

**APPROVED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R075-23

Filed on February 27, 2024

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

AUTHORITY: § 1, NRS 459.3818 and 459.3829.

A REGULATION relating to the Chemical Accident Prevention Program; removing the requirement that an owner or operator submit two copies of the complete application for a permit to construct a new process which involves hazardous substances or explosives; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Environmental Commission to adopt regulations establishing a program for the prevention of accidental releases of chemicals. (NRS 459.3818) This program is commonly known as the Chemical Accident Prevention Program, or C.A.P.P. (NAC 459.952-459.95528) Existing law also requires the Commission to adopt regulations establishing the requirements for the issuance of a permit to commence construction or operation of a new process involving hazardous substances or explosives. (NRS 459.3829) Existing regulations require an owner or operator of a facility involving hazardous substances or explosives to obtain a permit from the Division of Environmental Protection of the State Department of Conservation and Natural Resources before commencing the construction of a new process subject to C.A.P.P. (NAC 459.95345) To obtain a permit, under existing regulations, an owner or operator must submit a complete application along with two copies of the complete application to the Division. (NAC 459.953451) This regulation removes the requirement that two copies of the complete application be submitted to the Division.

Section 1. NAC 459.953451 is hereby amended to read as follows:

459.953451 1. To obtain a permit to construct a new process subject to C.A.P.P., an owner or operator of a new process must submit to the Division a complete application for a permit to

construct. ~~[and two copies of the complete application.]~~ The Division shall determine which elements of the application, if any, will be reviewed at the site where the new process will be

2. An application for a permit to construct a new process must be made on a form prescribed by the Division and include:

(a) Registration for the process that includes:

- (1) The information required by NAC 459.9535;
- (2) A summary of the hazard assessment conducted pursuant to NAC 459.95364 to 459.95376, inclusive;
- (3) The name, address and telephone number of the person submitting the plans;
- (4) An overview of the project that includes a description of:
 - (I) The process;
 - (II) The hours of operation during which the process will be operated;
 - (III) The estimated number of personnel, for each shift, who will be working on the process, including, without limitation, personnel in operations, personnel in maintenance, office staff, contract personnel and any other personnel;
 - (IV) The modes, frequency and hours of transportation of the incoming and outgoing raw materials and products;
 - (V) The scope of the construction; and
 - (VI) The schedule for the project; and
- (5) Information concerning the inspectors of the construction required pursuant to NAC 459.953461;

(b) A coordinated emergency response plan document developed pursuant to NAC 459.9544 and 459.95442;

(c) Information concerning the process and safety process hazard analysis required pursuant to NAC 459.953455;

(d) Documents, specifications and calculations required pursuant to NAC 459.953457, 459.953459 and 459.95346; and

(e) A copy of the conditional use permit issued pursuant to NRS 278.147.

3. Documents, specifications and calculations submitted pursuant to NAC 459.953457, 459.953459 and 459.95346 must:

(a) Be stamped or sealed in accordance with chapter 625 of NRS, and any regulations adopted pursuant thereto, by the engineer who has responsible charge of the document, specification or calculation; and

(b) Include a table of contents or cover sheet that complies with the requirements of chapter 625 of NRS and any regulations adopted pursuant thereto.



Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R075-23P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

R075-23 proposes to amend the language of Nevada Administrative Code (NAC) 459.953451(1).

The purpose of the proposed amendment is to revise a regulation that has a requirement that is no longer necessary for achieving the intents and purposes of NRS 459.380 to NRS 459.3874, inclusive. It removes the requirement to submit two copies of a completed permit to construct application that is subject to the Chemical Accident Prevention Program (CAPP). It is necessary to repeal the regulation to improve efficiency in administering CAPP and minimize the resources needed.

This amendment aligns with Governor Lombardo's Executive Order 2023-003 encouraging executive agencies to streamline and simplify their regulations.

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

The Division held one hybrid (in-person and virtual) public workshop for R075-23P on September 28, 2023. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Twelve members of the public and regulated industry attended the workshop either in-person or virtually.

The Legislative Counsel Bureau published its draft, R075-23P, in the Nevada Register on October 30, 2023. The Division accepted written comments on R075-23I and R075-23P up to September 28, 2023. The Division did not receive any written comments and/or questions concerning R075-23I and/or R075-23P.

The SEC held a hybrid regulatory hearing on December 5, 2023, to consider possible action on R075-23P. The SEC posted its public notice, which included a link¹ and instructions to access R075-23P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

[REDACTED]

Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended December 5, 2023, hearing: 58 (approximately)
- (b) Testified on this Petition at the hearing: 1

- 1. Jennifer Schumacher, on behalf of the Nevada Division of Environmental Protection
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- (c) Submitted to the agency written comments: 0

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

Comments were solicited from affected businesses through one public workshop and at the September 20, 2022 SEC hearing as noted in number 2 above.

5. 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 Commissioners unanimously adopted R075-23P without change because the public and the SEC were satisfied with the proposed regulation.

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-december-5-2023>

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry. The proposed amendment will not impose requirements on businesses, so there is no economic impact. The proposed amendment will simplify the process for applying for a permit to construct.

Public. The regulatory amendments in R075-23P are expected to have no economic impact on the public.

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

Enforcing Agency. The regulatory amendments proposed in R075-23P are not expected to result in any additional costs to the Division.

8. 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 proposed amendments in R075-23P do not overlap or duplicate other state or government agencies.

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

The regulatory amendments in R075-23P are no more stringent than what is established by federal law.

10. 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.

Not applicable; the proposed amendment does not provide for any new fees or increases to existing fees.

