

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: R136-24P

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

1. Need for Regulation

The holding tank regulations were reviewed in response to Governor Lombardo's Executive Order 2023-003; proposed amendments provide clarifications identified as needed during that process. Regulation additions are also proposed as a consequence of Assembly Bill (AB) 220 (2023) to provide certain temporary allowances and requirements pertaining to non-residential holding tanks in a county with a population exceeding 700,000 (Clark County).

During the 2023 Legislative Session, AB 220 addressed, in part, certain wastewater treatment discharge prohibitions where potable water is supplied by one of the member agencies of the Southern Nevada Water Authority. This local law related to conservation of Colorado River resources created a timing problem for certain nonresidential development in Clark County where water service is constructed but municipal sewer service it not yet available. The problem was compounded by NDEP regulation limiting the size and use of sewage holding tanks. Section 5 of this petition was crafted to provide resolution of this State-Local quandary until the provision sunsets on December 31, 2030.

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 R136-24P on August 22, 2024. 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. Five members of the public and/or regulated industry attended the workshop either in-person or virtually. The proposed regulations were also distributed to the Bureau of Water Pollution Control's email distribution list.

The Legislative Counsel Bureau published its draft, R136-24P, in the Nevada Register on August 1, 2024. The Division accepted written comments on R136-24I and R136-24P for 30 days ending on August 29, 2024. The Division did not receive any verbal questions concerning R136-24I and/or R136-24P during the public workshop. A summary of the workshop, including any public comment and bureau response, is included on the NDEP website as well as the SEC website.

The SEC held a hybrid regulatory hearing on September 5, 2024, to consider possible action on R136-24P. The SEC posted its public notice, which included a link¹ and instructions to access R136-24P 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.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

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

- (a) Attended September 5, 2024, hearing: 35 (approximately)
- (b) Testified on this Petition at the hearing: 1

- 1. Jeff Kinder, on behalf of the Nevada Division of Environmental Protection
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- (c) Submitted to the agency written comments: none

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 5, 2024, SEC hearing as noted in number 2 above.

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-sept-5-2024>

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 R136-24P without change because the public and the SEC were satisfied with the proposed regulation.

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 changes in Section 5 may have a slight economic impact on the regulated community pertaining to providing permit application fees, but the effect is offset. Other changes in the petition are clarifications of existing regulation with no economic effect.

The minor economic effect of Section 5 relates to the fact that an existing application fee is required for new individual permits; however, this impact is offset by the fact that entities will be able to seek a permit to operate and conduct business.

Section 5 sunsets on December 31, 2030.

Public: There are no direct adverse or economic impacts on the public associated with this action, in the short- or long-term. A beneficial effect on the public could be experienced related to the ability of these nonresidential businesses to open and create jobs in areas of Clark County.

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

Enforcing Agency. NDEP will provide permits under the existing program, supported by established fees of the program.

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 R136-24P 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 R136-24P 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.

R136-24P does not provide for any new fees or increases to existing fees.