



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: State Emergency Response Commission TITLE-SERIES: 55-02  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 55-02 Emergency Planning Grant Program

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: W. Va. Code 15-5A-5(k).

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code 15-5A-5(k) states the commission shall have and may exercise the following powers and authority and shall perform the following duties: "(k) Establish an emergency planning grant program to be administered by the commission. The grant programs will be funded by fees collected to administer this act pursuant to subdivision (j) of this section. The commission shall promulgate rules which establish the method of awarding such grants to local emergency planning committees to assist them in performing their responsibilities under this article."

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/30/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/29/2024

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule establishes the procedures for applying for, and awarding Emergency Planning Grants.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The filing and effective dates are being updated as well as the sunset provision date. Language throughout the rule is updated. The calculations regarding payments of awards of grants are being updated.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

0

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

0

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

0

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
<b>2. Estimated Total Revenues</b>			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes  
 Brandolyn N Felton-Ernest -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



TITLE 55  
LEGISLATIVE RULE  
STATE EMERGENCY RESPONSE COMMISSION  
SERIES 2  
EMERGENCY PLANNING GRANT PROGRAM

**§55-2-1. General.**

1.1. Scope. -- This rule establishes the procedures for applying for, and awarding Emergency Planning Grants.

1.2. Authority. -- W. Va. Code §15-5A-5(k).

1.3. Filing Date. -- ~~May 12, 2021.~~

1.4. Effective Date. -- ~~July 1, 2021.~~

1.5 Sunset Provision. -- This rule shall terminate and have no further force or effect on July 1, 2026~~30~~.

**§55-2-2. Grant Application Deadline Dates.**

2.1. All grant periods shall begin January first of each calendar year.

~~2.2.~~ Emergency planning grant applications shall be received by the State Emergency Response Commission ("SERC") no later than the thirtieth day of June of for the current grant year. Applications received after the established date shall not be considered for funding to have not been timely filed. Applications that are not timely filed will be considered on a case-by-case basis, by the SERC, based upon the availability of funding.

2.3. Additional grant funding opportunities may arise within the grant year, based on need and available revenue. The opening and closing of these application periods will be determined by the SERC and posted on the West Virginia Emergency Management Division website with corresponding deadlines for each opportunity.

~~2.4.~~ A mid-year report shall be submitted to the SERC by the first day of July of each grant year, and The report shall include a report of the actual eligible expenditures incurred and a report of the activities accomplished under the grant, through The information in the report should be current to at least the thirty-first day of May of the grant year.

~~2.5.~~ Amended applications to change grant requests must be received by the SERC no later than the first day of July of the grant year, and shall indicate actual expenditures incurred by the LEPC and include a revised LEPC Emergency Response Plan as part of the justification for the requested change in the grant request. Amendments shall indicate actual expenditures incurred by the LEPC and include a revised LEPC Emergency Response Plan, as part of the required justification for the amendment. Requests for increased grant awards may only be approved by the SERC if sufficient revenue is available.

~~2.6.~~ Any LEPC making application shall complete the required information on the forms prescribed by the SERC and be in compliance with baseline requirements.

### §55-2-3. Award of Grants.

~~3.1. All grant periods shall be on a calendar year beginning the first day of January of each year.~~

~~3.2.1. Final Grant and Reductions in Grand Awards. In order to be eligible for the full grant award, the LEPC must have incurred eligible expenses of at least the grant amounts and must have completed the required work activities as outlined in the grant proposal. If the LEPC fails to complete the required work activities, the final grant award and final payment of the grant shall be reduced.~~

3.2. The expenses associated with conducting exercises shall be allowed to account for the maximum amount of the grant award.

~~3.2.1. The value of the grant is calculated as follows:~~

~~3.2.1.a. Work activities associated with planning shall be worth up to 70% of the grant;~~

~~3.2.1.b. Work activities associated with Local Emergency Planning Committee administration shall be worth up to 30% of the grant; and~~

~~3.2.1.c. Exercises shall be worth up to the maximum allowable amount for the type of exercise conducted.~~

~~3.3. The following shall constitute eligible costs for purposes of the grant program:~~

~~3.3.1. Personnel costs, including salary and fringe benefits, travel reimbursement for developing, reviewing and updating emergency response plans and for administration of the LEPC are eligible.~~

~~3.3.2. Copying, printing, postage costs associated with developing, reviewing, updating and publishing of emergency response plans and associated LEPC operations are eligible.~~

~~3.3.3. Each LEPC is eligible for funding during the grant year for certain costs of conducting hazardous materials emergency response exercises as determined by the SERC.~~

~~3.4. Requests for the first payment (up to twenty five percent (25%) of the grant award) shall be made if the grant application is approved.~~

~~3.5. Second payment requests (up to twenty five percent (25%) of the grant application) must be received by the SERC no later than the first of July of each grant year and shall include actual expenditures incurred by the LEPC through the thirty first of May of the grant year. No second payments will be made for requests received after the first of July; those requests will be considered as part of the final close out of the grant.~~

~~3.6. Grant close out including reimbursement requests and certification of expenses must be received by the SERC no later than the first day of March of the next grant year. Payment will be made based on actual eligible documented expenditures and completed LEPC Emergency Response Plan submission. If the required close out information is not received by the SERC by the first day of March 1 and:~~

~~3.6.1. If no request for a second payment has been received, the SERC shall assume that the LEPC has had no eligible expenditures during the grant period and any payment shall be considered to be an overpayment, or~~

~~3.6.2. If a request for a second payment has been received, the SERC shall assume that the~~

~~eligible expenditures reported on the request for second payment are the LEPC's total final eligible expenditures.~~

3.3. The following shall constitute eligible costs:

3.3.1. Contingency planning for chemical releases.

3.3.2. Exercising, evaluating, and distributing plans.

3.3.3. Providing training related to chemical emergency preparedness and prevention of chemical accidents.

3.3.4. Identifying facilities required to report; monitor regulated facilities and conduct compliance enforcement activities to ensure facilities have submitted required information.

3.3.5. Processing the information submitted by the facilities and making it available to the public.

3.3.6. Receiving and handling emergency notifications of chemical releases.

3.3.7. Operating a local emergency planning committee and providing public notice of chemical preparedness activities.

**§55-2-4. Grant Close Out and Reimbursement.**

4.1. Grant close out, including reimbursement requests and certification of expenses must be received by the SERC no later than the first day of March of the following grant year. Payment will be made based on actual eligible expenditures and completed LEPC Emergency Response Plan Submission.