

LCB File No. R096-01

**PROPOSED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

**NOTICE OF INTENT TO ADOPT PROPOSED REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Tuesday, December 11, 2001, at the Nevada Division of Wildlife's Conference Room B, 1100 Valley Road, Reno, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission. **Petition 2002-01 (LCB File No. R-096-01)**, the Water Pollution Control regulation in NAC 445A for diffuse source and rolling stock permits was previously noticed on August 20, August 29 and September 6, 2001 for hearing on September 18, 2001. The adoption on this regulation was deferred on September 18, 2001 until the next regularly scheduled regulatory hearing.

1. Petition 2002-02 (LCB R-102-01) is a permanent amendment to NAC 445B.400 to 445B.774, the vehicle emission control program. The amendment adopts by reference a State of California regulation that became effective on July 25, 2001. The amendment requires model year 2005 and 2006 new heavy-duty diesel engines (HDDs) with a Gross Vehicle Weight Rating (GVWR) of 14,001 pounds and greater to meet supplemental emission tests. Definitions added include the applicable Executive Order, heavy-duty diesel engine, model year, new motor vehicle, new motor vehicle engine, ultimate purchaser, ultra-small volume manufacturer, and urban bus.

The regulation will not have a significant economic impact, either immediate or long-term, on the regulated community, the heavy-duty diesel engine manufacturers. The State of California, by a consent decree, is requiring manufacturers to comply with supplemental test procedures for model year 2003 and 2004 engines. The regulation does not have an immediate or long-term impact upon the public. There will be no additional cost to the agency for enforcement of the regulation. There are no other Nevada regulations that the amendment overlaps or duplicates. This regulation adopts a California regulation, Title 13, Section 1956.8 and Section 2065 of the California Code of Regulations, as effective on July 25, 2001. The regulation is more stringent than federal requirements, since the federal rule as promulgated by the U.S. EPA in 65 FR 59896 on October 6, 2000, begins regulation of heavy-duty diesel engines beginning on model year 2007. There are no fees associated with this regulation.

2. Petition 2002-03 (LCB R-128-01) is a permanent amendment to NAC 445A.119 to 445A.225, the pollution control standards for water quality. The petition amends the standards for various reaches of the East and West forks of the Walker River. Amendments are proposed for NAC 445A.159 through 445A.169, inclusive including Sweetwater Creek and Desert Creek of the Walker River. Revised area of water quality standards includes pH, the nitrite in the lower reaches, the time period for dissolved oxygen

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Petition 2002-01 was received on August 1, 2001 from the Division of Environmental Protection, Bureau of Water Pollution Control. This petition is before the Environmental Commission on September 18, 2001 for adoption.

beneficial use standard, the Topaz Lake dissolved oxygen standard, the replacement of the narrative color standard with a numeric standard, establishing sulfate requirements to maintain existing higher quality (RMHQ), replacement of existing fecal coliform standard with E. Coli standard and to establish a total suspended RMHQ for Sweetwater Creek. It is proposed to revise the time period that adult Lahontan cutthroat trout may be present in the reach from Walker Lake to Weber Reservoir.

The proposed regulation will not have an adverse economic impact on businesses, since the amendments do not directly regulate business. The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public. The implementation of the proposed regulation is not expected to result in any additional cost by the Division of Environmental Protection for enforcement. There are no other state or government agency regulations which the proposed amendments duplicate. The federal government has delegated the responsibility of establishing water quality standards to the state, therefore, there is no federal regulation for water quality standards for the Walker River Basin. This regulation is no more restrictive or stringent than federal requirements. This regulation does not provide for any new or increased fees.

3. Petition 2002-04 (LCB R-129-01) is a permanent amendment to NAC 445A.119 through 445A.225, the pollution control standards for water quality. The permanent regulation establishes water quality standards for Walker Lake. The regulation establishes beneficial uses and water quality standards to protect those uses. Proposed standards for Walker Lake include pH, dissolved oxygen, total suspended solids, temperature, dissolved oxygen, nitrite, total inorganic nitrogen, total phosphorus and E. Coli.

