



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission

901 South Stewart Street, Suite 4001 -- Carson City, Nevada 89701-5249



Notice of Regulatory Hearing Adoption of Regulations and Other Matters Before the State Environmental Commission

The State Environmental Commission (SEC) will hold a meeting on Wednesday, October 2, 2019 at 9:30 am in Carson City. The meeting will be held in the Nevada Legislative Building, Room 3138, located at 401 South Carson Street. The meeting will also be video-conferenced in Las Vegas at the Grant Sawyer Building, Room 4401, located at 555 East Washington Avenue. The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this notice and the meeting agenda. The following information is provided pursuant to the requirements of NRS 233B.0603.

R036-19: Bureau of Water Quality Planning

The proposed amendments pertain to Nevada Administrative Code (NAC) Chapter 445A. NDEP is proposing to amend NAC 445A.1236 to align with the most current recommended numeric criteria published by the U.S. Environmental Protection Agency (EPA) for cadmium to protect the aquatic life beneficial use. The proposed revisions include changing values of exponents in the hardness-based equations for calculating values of acute and chronic criteria for cadmium (dissolved). In addition, a footnote will be added to the toxics table (445A.1236) to provide the EPA reference (EPA 2016b).

The proposed amendments may have a positive economic impact on the industry by lessening the burden on dischargers for the chronic cadmium criterion and no economic impact will be realized by the public. The proposed amendments do not overlap, duplicate or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments do not address fees.

R037-19: Bureau of Water Quality Planning

The proposed amendments pertain to NAC Chapter 445A. NDEP is proposing to amend NAC 445A.070 - 445A.2234, Standards for Water Quality, by making changes to the water quality standards (WQS) tables in the lower Colorado River basin from Las Vegas Valley to the Nevada/California state line. The proposed revisions include: (1) Adjust the Lower Colorado River reaches to break out Lake Mohave as distinct from the Colorado River reaches; (2) Adjust

the water quality standards in the Lower Colorado reaches for temperature and dissolved oxygen to be suitable for adult cold-water fish, because there is no evidence that stocked trout are spawning; (3) Add water quality standards for chloride and sulfate to the lower Colorado River reaches; (4) Add warm-water fish and appropriate water quality standards for adult and juvenile warm-water fish to both reaches of Las Vegas Wash; (5) Add contact recreation and appropriate water quality standard for E. coli to the Inner Bay of Lake Mead; (6) Adjust the Las Vegas Wash reaches to extend the Upper Las Vegas Wash from the confluence of Las Vegas Wash and Sloan Channel down to the Historic Lateral, (7) Add maintenance of a freshwater marsh to beneficial uses in the NAC; (8) Add Lake Las Vegas and appropriate water quality standards to the Nevada Administrative Code.

The proposed amendments are not expected to have an economic impact on industry, the public or NDEP. The proposed amendments do not overlap, duplicate or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments do not address fees.

R043-19: Bureau of Water Quality Planning

The proposed amendments pertain to NAC Chapter 445A. NDEP is proposing to amend NAC 445A.1236 to align with the most current recommended numeric criterion published by EPA for selenium to protect the aquatic life beneficial use. The proposed revisions include changes to the toxics table in NAC 445A.1236 and addition of a footnote to the table, and addition of NAC 445A.1237, describing the complex criterion for selenium, which was published by the EPA in June 2016.

The proposed amendments may have an economic impact on dischargers because the selenium standard will become more restrictive; however, it is less stringent than national recommended values. States are required to review water quality standards at least once every three years and, if appropriate, revise or adopt new standards. If NDEP does not maintain appropriate water quality standards EPA may revoke NDEP's delegation of the Clean Water Act and enforce the program itself, which is not in Nevada's best interest. No economic impact will be realized by the public or by the enforcing agency. The proposed amendments do not overlap, duplicate or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments do not address fees.

R046-19: Bureaus of Air Quality Planning and Air Pollution Control

The proposed amendments pertain to NAC Chapter 445B. NDEP is proposing to amend NAC 445B.327. The basic fee structure for the operating permits program has not been altered or amended since 2006. In that time, the state has grown and the size and scope of the air pollution control program has increased.

