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R033-22P: This permanent regulation revises NAC 459. The State Environmental Commission adopted permanent regulation R033-22P, which addresses Nevada's Certified Environmental Manager (CEM) program. It increases application fees and addresses certification prerequisites, strengthening the CEM program.

Authority citation other than 233B:

§§1-23, NRS 445A.425, 445A.860 and 445A.880; §§24, 25 and 26, NRS 445A.425; §27, 28 and 29, NRS 445A.860 and 445A.880, §30 and 31, NRS 233B.050, 445A.425, 445A.860 and 445A.880; §§32-52, and 54-58, NRS 459.485 and 459.500; §§53 and 59, NRS 233B.050, 459.485 and 459.500.

Notice date: May 9, 2022

Hearing date: June 15, 2022

**APPROVED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R033-22

Filed September 28, 2022

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

AUTHORITY: §§ 1-3, 5 and 6, NRS 459.485 and 459.500; § 4, NRS 459.500 and 459.826.

A REGULATION relating to environmental protection; revising certain qualifications for an applicant for certification as an environmental manager; revising various fees for an applicant for certification as an environmental manager, handler of underground storage tanks, tester of underground storage tanks and provider of an approved underground storage tank training program; revising the fee to renew a certificate as an environmental manager, handler of underground storage tanks, tester of underground storage tanks and provider of an approved underground storage tank training program; requiring the completion of certain hours of continuing education to renew such a certificate; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Environmental Commission to adopt regulations for the certification of consultants involved in consultation regarding the response to and clean up of leaks of hazardous waste, hazardous material or a regulated substance from underground storage tanks, the clean up of spills of or accidents or motor vehicle crashes involving hazardous waste, hazardous material or a regulated substance, or the management of hazardous waste. Existing law authorizes the Commission to collect fees to pay the cost of inspection, certification and, with certain exceptions, other regulation. (NRS 459.500)

Existing regulations require an applicant for certification as an environmental manager to have: (1) a bachelor's or advanced degree and 3 years of relevant environmental experience; (2) a professional registration or certification and 3 years of relevant environmental experience; or (3) a combination of education or experience. (NAC 459.972) **Section 1** of this regulation instead requires an applicant to have a bachelor's or advanced degree and 3 years of relevant environmental experience.

Existing regulations require an applicant for certification as an environmental manager, handler of underground storage tanks, tester of underground storage tanks and provider of an approved underground storage tank training program to pay a fee of \$100 to the Division of

Environmental Protection of the State Department of Conservation and Natural Resources for the review of the application. (NAC 459.972-459.97232) **Sections 1-4** of this regulation increase this fee to \$150.

Existing regulations require an applicant for certification as an environmental manager, handler of underground storage tanks and tester of underground storage tanks to pay an examination fee for certification and, if the applicant fails the examination, a reexamination fee. (NAC 459.9726) **Section 5** of this regulation increases the fee for examination and reexamination from \$150 to \$200.

Existing regulations set forth certain requirements for a holder of a certificate to renew his or her certificate, which includes paying a fee of \$100 for the renewal. (NAC 459.9728) **Section 6** of this regulation: (1) increases the renewal fee to \$150; and (2) requires the holder of a certificate to successfully complete at least 24 hours of continuing education in the immediately preceding 2 years and submit proof of such completion to the Division with his or her application for renewal.

Section 1. NAC 459.972 is hereby amended to read as follows:

459.972 An applicant for certification as an environmental manager must:

1. Be of good character and reputation as determined by the Division upon review of the applicant's references, record of violations of environmental laws and regulations and such other considerations as the Division deems necessary and proper. Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.

2. Submit to the Division:

- (a) An application on a form provided by the Division;
 - (b) A nonrefundable fee of ~~150~~ **150** for the review of the application;
 - (c) A color photograph of the applicant which is approximately 2 inches by 2 inches;
 - (d) A statement signed by the applicant under penalty of perjury declaring the details of all pleas of guilty or nolo contendere in any criminal proceeding and all convictions of any crimes;
- and

(e) Three letters of reference from natural persons with experience in the services of that classification attesting to the applicant's moral character and competence in that classification.

3. Demonstrate to the Division that the applicant ~~{meets one of the following qualifications:}~~
has:

(a) A bachelor's or advanced degree from an accredited college or university in an area relating to the environment including, but not limited to, environmental science, engineering, geology, hydrology, hydrogeology, biology, toxicology, environmental health, physics, industrial hygiene or chemistry ; and ~~{at}~~

(b) At least 3 years of relevant environmental experience within the 5 years immediately preceding the date of the application . ~~{t}~~

~~—(b) A relevant professional registration or certification recognized by the Division and at least 3 years of relevant environmental experience within the 5 years immediately preceding the date of the application; or~~

~~—(c) An equivalent combination of appropriate education or experience, or both, as determined by the Division.]~~

4. Pass an examination pursuant to NAC 459.9726.

Sec. 2. NAC 459.9722 is hereby amended to read as follows:

459.9722 An applicant for certification as a handler of underground storage tanks must:

1. Be of good character and reputation as determined by the Division upon review of the applicant's references, record of violations of environmental laws and regulations and such other considerations as the Division deems necessary and proper. Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.

