



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: State Emergency Response Commission

RULE TYPE: Legislative

TITLE-SERIES: 55-02

RULE NAME: Emergency Planning Grant Program

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

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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~~ August 1, 2026~~30~~.

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

2.1. The State Emergency Response Commission ("SERC") shall create an annual grant program for local emergency planning committees ("LEPCs") with established due dates and eligibility requirements, based upon the availability of funding.

~~2.12. Emergency planning grant applications shall be received by the SERC no later than the thirtieth day of June of the grant year. Applications received after the established date shall not be considered for funding. The SERC will provide details on the application process to local emergency planning committees and will post application material on the West Virginia Emergency Management Division website. 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.

2.24. A mid-year report shall be submitted to the SERC by the first day of July of each grant year and shall include a report of the actual eligible expenditures incurred and a report of the activities accomplished under the grant through the thirty-first day of May of the grant year. The SERC will establish grant reporting requirements for all funding opportunities. The information required will, at a minimum, include a listing of actual eligible expenditures incurred and a report of the activities accomplished under the grant. This report must be submitted to the SERC. The SERC will review all documentation submitted to ensure compliance with all grant requirements.

2.35. 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. Requests for increased grant awards may only be approved by the SERC if sufficient revenue is available. Amendments to change proposed activities can be submitted to the SERC for consideration at any time during the grant period. Amendments to modify projects must be approved by the SERC before applicants are authorized to deviate from approved projects. The SERC is authorized to request appropriate documentation necessary to justify amendments. Requests for increased grant awards may only be approved by the SERC if sufficient revenue is available.~~

2.46. 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.~~

3.21. 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. Applicants are required to submit end of grant reports in accordance with deadlines established by the SERC. This includes submission of all appropriate requests for reimbursement prior to the closing of the grant period and all required activity reports.