

Proposed Amendment to NAC 232.480

Training and certification of verifiers by Sagebrush Ecosystem Technical Team; maintenance of list of trained and certified verifiers



NAC 232.480 - Current Language

“The Sagebrush Ecosystem Technical Team shall:

1. Train and certify persons to be verifiers; and
2. Maintain a list on the Internet website of the Sagebrush Ecosystem Program of all verifiers who have been so trained and certified for the current calendar year.”

- Current language is vague with respect to verifier training and certification
 - If certification exists, it implies that there is a decertification process, but leaves it open to interpretation
- The proposed amendment to the language will:
 - Clarify specific requirements for receiving and maintaining certification
 - Detail causes for, and outcomes of, disciplinary action

Purpose of Proposed Amendment

Part 1: Clarification of requirements for obtaining verifier certification

- Most of this section has been in-place as long as the program has existed, just not codified
- New addition is that full re-training and testing are required every 5 years
 - This is a constantly evolving and complex program
 - To stay up-to-date and relevant in the program, occasional comprehensive re-training is necessary
 - We have increased the level of detail covered during training

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Part 2: Causes for disciplinary action and the decertification process

- Adds accountability
 - i.e., if no consequences are in-place, why adhere to the process?
 - Most verifiers are ethical and will follow rules on their own, but some may exploit loopholes/technicalities due to lack of a codified disciplinary process
 - Some verifiers may only address issues if there are tangible consequences
- Allows multiple warnings with the opportunity to improve prior to decertification
- Allows for appeals during each step of the process

The Decertification Process

- Will be used to address:
 - Repeated violations that have not been corrected in response to warnings
 - Egregious conduct detailed in # 12 of the proposed language
- Will not be implemented:
 - Without sufficient cause
 - For occasional, minor project mistakes
 - As retaliation for questions, concerns, or constructive criticism (these are always welcome, and how we improve the program)

Intended Outcomes of Proposed Amendment

- Increased integrity of the Sagebrush Ecosystem Program
- Enhanced verifier knowledge, confidence, and efficiency
- Protection of verifiers from partnering with others who may underperform
- Protection of proponents from extraneous consulting fees, project delays, project non-compliance, and potential loss of credits
- Protection of the SEP from verifiers who underperform, misrepresent the program, or substantially increase the workload on its limited staff



Specific Language Proposed



NAC 232.480 Training and certification of verifiers by Sagebrush Ecosystem Technical Team; maintenance of list of trained and certified verifiers. (NRS 232.162) The Sagebrush Ecosystem Technical Team shall:

1. Train and certify persons to be verifiers; and
2. Maintain a list on the Internet website of the Sagebrush Ecosystem Program of all verifiers who have been so trained and certified for the current calendar year.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

3. All verifiers must complete the following prior to being certified:
 - a. Must hold a valid Class C Driver's License.
 - b. Field verifiers must have all of the following:
 - i. A Bachelor's degree in natural resource management, ecology, forestry, wildlife management, environmental science or equivalent work experience.
 - ii. At least two (2) years' experience in Great Basin plant identification, familiarity and experience with plant identification in Northern Nevada is preferred.
 - iii. At least two (2) years' experience with standard quantitative vegetative field data collection methods (i.e., line-intercept, Daubenmire plots, photo points).
 - iv. At least one (1) years' experience using GPS unit and software.
 - c. Desktop verifiers must have all of the following:
 - i. A Bachelor's degree in GIS, natural resources management, ecology, forestry, wildlife management, environmental science, or equivalent work experience.
 - ii. At least two (2) years' experience using ESRI ArcGIS software to conduct advanced spatial analysis.
 - iii. At least two (2) years' experience in Great Basin, familiarity and experience with geography and ecosystems of Northern Nevada is preferred.
 - d. Must complete the State of Nevada's CCS Verification Training.
 - e. Must pass the State of Nevada's CCS Verification Training Exam.
4. Certifications will need to be renewed annually through a refresher course and every five years through a full retraining and retesting.
5. The Program Manager may refuse to certify an applicant or, after examination, may refuse to certify an eligible person who:
 - a. Lacks any of the preliminary requirements established for the examination for the certificate for which the applicant or eligible person applies.
 - b. Has made a false statement of any material fact, or
 - c. Has practiced, or attempted to practice, any deception or fraud in the certificate or examination of the applicant or eligible person, or in securing the certification of the applicant or eligible person.
6. When the Program Manager refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may request the Program Manager to furnish to the applicant or eligible person a statement of the reasons for the refusal to examine or the refusal to certify, as the case may be. The Program Manager shall furnish the statement upon request.
 - a. If the Program Manager refuses to examine an applicant or, after an examination, refuses to certify an eligible person, the applicant or eligible person may make an appeal to the Finder of Fact. If the Finder of Fact finds that the Program Manager is in error in refusing to