The amendment seeks to update the Air Program's approach to how fees are assessed to: a) align the revenue generated by the operating permits program to the increasing costs associated with the implementation of the Air Program, and b) redistribute the fee load across the regulated industry to reflect workload and resources required to implement the Air Program.

Specifically, the amendments will be:

For fees in general,

- Eliminate annual maintenance fees based on emissions for Class I sources
- Increase application and maintenance fees for all category of permits with the exception of the Class II General Permit for Stationary Sources; and
- Add definitions for terms used to describe engineering and administrative services provided in the processing of permit applications where appropriate.

For permit application fees,

- Increase the fees for new applications, revisions, and renewals of Class I Operating Permits to Construct and Operating Permits with a Prevention of Significant Deterioration (PSD) action;
- Create a tiered fee structure for new applications, revisions, and renewals of Class I Operating Permits to Construct and Operating Permits without a PSD action based on the number of emission units associated with the application;
- Create a tiered fee structure for new applications, revisions, and renewals of Class II Operating Permits based on the number of emission units associated with the application;
- Create a tiered fee structure for a Class II Surface Area Disturbance Permits based on the number of acres disturbed; and
- In certain instances create new fees where a fee was not previously charged for engineering and administrative services provided in conjunction with processing permit applications.

For annual maintenance fees,

- Increase the fee for all Class I permits;
- Create a tiered fee structure for Class II Operating Permits based on the potential to emit pollutants, the acreage of surface area disturbances, and the number of emission units; and
- Increase the fees for Class II General Permits and Class II Surface Area Disturbance Permits.

These amendments will have an economic effect on the regulated industry, though it is difficult to gauge the degree. Much of the fee structure associated with the air pollution control operating permit program is being revised. Care was taken to limit fee increases on permits and services affecting small businesses. These proposed amendments will have no direct economic effect on the public nor the enforcing agency. The proposed amendments do not overlap, duplicate or conflict with any other state or federal regulations and are not more stringent than what is established by federal law.

Additional Information: Persons wishing to comment on the proposed actions of the SEC may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, the public notice for this hearing was posted at the following locations: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (2030 E. Flamingo Rd. Suite 230), at the State Library and Archives building in Carson City (100 Stewart Street), the Nevada Division of Minerals, 400 W. King Street, Carson City, NV and the Department of Agriculture, 405 South 21st Street, Sparks, NV.

In addition, copies of this notice have been deposited electronically at major library branches in each county in Nevada as specified below. This notice and the text of the proposed regulations are also available on the SEC's website at: http://sec.nv.gov/main/hearing_1019.htm. The proposed regulations denoted in this notice, are, or will be, posted on the Legislative Counsel Bureau's website at <http://www.leg.state.nv.us/register/> and also the Department of Administration's website at <https://notice.nv.gov/>.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of Valerie King, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9374, no later than 5:00 p.m. on September 25, 2019.

This Notice was provided to or posted at the following Nevada county locations:

Carson City Library
900 North Roop Street
Carson City, Nevada 89701-3101

Lincoln County Library
63 Main Street
Pioche, Nevada 89043

Churchill County Library
553 South Main Street
Fallon, Nevada 89406-3306

Lyon County Library System
20 Nevin Way
Yerington, Nevada 89447-2399

Las Vegas-Clark County Library District
Director of Marketing and Community Relations
7060 W. Windmill
Las Vegas, Nevada 89113

Mineral County Public Library
P.O. Box 1390
Hawthorne, Nevada 89415

Douglas County Public Library
1625 Library Lane
Minden, Nevada 89423-0337

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

Elko County Library
720 Court Street
Elko, Nevada 89801-3397

Storey County Library - Closed
Posted at Clerk's Office
Address below:

Esmeralda County Library
Corner of Crook & 4th Street
P.O. Box 430
Goldfield, Nevada 89013-0430

Storey County Treasurer and Clerk's Office
Drawer D
Virginia City, Nevada 89440

Eureka County Library
10190 Monroe Street
Eureka, Nevada 89316

Tonopah Public Library (Nye County)
P.O. Box 449
Tonopah, Nevada 89049

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445-3095

Washoe County Library System
301 South Center Street
Reno, Nevada 89501-2102

Battle Mountain Branch Library (Lander County)
625 South Broad Street
Battle Mountain, Nevada 89820

White Pine County Library
950 Campton Street
Ely, Nevada 89301