

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R054-00

April 4, 2000

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

AUTHORITY: §§1-15, NRS 459.656.

Section 1. Chapter 459 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Administrator” means the administrator of the division.*

Sec. 4. *“Division” means the division of environmental protection of the state department of conservation and natural resources.*

Sec. 5. *“Eligible property” has the meaning ascribed to it in NRS 459.618.*

Sec. 6. *“Participant” has the meaning ascribed to it in NRS 459.622.*

Sec. 7. *“Program” has the meaning ascribed to it in NRS 459.624.*

Sec. 8. *“Responsible party” has the meaning ascribed to it in NRS 459.630.*

Sec. 9. *Any application, remedial agreement, certification to the administrator or information submitted to the division pursuant to sections 2 to 15, inclusive, of this regulation must be signed by a consultant or contractor who is certified pursuant to NAC 459.970 to*

459.9729, inclusive, in the area that is appropriate for the type of cleanup that is the subject of such documents or information.

Sec. 10. 1. *A person who desires to apply for participation in the program pursuant to NRS 459.634 must apply on the application form prescribed by the administrator.*

2. An environmental assessment of the eligible property required pursuant to NRS 459.634 may be conducted pursuant to the Standard Practice for Environmental Site Assessments described in E1527-97 and E1528-96 of the American Society for Testing and Materials or pursuant to a similar method that is approved by the administrator. Such an assessment must include:

(a) Information regarding the site, including property ownership, current property use, proposed property use and all written communications with regulatory agencies that relate to the environmental condition of the property;

(b) A legal description of the property;

(c) A description of the physical characteristics of the property;

(d) To the extent known by the applicant, the operational history of the site;

(e) To the extent known by the applicant, information concerning the nature and extent of any contamination or release at the eligible property or at property that is contiguous to the eligible property; and

(f) To the extent known by the applicant, relevant information concerning the potential for human and environmental exposure to contamination at the property.

3. *In addition to the requirements of NRS 459.634, an applicant:*

(a) Must submit any additional information specific to the eligible property that is requested by the administrator; and

(b) May submit any additional information specific to the eligible property that the applicant deems appropriate.

Sec. 11. *A person who submits an application for participation in the program must submit to the division one of the following nonrefundable application fees, as applicable:*

Residential\$400

Commercial

Less than 1 acre 500

1 to 25 acres 1000

26 to 100 acres 1,600

More than 100 acres 2,000

Sec. 12. 1. *A participant must submit a remedial agreement to the administrator within 1 year after the date on which his application was approved by the administrator. In addition to the requirements of NRS 459.636, a remedial agreement must include:*

(a) A cost estimate and information regarding the financial ability of the participant to perform the voluntary cleanup as set forth in section 13 of this regulation;

(b) A phase II environmental assessment using the Standard Practice for Environmental Site Assessments of the American Society for Testing and Materials or any equivalent method that is approved by the administrator;

(c) A corrective action plan that 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, inclusive; and

(d) A description of the intended use of the property.

2. A participant may not initiate any removal or remediation that is described in a remedial agreement until the remedial agreement has been approved by the administrator.

Sec. 13. *1. A participant must 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 cost estimate must account for the costs of all activities described in the remedial agreement.*

2. Through the cost estimate, the participant must demonstrate to the satisfaction of the administrator that the participant is financially capable of completing the remedial agreement.

Sec. 14. *1. The provisions of the remedial agreement that provide for the recovery of costs by the division must include, without limitation, the costs the division incurred for:*

- (a) Reviewing the remedial agreement;*
- (b) Overseeing and supervising the actions specified in the remedial agreement; and*
- (c) Issuing a certificate of completion.*

2. After the participant submits a remedial agreement to the division, the division shall begin billing the participant on a quarterly basis or on such other schedule as agreed upon by the division and the participant.

3. The participant and the administrator may negotiate a prepayment schedule for the estimated costs for the activities specified in subsection 1. Actual costs must be deducted from the prepaid amount according to the billing schedule established pursuant to subsection 2. If the estimated amount of the prepayment is insufficient to cover all the costs of the division described in subsection 1, the participant and the administrator shall negotiate additional prepayments sufficient to cover the costs of the division. After the division issues a certificate of completion, the division shall return all excess money prepaid by the participant.

Sec. 15. 1. *To certify that all the activities in the remedial agreement have been completed pursuant to NRS 459.638, the participant shall submit a report to the administrator which shows that each activity in the agreement has been completed in accordance with the terms of the agreement.*

2. *The administrator may issue a certificate of partial completion for a portion of an eligible property that is distinct if such a portion of the eligible property satisfies all the requirements of NRS 459.610 to 459.658, inclusive, and sections 2 to 15, inclusive, of this regulation.*