

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R014-08

Effective April 17, 2008

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

AUTHORITY: §§1-4, NRS 445A.855 and 445A.860.

A REGULATION relating to public water systems; adopting by reference certain provisions, tables and appendices of the Code of Federal Regulations; revising the date upon which certain other provisions are adopted by reference; repealing provisions relating to the suitability of certain publications; and providing other matters properly relating thereto.

Section 1. NAC 445A.450 is hereby amended to read as follows:

445A.450 As used in NAC 445A.450 to 445A.5405, inclusive, unless the context otherwise requires:

1. “Commission” has the meaning ascribed to it in NRS 445A.8075.
2. “District board of health” has the meaning ascribed to it in NRS 445A.812.
3. “Division” has the meaning ascribed to it in NRS 445A.814.
4. *“Federal Act” means the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., as amended on August 6, 1996.*
5. “Monitoring program” means a program developed by a public water system and approved by the Division or the appropriate district board of health to sample water quality from a sampling point for compliance purposes.

~~{5.}~~ **6.** “Primary standard” means a standard which specifies a maximum contaminant level for any constituent found in a public water supply which, if exceeded, may adversely affect the health of persons.

~~{6.}~~ **7.** “Public water system” has the meaning ascribed to it in NRS 445A.840 and includes a water authority in a county whose population is 400,000 or more.

~~{7.}~~ **8.** “Sampling point” means a location where water samples are taken for compliance purposes in accordance with the requirements for the specific contaminant or water quality parameters being monitored.

~~{8.}~~ **9.** “Sanitary survey” means an onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purposes of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water.

~~{9.}~~ **10.** “Secondary maximum contaminant level” means a maximum contaminant level adopted by the Commission for a constituent found in a public water supply that, if exceeded, may cause aesthetic concerns to a consumer.

~~{10.}~~ **11.** “Supplier of water” has the meaning ascribed to it in NRS 445A.845.

~~{11.}~~ **12.** “Treatment technique” means an enforceable water treatment process or procedure, required to be operated at a specified effectiveness for removal of a measurable surrogate contaminant, that public water systems must employ to ensure effective removal of other contaminants for which there is not a reliable, economical, technically feasible method to measure at levels of concern.

~~{12.}~~ **13.** “Water authority” has the meaning ascribed to it in NRS 377B.040.

~~{13.}~~ **14.** The words and terms defined in 40 C.F.R. § 141.2 have the meanings ascribed to them in that section ~~{1}~~, *as adopted by reference in NAC 445A.4525.*

Sec. 2. NAC 445A.4525 is hereby amended to read as follows:

445A.4525 The provisions of 40 C.F.R. §§ 141.1, 141.2, 141.4 to 141.42, inclusive, subsections (a) and (d) of 141.43, and 141.60 to 141.571, inclusive, of the “National Primary Drinking Water Regulations,” *including all tables and appendices therein*, as those provisions existed on July 1, ~~{2003.}~~ **2005**, are hereby adopted by reference . ~~[, unless the Commission gives notice that the requirements are not suitable for this State pursuant to NAC 445A.4915.]~~ A copy of a publication containing those provisions is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, or by telephone at (202) 512-1800, for the price of \$61. Copies of those regulations are also available, free of charge, at the Internet address

http://www.access.gpo.gov/nara/cfr/waisidx_02/40cfr141_02.html.

Sec. 3. NAC 445A.459 is hereby amended to read as follows:

445A.459 1. Samples of water taken for the purpose of a complete chemical analysis must be taken as provided in this section.

2. A sample taken to analyze levels of components not requiring preservation must be collected in a clean glass or plastic half-gallon or gallon container. A thoroughly rinsed plastic distilled water bottle or unused plastic milk bottle, obtainable at a dairy or a food or drug store, is recommended for this purpose.

3. A sample taken to analyze levels of nitrates and metals must be collected in a container provided by the laboratory performing the analysis, using the appropriate materials for preservation provided by the laboratory. These materials may be added to the containers by the

laboratory before the sample is taken. Care must be exercised in using such materials because of their hazardous nature.

4. A sample taken to analyze levels of trace organic materials must be taken in a glass container provided by the laboratory performing the analysis. The laboratory shall also provide any preservatives required for preventing deterioration of the organic materials.

5. If any representative sample is taken from a well for the purpose of chemical analysis:

(a) Except as otherwise provided in paragraph (b), an amount of water equivalent to four to ten times the bore volume of the well must be pumped from the well before the sample is taken.

(b) In the case of a new well, the well must be pumped until all artifacts of the drilling process have been removed and the water flows clean and clear, and in any event for not less than 24 hours.

(c) The sample must be taken in a manner consistent with that described in chapter 9, section 9.6, of the *Handbook for Sampling and Sample Preservation of Water and Wastewater*, EPA-600/4-82-029 . ~~[, in the form most recently published by the Environmental Protection Agency, unless the State Board of Health gives notice that the most recent publication is not suitable for this State pursuant to NAC 445A.4915.]~~

6. If any representative sample is taken from a distribution system for the purpose of chemical analysis:

(a) The water line from which the sample is taken must be flushed until the temperature of the water stabilizes.

