

STATE BOARD TO REVIEW CLAIMS

MEETING OF SEPTEMBER 8, 2022

Video conferenced from Carson City and Las Vegas, Nevada

SUBJECT: Policy Resolution 2022-02 Replaces the State of Nevada Petroleum Fund Cost Guidelines

DISCUSSION: The State of Nevada Petroleum Fund Cost Guidelines (Guidelines) provide a basis for the preparation and review of coverage applications, cost proposals, claims for reimbursement, and proof of payment documentation. The earlier versions of the Guidelines were initially adopted by the Board to Review Claims in 1996 pursuant to Board Resolution number 96-016. A major revision to the Guidelines occurred in 2001, with the passing of Policy Resolution 2001-05. Policy Resolution 2001-05 incorporated the earlier policies that were used to establish certified environmental manager (CEM) oversight and provided information about ineligible costs. This resolution was used and updated through 2022. The Guidelines established under Policy Resolution 2022-02 will replace all earlier versions of Guidelines documents used for Nevada's Petroleum Fund program.

A proposed draft was distributed to the regulated community in July 2022 for comments. In response to received comments, the draft Guidelines were amended. A markup version of the final draft of the Guidelines is included in this Resolution as Attachment A. The format shown allows amendments made to be clearly identified; red-lined items have been removed and bolded blue text are additions. Should the Board adopt this Resolution as proposed, Fund staff will post a clean final version of this document to our website at: <https://ndep.nv.gov/environmental-cleanup/petroleum-fund>

These Guidelines become effective on December 8, 2022, and will be applied to all cost proposal and claim submittals received after the December 8, 2022, Board quarterly meeting.

Any future amendments to the Guidelines will be completed by providing proposed changes to the regulated community for review and comment. If no comments are received which oppose the proposed change(s), NDEP will proceed to update the Guidelines and inform the Board of the change(s) at the next quarterly Board meeting. If comments are received which dispute the proposed change(s), NDEP will either resolve the conflict or present the issue to the Board for its consideration.

RECOMMENDATION: Adoption of Policy Resolution No. 2022-02, as proposed, which replaces Resolution No. 2001-05.

STATE BOARD TO REVIEW CLAIMS
RESOLUTION NO. 2022-02

Resolution to adopt the State of Nevada Petroleum Fund Cost Guidelines

Whereas, the State Board to Review Claims (hereinafter referred to as the Board) Finds:

1. In August 1996, the Board first adopted the State of Nevada Petroleum Fund CEM Cost Guidelines pursuant to Resolution number 96-016.
2. In September 2001 and following the preparation of draft CEM Cost Guidelines amendments, the NDEP solicited input from the regulated public and presented the proposed changes during workshops in Carson City and Las Vegas. The first revised Guidelines document was implemented in December 2001 under Board Resolution number 2001-05.
3. NDEP has made multiple updates to the CEM Cost Guidelines to better reflect current corrective action practices for leaking storage tank systems. Modifications include, but are not limited to, the addition of new tasks, expanding and clarifying existing language for commonly questioned assessment and remediation tasks, and the addition of several new appendices that include additional discussion and rates for field equipment and consumable materials, cost analysis of renting versus purchasing site remediation equipment, emergency/initial abatement activities, and CEM markup on subcontracted costs.
4. The Guidelines in Attachment A outline how Fund staff will implement a revised cost proposal system. Each cost proposal will include work scope tasks intended to allow a CEM the ability to manage staff levels of effort throughout various project phases. The Fund has established lump sum costs for many of the work scope tasks based on review of data submitted with previous not-to-exceed-proposals under the 2001-05 CEM Cost Guidelines from December 2016 through May 2022. These lump sum costs take into account current professional service rates, recent inflation, and will be revised periodically to account for future cost increases associated with economic conditions. In establishing lump sum work scope task values, as opposed to specifying the number of hours consulting staff may utilize, work can be streamlined based on the CEM's experience and site-specific needs. Additionally, staff gain efficiency in reviewing claims submitted to the Fund for reimbursement.
5. Comments and suggestions from the regulated community regarding today's proposed Guidelines were solicited in July 2022 via email. Additional amendments were made to the proposed Guidelines in response to comments received.
6. A final version of the Guidelines has been made a part of this resolution as Attachment A. Fund staff will post the adopted version of this document to the Nevada Petroleum Fund website at <https://ndep.nv.gov/environmental-cleanup/petroleum-fund> upon adoption by the Board.

THEREFORE, BE IT RESOLVED THAT:

1. The Board adopts the Petroleum Fund Cost Guidelines, as provided in Attachment A of this Policy Resolution (2022-02).
2. Both this Resolution and a copy of the Guidelines shall be posted to the Nevada Petroleum Fund website at <https://ndep.nv.gov/environmental-cleanup/petroleum-fund> for public review.
3. The Guidelines will become effective December 8, 2022.
4. NDEP staff will apply the Cost Guidelines to all cost proposals and claims received after the December 8, 2022, Board meeting.
5. Future amendments to the Guidelines will be completed by providing proposed changes to the regulated community for review and comment. If no comments are received which oppose the proposed change(s), NDEP will proceed to update the Guidelines and inform the Board of the change(s) at the next quarterly Board meeting. If comments are received which dispute the proposed change(s), NDEP will either resolve the conflict or present the issue to the Board for its consideration.

I, Maureen Tappan, Chair, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the Nevada State Board to Review Claims on September 8, 2022.

A handwritten signature in blue ink that reads "Maureen Tappan". The signature is written over a horizontal line.

Maureen Tappan, Chair
State Board to Review Claims