2. Submit to the Division:

- (a) An application on a form provided by the Division;
- (b) A nonrefundable fee of ~~[\$100]~~ **\$150** for the review of the application;
- (c) A color photograph of the applicant which is approximately 2 inches by 2 inches;
- (d) A specific record of at least 2 years' experience and the direct participation in at least 10 projects relating to the handling of underground storage tanks;
- (e) A copy of an appropriate license issued by the State Contractors' Board pursuant to chapter 624 of NRS;
- (f) Proof of completion of a course approved by the Division concerning the safe handling of underground storage tanks;
- (g) A statement signed by the applicant under penalty of perjury declaring the details of all pleas of guilty or nolo contendere in any criminal proceeding and all convictions of any crimes; and
- (h) Three letters of reference from natural persons with experience in the services of that classification attesting to the applicant's moral character and competence in that classification.

3. Pass an examination pursuant to NAC 459.9726.

Sec. 3. NAC 459.9723 is hereby amended to read as follows:

459.9723 An applicant for certification as a tester of underground storage tanks must:

- 1. Be of good character and reputation as determined by the Division upon review of the applicant's references, record of violations of environmental laws and regulations and such other considerations as the Division deems necessary and proper. Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.

2. Submit to the Division:

- (a) An application on a form provided by the Division;
- (b) A nonrefundable fee of ~~[\$100]~~ **\$150** for the review of the application;
- (c) A color photograph of the applicant which is approximately 2 inches by 2 inches;
- (d) A specific record of direct participation in at least 50 tests of underground storage tanks;
- (e) A specific record of at least 1 year of experience in the testing of underground storage tanks;
- (f) Proof of training provided by the manufacturer of the equipment which is used for testing;
- (g) Proof of completion of a course approved by the Division concerning the safe handling of underground storage tanks;
- (h) A statement signed by the applicant under penalty of perjury declaring the details of all pleas of guilty or nolo contendere in any criminal proceeding and all convictions of any crimes; and
- (i) Three letters of reference from natural persons with experience in the services of that classification attesting to the applicant's moral character and competence in that classification.

3. Pass an examination pursuant to NAC 459.9726.

Sec. 4. NAC 459.97232 is hereby amended to read as follows:

459.97232 An applicant for certification as a provider of an approved underground storage tank training program must:

- 1. Be of good reputation as determined by the Division upon review of the applicant's application and such other considerations as the Division deems necessary and proper.

Certification must be denied if such a review indicates that the applicant fails to meet the applicable standards.

2. Submit to the Division:

- (a) An application on a form provided by the Division;
- (b) A nonrefundable fee of ~~[\$100]~~ \$150 for review of the application; and
- (c) Documentation satisfactory to the Division that the applicant's training program meets the requirements of Subpart J of 40 C.F.R. Part 280, as those provisions existed on November 2, 2016.

Sec. 5. NAC 459.9726 is hereby amended to read as follows:

459.9726 1. The Division will review each application and send each applicant written notice within 6 weeks of receipt of all required materials whether his or her application has been approved or rejected.

2. An applicant whose application is approved by the Division and who wishes to take the examination must submit to the Division a nonrefundable examination fee set by the Division, not to exceed ~~[\$150.]~~ \$200, at least 30 days before the examination is given.

3. The Division shall determine the content of the examinations.

4. A score of 70 is a passing score on an examination for certification.

5. An examination for each classification will be given at least once each year.

6. The examinations are the property of the Division and must remain confidential.

7. An applicant who fails the examination may apply for a reexamination. The nonrefundable fee for reexamination must be set by the Division not to exceed ~~[\$150.]~~ \$200.

8. Each application for certification will remain on file with the Division for 2 years after the date that all required materials are received by the Division. If the applicant does not pass an examination for certification or request reexamination within the 2-year period, the applicant must file with the Division a new application for certification.

Sec. 6. NAC 459.9728 is hereby amended to read as follows:

459.9728 A holder of a certificate who wishes to renew his or her certificate must, not later than 1 year after the date on which the certificate expires:

1. Demonstrate to the Division that he or she continues to meet all qualifications and performance requirements of NAC 459.970 to 459.9729, inclusive;
2. Submit an application for renewal of the certificate to the Division on a form provided by the Division;
3. Submit a nonrefundable fee set by the Division not to exceed ~~[\$100; and]~~ *\$150;*
4. Complete an examination for renewal if the Division has determined that such a renewal examination is appropriate ~~[+]~~ *; and*
5. *Successfully complete at least 24 hours of continuing education during the immediately preceding 2 years and submit with his or her application for renewal, sufficient proof of the completion of such hours, as determined by the Division.*