(b) The sample must be taken in a manner consistent with that described in chapter 9, section 9.9, of the *Handbook for Sampling and Sample Preservation of Water and Wastewater*, EPA-600/4-82-029 . ~~[, in the form most recently published by the Environmental Protection Agency,~~

~~unless the State Board of Health gives notice that the most recent publication is not suitable for this State pursuant to NAC 445A.4915.]~~

7. If any sample is taken for the purpose of bacteriological examination, the sample must be collected in a container obtained from the laboratory performing the analysis of the sample.

8. A copy of the *Handbook for Sampling and Sample Preservation of Water and Wastewater* is available from the ~~[United States Environmental Protection Agency, EMSL-CI, Cincinnati, Ohio 45268,]~~ *National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or at the Internet address <http://www.ntis.gov>. The product code of the publication is PB83-124503, and may be obtained* at a cost of ~~[\$38.95.]~~ \$97.50.

Sec. 4. NAC 445A.4915 is hereby repealed.

TEXT OF REPEALED SECTION

445A.4915 Determination of suitability for this State of revision of publication adopted by reference. (NRS 445A.855, 445A.860) If any publication adopted by reference pursuant to NAC 445A.450 to 445A.5405, inclusive, is revised, the Commission will review the revision to determine its suitability for this State. If the Commission determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Commission does not revise its determination, the Commission will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Commission does not

give such notice, the revision becomes part of the publication adopted by reference pursuant to NAC 445A.450 to 445A.5405, inclusive.

NOTICE OF ADOPTION OF REGULATION

The State Environmental Commission adopted regulations assigned LCB File No. R014-08, which pertain to chapter 445A of the Nevada Administrative Code

INFORMATIONAL STATEMENT

Regulation R014-08: Adoption of federal regulations by reference - US Safe Drinking

Water Act: This regulation governs public water systems found in Chapter 445A of the Nevada Administrative Code (NAC). Statutory authority to adopt this regulation is contained in NRS 445A.855 and 445A.860.

Nevada's Safe Drinking Water Program regulates public drinking water systems using a combination of State regulations and Federal regulations adopted by reference. In order to obtain primary enforcement responsibility for desired federal drinking water programs, the Nevada Division of Environmental Protection (NDEP) submits "primacy package" applications for USEPA approval.

On September 6, 2007, NDEP submitted primacy packages for "Arsenic" and "Variances and Exemptions". During USEPA review of these packages, as well as several older submittals, they identified several items in Nevada's regulations that needed amendment prior to primacy approval.

The NDEP views these amendments, which are now incorporated in the above referenced regulation as (1) efforts to remove problems in several regulations with prospective adoption by reference; (2) a necessary update to the adopted version of the Code of Federal Regulations (CFR); and (3) "cleanup" of certain language in existing provisions. These amendments have now been included in the regulation and are necessary to achieve primacy.

1. 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.

On February 05, 2008, NDEP's Bureau of Safe Drinking Water held two (2) public workshops on the above referenced regulation at the locations noted below. A total of 11 people attend these workshops. No adverse comments were received. Four related clarifying questions were asked at the workshop and copies of the summary can be obtained by calling the NDEP Bureau of Safe Drinking Water Chief at 775-687-9515.

Carson City (Teleconferenced) February 5, 2008 1:30pm to 2:30 pm Nevada Division of Environmental Protection Great Basin Conference Room 901 South Stewart Street Carson City, Nevada	Las Vegas (Teleconferenced) February 5, 2008 1:30pm to 2:30 pm Nevada Division of Environmental Protection Red Rock Conference Room Flamingo Road, Suite 230 Las Vegas Nevada
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The notice was mailed directly to all Nevada Public Water Systems and Nevada Certified Laboratories. The notice was also posted at the following locations: the offices of the Division of Environmental Protection in Carson City and Las Vegas; the Nevada State Library in Carson City; and was also mailed to all County public libraries throughout the state.

Following these workshops, the State Environmental Commission (SEC) held a public hearing to consider the regulation on March 18, 2008. The hearing was held in Reno at the Nevada Department of Wildlife (1100 Valley Road).

The hearing agenda was posted at the following locations: the Nevada Department of Wildlife in Reno, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed regulation were also made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the regulation was published on Monday February 25, 2008 and on March 3rd and 10th 2008 in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_031808.htm

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended March 18, 2008 hearing; 30 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP Staff)
- (c) Submitted to the agency written comments: 0

3. 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 as indicated in number 1 above.

4. 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 State Environmental Commission adopted the regulation without change on March 18, 2008. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

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

The regulation is not anticipated to have any significant economic impact on the public or Nevada businesses. Conversely, the updated adoptions by reference add analytical options for certain drinking water analyses and may reduce analytical costs for compliance.

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

There will be no additional cost to the agency for enforcement of the proposed regulation.

7. 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.

This regulation does not duplicate any State regulation. In order to avoid overlap of Title 40 of the US Environmental Protection Agency's CFR, these regulations adopt portions by reference.

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

The regulation is not more stringent than any local or federal laws and regulations.

9. 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.

The proposed regulation does address any fees.