

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 2000-06**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-054-00**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

**For Filing Administrative  
Regulations**

For Emergency  
Regulations Only

Effective Date

Expiration Date

Governor's Signature

**State Environmental Commission**

Classification  Proposed  Adopted By Agency  Temporary  Emergency

**Brief description of action:** **Petition 2000-06 (LCB File R-054-00)** permanently amend NAC 459 by adding new provisions establishing a Voluntary Cleanup Program for eligible contaminated properties. The regulations establish that eligible parties must comply with the “consultant certification” NAC 459.970 to 459.9729, establishes an application process for eligible properties including the type of information required by the application, fees for processing and review of applications are defined and provisions for remedial agreements are defined. The regulations also define financial capability and responsibility for eligible parties, and a process for eligible parties upon completion of remediation activities to receive a full or partial certificate of completion.

**Authority citation other than 233B:** NRS 459.656

**Notice date:** March 21, 2000, March 29, 2000 and April 6, 2000

**Hearing date:** April 20, 2000

**Date of Adoption of Agency:** April 20, 2000

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PERMANENT PETITION 2000-06 (R-054-00)  
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 459. This permanent regulation deals with adoption of a voluntary cleanup program.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

**Petition 2000-06 (R-054-00)**, was noticed three (3) times: March 21, 2000, March 29, 2000 and April 6, 2000 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. A report was prepared that summarized the public meetings. Workshops were held on December 20, 1999 in Carson City, December 22, 1999 in Elko and December 21, 1999 in Las Vegas. Supplemental meetings with the regulated community (the Consulting Engineers Council of Nevada) were held January 26, 2000 in Reno and January 27, 2000 in Las Vegas. All affected permittees were mailed the proposed rules, including other interested parties. The regulation was adopted by the State Environmental Commission on April 20, 2000. No verbal or written comments were received at the Commission's hearing supporting or opposing this permanent regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**2. The number persons who:**

- |            |                                                  |    |
|------------|--------------------------------------------------|----|
| <b>(a)</b> | <b>Attended each hearing;</b>                    | 18 |
| <b>(b)</b> | <b>Testified at each hearing:</b>                | 0  |
| <b>(c)</b> | <b>Submitted to the agency written comments:</b> | 0  |

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral testimony was received that opposed or supported the permanent regulation. No written testimony was received relating to the permanent regulation. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted by the State Environmental Commission on April 20, 2000 with no proposed amendments.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

(a) Estimated economic effect of the regulation on the business which it is to regulate;

The proposed permanent regulation is not anticipated to have any significant adverse short or long-term economic impact on Nevada businesses.

(b) Estimated economic effect on the public;

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulation should be beneficial to the public, businesses and regulated communities by providing an additional avenue to clean up contaminated properties. The program provides incentives to remediate property by removing liability of future landowners and lenders.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The regulations are no more stringent than federal regulations.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This is a voluntary program which, if an individual wishes to participate, requires an application fee. The fee covers the costs by the Division to review the application and determine the application's eligibility to participate in the program. It is unknown as to the amount of revenues to be received from the application fee.

**END OF FILING STATEMENT FOR 2000-06 (R-054-00)**

**FILED PERMANENT REGULATION OF THE  
NEVADA STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R054-00**

**Effective May 26, 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.....	1,000
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 mediation 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.**

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