

**LCB File No. R054-00**

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION  
PETITION 2000-06**

EXPLANATION - Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

Authority: NRS 459.656

**Section 1.** Chapter 459 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

**Sec. 2. (Certification Requirements.)**

*(1) any application, remedial agreement, or certification to the administrator where actions have been completed in accordance with a remedial agreement shall comply with the requirements of NAC 459.970 to 459.9729 (Regulations for the Certification of Certain Consultants and Contractors). The requirements of NAC 459.970 to 459.9729 apply to all information which may be submitted to support an application, remedial agreement or certification.*

**Sec. 3. (Application.)** *A responsible party with respect to an eligible property or a prospective purchaser of an eligible property may make application to participate in the program. The application must be submitted to the administrator of the division and shall:*

- (1) be on a form prescribed by the administrator;*
- (2) include an environmental site assessment of the eligible property so as to thoroughly evaluate the site to determine eligibility. The environmental assessment may be accomplished by using the Standard Practice for Environmental Site Characterization identified in E 1527-97 and E1528-96 of the American Society for*

*Testing and Materials, or equivalent method approved by the administrator. The environmental site assessment shall include:*

*(a) information regarding the site, including property ownership, current property use, proposed property use, prior and present contact with regulatory agencies that relate to the environmental condition of the property;*

*(b) a legal site description;*

*(c) a description of the physical characteristics of the site;*

*(d) the operational history of the site to the extent known by the applicant;*

*(e) information of which the applicant is aware concerning the nature and extent of any contamination or release at the site, or releases at sites immediately contiguous to the proposed site; and*

*(f) relevant information of which the applicant is aware concerning the potential for human and environmental exposure to contamination at the site;*

*(3) include a proposed general plan for removal or environmental cleanup on the property;*

*(4) include a fee prescribed by section 3; and*

*(5) include any additional information or other factors specific to the eligible property as determined by the applicant or the administrator.*

**Sec. 4. (Fee for processing and review of applications.)**

*(1) A responsible party with respect to an eligible property, or a prospective purchaser of an eligible property shall submit to the division the following, non refundable, application fee:*

*Application Fees:*

*Residential.....\$400.00*

*Commercial*

*<1 acre .....\$500.00*

*1-25 acres.....\$1,000.00*

*>25-100 acres .....\$1,600.00*

*>100 acres.....\$2,000.00*

**Sec. 5. (Remedial agreement.)**

*(1) the remedial agreement must:*

*(a) be submitted to the administrator of the division within 1 year from the date the application was approved by the administrator;*

*(b) contain information regarding the applicants financial ability to perform the voluntary cleanup as set forth in Section 5;*

*(c) include a phase II environmental assessment using the American Society for Testing and Materials (ASTM) standard practice for Environmental Site Characterization, or any equivalent method approved by the administrator;*

*(d) include a corrective action plan which identifies the substances to be removed or remediated, the proposed removal or remediation methods and appropriate remediation standards, consistent with NAC 445A.226 to 445A.22755 (Action Levels for Contaminated Sites);*

*(e) identify the intended use of the property and uses for which the property will not be suitable after the removal or remediation of the hazardous substance or substances;*

*(f) include a provision for recovery of costs by the division as identified in Section 6 and*

*(g) include a grant of access to the administrator to enter the property to oversee and observe the work during or after the removal or remediation.*

*(2) the remedial agreement must be approved before the participant may initiate any removal or remediation covered in the agreement.*

**Sec. 6. (Financial capability and responsibility: Estimate for cost of undertaking removal or remediation of the hazardous substance or substances.)**

*(1) the participant in a remedial agreement shall submit a detailed cost estimate to restore the property to the condition to which it would be restored if the division caused action to be taken pursuant to NRS 459.537. The estimated cost must account for the costs of all activities described in the remedial agreement.*

*(2) On the basis of the cost estimate required by section 5.1, the participant must demonstrate to the administrator's satisfaction that he is financially capable of completing the remedial agreement.*

**Sec. 7. (Recovery of division costs.)**

*(1) The remedial agreement shall provide for recovery by the division of all direct and indirect costs of reviewing the remedial agreement, all direct and indirect costs of overseeing and supervising the actions specified in the remedial agreement and all direct and indirect costs associated with the issuance of a certificate of completion.*

*(2) The division will commence billing the participant, upon submittal to the division of a remedial agreement, on a quarterly basis or other schedule as agreed upon by both the division and the participant.*

*(3) The participant and the administrator may negotiate prepayment of the estimated costs for the activities specified in section 6.1. Actual costs will be deducted, as identified in section 6.2, from the prepaid amount. If the estimated amount is insufficient to cover all division costs, the participant and administrator shall negotiate additional prepayments sufficient to cover division costs. The division shall return excess funds prepaid by the applicant upon issuance of a certificate of completion.*

**Sec. 8. (Certification of completion of the remedial agreement by the participant. Certificate of completion, partial certificate: requirements.)**

*(1) Upon completion of the activities described in the remedial agreement, the participant shall submit a report to the administrator which certifies that the requirements of the remedial agreement have been satisfied.*

*(2) After verification by the administrator of the certification specified by section 7.1, the administrator shall issue the participant a certificate of completion as set forth by NRS 459.638.*

*(3) A partial certificate of completion may be issued by the administrator for distinct portions of an eligible property. Those portions of an eligible property for which a participant is seeking a partial certificate must satisfy all the requirements of these regulations and NRS 459.610 to 459.658.*