

**FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR
ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION
REGULATIONS**

Petition number: P2016-10

Form #1

1. Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249
(775) 687 – 9397
June 27, 2016



Jeff R. Collins, Chief
Bureau of Corrective Actions
(775) 687-9381

2. **Specific type of petitioner (individual, partnership, corporation, government agency, or other) and the exact occupation or business, including a description of the occupation or business if necessary:**

The Division of Environmental Protection (Division) is an agency of the Department of Conservation and Natural Resources of the State of Nevada. The Division is an environmental regulatory agency.

3. **Exact and specific nature of changes sought, including delineation of the regulations, statutory provisions of Commission decisions involved. May include a statement of the written term or substance of the proposed regulatory action, or a description of the subjects and issues involved:**

The proposed changes to the regulations will: 1. Remove the granting of certifications based on reciprocity for licensure or certification in other states; 2. Remove the “Specialist in the management of hazardous waste” designation; 3. Comply with the updated underground storage tank code of federal regulations (40 CFR 280.245) by adding the certification of persons providing approved training programs for underground storage tank operators; and 4. Require certification renewal within 1 year of the certificate expiration date.

4. A statement of the need for and purpose of the proposed regulation:

- 1. Removal of NAC 459.9724, certification of person certified by another state or recognized organization:** Under NRS 459.500, the NDEP is responsible for the certification of professionals who provide fee-based consulting services for the following: response to and the cleanup of leaks of hazardous waste, hazardous material or a regulated substance, the management of hazardous waste, and the testing, installation, removal and repair of underground storage tank systems. In order to demonstrate basic knowledge of and proficiency in interpreting and applying Nevada-specific regulations pertaining to reporting and management of regulated substance releases in Nevada, NDEP administers a standardized test for Certified Environmental Managers (CEMs). NDEP regulations also require specific experience requirements for CEMs, underground tank handlers and testers that are not equivalent to other state programs.
- 2. Removal of NAC 459.9714 and 459.9721, Specialist in the management of hazardous waste:** Since 2002, only four individuals have applied to be a specialist in the management of hazardous waste with no renewals for this certification since 2007. In general, there has not been a market for this certification since the CEM can perform the same duties. Therefore, this provision of the regulations has become obsolete.
- 3. Addition of Certification of Provider of an approved Underground Storage Tank Training Program:** It is a federal requirement for states that implement the underground storage tank program to identify and approve operator training programs for underground storage tank operators. Certification of the persons implementing the training programs will standardize the programs and ensure each program meets the federal regulation requirements.
- 4. NAC 459.9728: Addition of a certificate renewal time requirement:** This change will clarify that individuals who wish to renew their certification must do so within 1 year after the certificate date of expiration or they must re-apply on as a new applicant. This change is needed since individuals who do not keep their certificate renewal current will not receive information on future changes to Nevada regulations, policy and guidance pertaining to their certification and standards of practice.

5. A statement of the:

- (a). Estimated economic effect of the regulation on the business which it is to regulate:** The \$100 fee to apply to be certified as a person that can administer an approved operator training program and to be renewed every two years is voluntary and is only required if the business or individual wants to do this type of work in Nevada. The \$100 fee to become and remain eligible to conduct operator training for underground storage tank operators in Nevada is considered nominal to become eligible to provide a fee service.

(1) Both adverse and beneficial effects:

The NDEP previously reviewed eligible operator training programs in 2011 when the federal regulations made it mandatory that states oversee these programs and created a list of persons who could administer the training. However, there has been no further oversight of these approved programs or the persons administering the programs. This regulation would bring consistency to NDEP oversight of the providers of UST training programs and provide an up-to-date list of these providers for reference by gas station operators. This is consistent with how other professionals are certified by NDEP.

(2) Both immediate and long-term effects:

This formalizes NDEP oversight on UST Operator Training Programs as required by 40 CFR 280.245. This will enable NDEP to review training programs and accept or reject the program based on compliance with federal regulation.

(b) Estimated economic effect on the public:

There will be no economic effect on the public.

(1) Both adverse and beneficial effects: n/a

(2) Both immediate and long-term effects: n/a

(c) Estimated cost by the agency for enforcement of the proposed regulation:

The agency will need to review the applications of the person providing training programs bi-yearly causing a minimal cost in salary to the agency for enforcement.

6. A description of any regulations for 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 proposed amendments adopt EPA federal regulations from 40 CFR 280.245 in order to allow the NDEP to implement them in Nevada through delegation under State Program Approval.

7. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions. The statement must include the specific citation of the federal statute or regulation requiring such adoption:

The proposed revisions are no more stringent than what is established by federal law.

8. 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:

The regulation includes a \$100 application processing fee collected for the initial application and every two years for renewal. The fee will be added to the Certification budget and be used to pay the salary of the Certification Program Manager and support staff directly involved in application processing.