The proposed regulations do not directly regulate businesses, therefore, they are not expected to have any direct economic effect on the regulated community. In the long-term, there is a possibility of secondary adverse economic effects on the agricultural community if the proposed standards are used by other government agencies to acquire water rights for the benefit of Walker Lake. Conversely, the long-term protection of Walker Lake will have a beneficial economic effect on tourism related businesses. The regulation is not expected to have any economic effect on the public both immediately and long-term. The regulation is not expected to result in additional cost by the agency for enforcement. There are no other state or government agency regulations which the proposed amendments duplicate. The federal government has delegated the responsibility of establishing water quality standards to the state, therefore, there is no federal regulation for water quality standards for the Walker River Basin. This regulation is no more restrictive or stringent than federal requirements. This regulation does not provide for any new or increased fees.

Pursuant to NRS 233B.0603 the provisions of NRS 233B.064 (2) are hereby provided:

"Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption."

Persons wishing to comment on the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least five days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library and Archives, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notices have been deposited at major library branches in each county in Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at <http://www.leg.state.nv.us>. In addition, the State Environmental Commission maintains an Internet site. It is at <http://www.ndep.state.nv.us/admin/envir01.htm>. This site contains the public notice, agenda, codified regulations, and petitions for pending and past commission actions.

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 David Cowperthwaite, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-4670 Extension 3118, no later than 5:00 p.m. on December 5, 2001.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas, Washoe County Library and Division of Wildlife in Reno, Division of Environmental Protection and Department of Museums, Library and Arts in Carson City, the Lyon County Courthouse in Yerington, and Mineral County Courthouse in Hawthorne.

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Notice of Proposed Action

The Administrator, Nevada Division of Environmental Protection (Division), Carson City, Nevada is issuing the following notice of proposed action under the Nevada revised Statutes. The Administrator is proposing several amendments to the Nevada Water Pollution Control Regulations, specifically NAC 445A.100 and N/AC 445A.309. The proposed revisions to the regulations are necessary to clarify the definitions of point source and diffuse source. These changes will assist the regulated community in determining when water pollution control permits are necessary.

A workshop will be held at the following location to discuss the proposed amendments:

Carson City -- Director's Conference Room
123 W. Nye Lane, Room 217
Carson City, NV
Time: 10:00 a.m.
Date: August 21, 2001

Persons wishing to comment upon or object to any of the Administrator's proposed regulation amendments may do so by attending the Workshop and making public comment, or should submit their comments or request, in writing, by August 21, 2001, either in person or by mail to:

Department of Conservation and Natural Resources
Division of Environmental Protection
Bureau of Water Pollution Control
333 West Nye Lane
Carson City, Nevada 89706-0851
Attention: Leo M. Drozdoff, PE
Chief, Bureau of Water Pollution Control

All comments or objections received by August 21, 2001, will be considered in the formulation of final determinations regarding the proposed regulation amendments. If the determinations of the Administrator are substantially changed from the tentative determinations, the Administrator will give public notice of the revised determinations. Additional comments and objections will be considered at that time.

The proposed amendments to the regulations on file may be copied or copies may be obtained by writing to the above address or by calling Leo M. Drozdoff, Chief of the Bureau of water Pollution Control at (775) 687-467-, ext. 3142.

Please bring the foregoing notice to the attentions of all persons whom you know would be interested in this matter.

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Petition 2002-01

Explanation - Matter in *italics* is new; matter in brackets ~~☐~~ is material to be omitted.

Deleted: ~~omitted material~~

Authority: NRS 445A.

Section 1. NAC 445A.100 is hereby amended to read as follows:

“Point source” has the meaning ascribed to it in NRS 445A.395, *and shall include wheeled, track, stationary or floating equipment used for earth moving activities, from which pollutants are or may be discharged.*

Sec. 2. NAC 445A.309 is hereby amended to read as follows:

“Diffuse source” includes:

1. Agricultural activity, including return flows from irrigation;
2. Silvicultural activity;
3. Mining activity;
4. *Runoff from* ~~☐~~construction *activities associated with* ~~☐~~ buildings, roads, dams, utility lines or other improvements or facilities;
5. Runoff from roads, streets and railroads;
6. *Runoff from* ~~☐~~construction or use of recreational trails;
7. Modification of water courses or stream channels; and
8. Runoff from urban areas;

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whether or not wheeled, track, stationary or floating equipment used for earth moving activities are involved.