- examine an applicant or in refusing to certify an eligible person, the Finder of Fact shall order the Program Manager to examine or certify, and the Program Manager shall comply.
7. Should there be evidence enough to consider a verifier, certified through Nevada Administrative Code (NAC) 232.400-232.480, a risk to the integrity or workload of the Sagebrush Ecosystem Program, the following shall be completed:
 8. Causes for disciplinary action are as follows:
 - a. Activity which is incompatible with a verifier's conditions of certification, or which violates a state or federal provision.
 - b. Disgraceful or discourteous treatment of the public, staff, or other Verifiers.
 - c. Incompetence, inefficiency, or inexcusable neglect of duty that creates an undue burden on the Sagebrush Ecosystem Program.
 - d. Fraud, dishonesty, or misrepresentation to the Sagebrush Ecosystem Program, its Proponents, or the public.
 - e. Abuse, damage to or waste of public equipment, property, or supplies because of inexcusable negligence or willful acts.
 - f. Drug or alcohol use or abuse without a medical doctor's prescription while representing the Sagebrush Ecosystem Program.
 - g. Conviction of any criminal act involving moral turpitude, or documentation of acts of violence that arise out of or during the performance of the Verifier's duties.
 - h. Violation of any rule of the Sagebrush Ecosystem Program, or
 - i. Failure to participate in any investigation in which the Verifier is the subject of alleged discrimination, sexual harassment, or any other investigation authorized by the Sagebrush Ecosystem Program.
 9. Should the Program Manager become aware of any action of a Verifier listed above, the Program Manager will issue a verbal warning to the Verifier that details the cause for disciplinary action and required improvement.
 - a. The verbal warning will be documented by the Sagebrush Ecosystem Program via written, electronic, or paper means, and a copy of such documentation will be supplied to the Verifier.
 - b. This step may be done multiple times for various causes for disciplinary actions.
 - c. Should the Verifier contest any allegations brought forth against them, they are able to request a meeting with the Finder of Fact to contest the step in the decertification process within 30 days of the receipt of the verbal warning.
 10. If the verbal warning does not cause a correction of the action, various offenses cumulatively add up to a more concerning issue, or a more severe initial action is warranted, a written warning must be sent to the Verifier's last known mailing address by means of a delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received.
 - a. The warning must outline the concerns and give the Verifier a timeline to show improvement.
 - b. If the notice is returned without having been received by the Verifier, the Verifier's date of receipt shall be deemed to be the third day after the date the notice was sent.
 - c. Should the Verifier contest any allegations brought forth against them, they are able to request a meeting with the Finder of Fact to contest the step in the decertification process within 30 days of the receipt of the written warning.
 11. If the proper corrective action is not completed within the timeframe set above, the Verifier will be notified of suspension of their certification, with the possibility of a full decertification, and a

disciplinary hearing will be set with the Deputy Director of DCNR as the Finder of Fact pursuant to NRS 233B.121-150, or if the Verifier so requests, the Finder of Fact may be changed to the Sagebrush Ecosystem Council (SEC), and the hearing can be held at the next public SEC meeting, or if the SEC chooses, a special meeting, but in all circumstances in compliance with the open meeting laws.

- a. The Verifier must be given at least 10 working days' notice of the hearing by means of a delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received.
 - b. The notice must include all of the following:
 - i. A statement of the time, place, and nature of the hearing.
 - ii. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - iii. A reference to the particular sections of the statutes and regulations involved.
 - iv. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.
 - c. If the notice is returned without having been received by the Verifier, the Verifier's date of receipt shall be deemed to be the third day after the date the notice was sent.
 - d. The written notice must inform the Verifier that a disciplinary hearing has been scheduled on his or her behalf and specify the date, time, and place of the hearing.
 - e. If the Program Manager and the Verifier agree, the date of the disciplinary hearing may be changed.
 - f. If the Verifier does not understand the reasons for the suspension or decertification or the procedures related to disciplinary actions, the Verifier may seek an explanation from the Sagebrush Ecosystem Program or another person in the agency familiar with the procedure.
 - g. The Verifier may waive the right to a disciplinary hearing in writing. If so, the date of decertification is effective immediately.
 - h. The Finder of Fact makes the final decision at the hearing, and a copy of the final decision will be provided in writing by means of a delivery service that provides a written or electronic record of the date the notice was sent and the date the notice was received to the Verifier and, if applicable, the effective date of decertification.
12. The procedures specified above need not be followed before decertifying a Verifier if the circumstances give the Sagebrush Ecosystem Program a reasonable cause to believe that the certification of the Verifier poses a threat to life, limb or property or may be detrimental to the interests of the State or the Sagebrush Ecosystem Program's Proponents.
 13. The Program Manager may reinstate a former Verifier following his or her decertification from the Sagebrush Ecosystem Program after a period of 5 years, so long as the subject Verifier formerly reapplies and abides by all the requirements for Verifier certification. Additionally, the Verifier needs to have completed and/or finished any requirements that the Finder of Fact from the decertification hearing required of the Verifier in fact-finder's written findings before the Verifier may apply for recertification.
 - a. A person re-earning verification will be subject to a 5-year probationary period in which any disciplinary action will immediately initiate the Decertification Process at step 5.