than 80 percent of its design standard by an action, whether malicious or not, of a licensee or holder of a certificate of registration; or

(2) A fire appliance or device is made nonfunctional because more than 20 percent of the appliances or devices provided to a building or area become nonfunctional because of the improper service of a licensee or the holder of a certificate of registration.

(j) Agents or principals who have violated the provisions of this subsection.

2. The State Fire Marshal may revoke or suspend any certificate of registration or license if he determines that:

(a) It has been used by a person other than the person to whom it was issued.

(b) It has been used for a location other than that for which it was issued.

(c) It has been used for work other than that for which it was issued.

(d) Any of the conditions or limitations set forth in the license have been violated.

(e) The person to whom the certificate or license was issued did not have the certificate or license on-site where work was being performed under the certificate or license, or failed to present the certificate or license upon the request of an authority having jurisdiction.

3. All licenses and certificates of registration remain the property of the State Fire Marshal and may not be suspended or revoked by any other person.

4. For the purposes of this section:

(a) A revocation is permanent and applies to any person who is found to be an accomplice to a violation, whether directly or indirectly.

(b) A suspension may not exceed 24 months.

[St. Fire Marshal, §§ 1.901 & 1.902, eff. 11-27-78]—(NAC A 1-19-84; 3-9-89; R220-99, 9-25-2000)

Permit to Store Hazardous Material

NAC 477.323 Permit required; issuance, expiration, renewal, suspension, reinstatement and revocation of permit; fees; criminal investigation; plan for termination. (NRS 477.030, 477.031, 477.045)

1. A person shall not store a hazardous material in excess of the amount set forth in the *International Fire Code*, as adopted pursuant to NAC 477.281, unless he has been issued a permit by the State Fire Marshal to store that material. A permit must be renewed annually.

2. Permits may be revoked or suspended when, after investigation, the State Fire Marshal determines that:

(a) The permit is being used by a person other than the person to whom it was issued.

(b) The permit is being used for a location other than that for which it was issued.

(c) Any of the conditions or limitations set forth in the permit have been violated.

(d) The holder of the permit has failed, refused or neglected to comply with any order or notice served upon him under the provisions of this chapter within the time provided therein.

(e) A false statement or misrepresentation as to a material fact was made in the application for the permit or the plans on which the permit was based.

3. The State Fire Marshal may suspend or revoke any permit if an inspection or investigation reveals a hazardous condition that endangers the safety of any person, or if the holder of the permit is not in compliance with this section. The State Fire Marshal may reinstate a suspended permit after the holder of the permit has paid the annual fee and corrected all deficiencies identified. A permit that has been revoked will not be reissued. A suspension will not exceed 24 months, after which the permit will be reissued or revoked.

4. Except as otherwise provided in subsection 5, a permit may be issued to store, transport on-site, dispense, use or handle hazardous materials in excess of the amount listed in the *International Fire Code*, 2003 edition, section 105, for a fee of \$90.

5. The fee established by subsection 4, or any portion of it, may be waived by the State Fire Marshal. The State Fire Marshal may issue a permit for other facilities or appliances listed in section 105 of the *International Fire Code*, 2003 edition, for a fee of \$55, and in addition thereto may charge a fee of \$38.50 per hour, or any fraction thereof, for inspection services and an amount equal to the actual expenses incurred for travel, salaries and administrative expenses. The State Fire Marshal may issue an annual permit

for the manufacture of explosives, blasting agents or fireworks for a fee of \$1,100, and in addition thereto may charge a fee of \$110 for each building or structure at the facility and an amount equal to the actual expenses incurred for travel, salaries and administrative expenses.

6. The \$60 surcharge required by NRS 477.045 will be collected on all permits to store hazardous materials, in addition to any other fees.

7. A permit expires 1 year after the last day of the calendar month in which the permit was issued, unless a different expiration date is noted on the permit.

8. Revocation or suspension of a permit does not preclude the State Fire Marshal from proceeding with a criminal investigation. Evidence from a criminal investigation may be used as evidence in an administrative hearing for the revocation or suspension of a permit.

9. If a holder of a permit or an applicant for a permit intends to terminate the storage, dispensing, handling or use of hazardous materials at a facility, the holder or applicant must submit a plan to the State Fire Marshal outlining the proposed termination of the storage, dispensing, handling or use of the hazardous materials at least 30 days before the date on which the facility is to be closed. The plan must demonstrate that the reported quantities of materials have been or will be transported, disposed of or removed in a manner that presents no hazardous conditions to any person or property.

(Added to NAC by St. Fire Marshal, eff. 3-9-89; A 8-24-90; 5-18-94; R207-99, 2-7-2000; R062-04, 9-3-2004)

CHAPTER 705 - RAILROADS

TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL

NAC 705.311 "Hazardous material" defined. (NRS 703.1545, 704.307) As used in this section and NAC 705.321 and 705.331, unless the context otherwise requires, "hazardous material" means a material listed in 49 C.F.R. § 172.101.

(Added to NAC by Pub. Utilities Comm'n by R051-01, eff. 12-17-2001)

NAC 705.321 Reporting requirements; exemption. (NRS 703.1545, 704.190, 704.307)

1. A railroad that transports hazardous materials by rail into, out of or through this state shall file with the commission a copy of each report of an incident involving a hazardous material that the railroad submits to the United States Department of Transportation pursuant to 49 C.F.R. § 171.16. The report must be received by the commission not later than 30 days after the discovery of the incident by the railroad.

2. A railroad that transports hazardous materials by rail into, out of or through this state shall, not later than April 1 of each year, file with the commission:

(a) A map delineating the geographical limits of the operating divisions or districts of the railroad in this state;

(b) A primary and secondary telephone number for each railroad dispatcher responsible for train operations in each operating division or district in this state;

(c) The name and address of the railroad employee responsible for managing the transportation of hazardous materials for the railroad; and

(d) A listing by line points or segments of each hazardous material that the railroad transported into, out of or through this state during the immediately preceding calendar year if that material carried a code number of 48 or 49 pursuant to the standard transportation commodity code numbering system published by the Association of American Railroads.

3. The commission will grant an application for an exemption from any provision of this section pursuant to NAC 705.010 only upon a showing of good cause.

(Added to NAC by Pub. Utilities Comm'n by R051-01, eff. 12-17-2001)

NAC 705.331 Emergency planning and response procedures. (NRS 703.1545, 704.307) A railroad that transports hazardous materials by rail into, out of or through this state shall develop and carry out emergency planning and response procedures for handling releases of hazardous materials. These procedures must address, without limitation, the:

1. Safe handling of hazardous materials;

2. Conducting of emergency drills and exercises;
 3. Specification of the resources to be provided and the actions to be taken by the railroad; and
 4. Identification of:
 - (a) Federal, state and local emergency response agencies and other governmental entities to be notified;
 - (b) Contact persons in each such agency and entity; and
 - (c) Resources that may be provided and actions that may be taken by each such agency and entity.
- (Added to NAC by Pub. Utilities Comm'n by R051-01, eff. 12-17-2001)