

SENATE NATURAL RESOURCES COMMITTEE

MINUTES OF MEETING
Monday, April 4, 1977

The sixteenth meeting of the Natural Resources Committee was called to order on the above date at 2:05 p.m.

Senator Gary Sheerin was in the Chair.

PRESENT: Chairman Sheerin
Senator Echols
Senator Dodge
Senator Glaser
Senator Neal
Senator Lamb(arrived late)

OTHERS PRESENT: Michael P. Sullivan, Sierra Pacific Power Co.
Gary Soule, Sierra Pacific Power Co.
Douglas Fletcher, Sierra Pacific Power Co.
Harry E. Gallaway, Nevada Department of Agriculture
Matthew H. Feiertag, Environmental Protection Services
Nevada Department of Human Resources
Ernie Gregory, Environmental Protection Services,
Nevada Department of Human Resources
Wallie Warren, Sierra Pacific Power Co.
George L. Vargas, Lobbyist #179
Bob Alkire, Kennecott Copper Corp.
Bruce Barnum, Harvey's Wagon Wheel

Bills before the Committee included AB60, AB218, AB233, SB378.

AB 60 Provides authority for inspectors of the State Department of Agriculture to take pesticide samples.

HARRY GALLAWAY, director, Division Plant Industry, Nevada Department of Agriculture, testified AB60 was requested by that department. It adds the authority for the sampling of a pesticide or a pesticide mixture in routine monitoring work.

CHAIRMAN SHEERIN asked the record to show that a memo had been delivered by George Vargas from one of his clients (Chevron) indicating they oppose AB60 unless language was added to the effect, "when there is a reason to believe a violation of State Statutes has occurred." Entered in record, attached EXHIBIT "A".

Mr. Gallaway said he preferred the language not be added, that in 98 per cent of inspections there is no reason to believe a violation has occurred. It is random sampling. This law deals only specifically with those individuals that are licensed as custom pest control operators.

Senator Glaser moved "DO PASS".
Senator Dodge seconded the motion.
The motion carried unanimously.

AB 218 Makes technical amendments to definitions concerning pesticides and applicators.

HARRY GALLAWAY, Department of Agriculture, said this bill changes the language put into the law in 1975 where there was actually sections of the law using the word "competent" to make it similar to the Federal Environmental Pesticide Control Act.

Senator Dodge moved "DO PASS".
Senator Echols seconded the motion.
The motion carried unanimously.

AB 233 Deletes obsolete reference to salary of executive director of State Department of Agriculture.

HARRY GALLAWAY, Department of Agriculture, testified this is another housekeeping bill from the bill drafters office. It removes from Sec. 1, NRS 561.115 the salary of the executive director of the Nevada Department of Agriculture which is handled by other statutes.

Senator Dodge moved "DO PASS".
Senator Glaser seconded the motion.
The motion carried unanimously.

SB 378 Adds variance and appeals procedures to Nevada Water Pollution Control Law.

CHAIRMAN SHEERIN outlined that testimony was heard on this bill on March 30 by this Committee at which time the Committee voted for indefinite postponement of the bill. Since that time, Sierra Pacific Power Co. has indicated they had additional testimony for the purpose of potential reconsideration of the bill. Chairman Sheerin pointed out the reason for killing the bill was the Committee was satisfied through testimony by the Department of Human Resources that if the bill was passed the entire permit system could be put in jeopardy with the Federal Government. Chairman Sheerin referred to the testimony at the March 30 meeting by Sierra Pacific Power Co. representatives who said that company was not having a problem with any project. Chairman Sheerin said the reason the bill is being brought before the Committee again is because if the bill is passed, it could be beneficial to consumers by saving them some money in the long run.

It was pointed out according to Committee Rules, four votes are necessary for a reconsideration of previous action taken. Five votes are necessary for additional action to be taken.

Senator Dodge moved to reconsider SB378.
Senator Echols seconded the motion.

Aye: Senator Sheerin
Senator Echols
Senator Dodge
Senator Neal

Nay: Senator Glaser

DOUGLAS FLETCHER, counsel for Sierra Pacific Power Co.,
GARY SOULE, senior vice president in charge of engineering
and operations for Sierra Pacific Power Co., and
MIKE SULLIVAN, environment specialist for Sierra Pacific
Power Company, were all presented in order to give testimony
in favor of SB378.

Mr. Sullivan opened testimony by apologizing for a misunder-
standing and wrong interpretation of Chairman Sheerin's
question at the March 30 hearing. Mr. Sullivan went on to
testify that SB378 has two provisions: the first of which
is an appeal provision which would provide review by the
commission in the initial issuance of discharge permits
which is not presently available to an applicant; and
secondly, a variance procedure which would give the
environmental commission the flexibility to allow an
exemption for a discharger for a short period of time so
that construction activities or plan modifications being
undertaken to come into compliance may be accomplished
without being in violation of State Statutes or regulations
and without being subject to a hardship. The appeal pro-
cedures as it stands now allows the EPA, which has authority
to administer and enforce regulations and statutes, to be-
come an intervener and decide the issue in point. The
second provision dealing with variances, as far as SPPCo
is concerned is important for construction. Mr. Sullivan
said as of July 1, 1977, the Federal Water Pollution
Control Act becomes effective as far as meeting water
quality standards. Permits for the water treatment plants
in Reno/Sparks which are operated by SPPCo has just recently
been issued, and in order for that company to meet the
conditions of these permits in most cases, it would be
necessary to accomplish some construction activities.
There is a very short time period left and so it would seem
appropriate in this case to allow the EPA the flexibility
to grant a temporary exemption from regulations until
construction could be accomplished. The variance provision
would allow a suspension of limitations for a short period
of time. The standards would not be lowered, but a time
delay is being requested in order to have more time to
get to those standards.

Mr. Fletcher said SPPCo has contacted EPA counsel in order
to get an opinion from EPA as to what might happen if this

legislation was passed, and it was agreed that this legislation as drafted would very possibly result in the permit system being yanked back by EPA.

Mr. Soule said the added power could benefit customers because it could be sold to California during summer months since winter months are peak months for their company. He said they have been making sales to California and Utah, but will have to shut down as July 1, 1977. This variance procedure would allow SPPCo to continue its operation and the present sales and the benefits which are handed down to the customer.

At this point, Senator Lamb moved SB378 be reconsidered by the Committee.

Senator Dodge seconded the motion.

Aye: Senator Sheerin
Senator Echols
Senator Lamb
Senator Dodge
Senator Glaser

Nay: Senator Neal

Mr. Fletcher proposed the following wording change on page 2, line 2, right after word "regulations", "Provided, however, that the commission shall not grant variances from effluent limitations promulgated by U. S. Environmental Protection Agency pursuant to Sec. 301, Federal Water Pollution Control Act as amended, and that variances will not become effective until approved by the United States Environmental Protection Agency administrator." He also proposed a minor language change in the appeal portion of the bill, lines 4 and 5, page 1, words "operating permit" should be changed to "discharge permit".

Lengthy discussion followed on the language of the bill.

PAUL GIMMEL, executive secretary of Nevada Mining Association, Reno, testified in favor of SB378.

MATTHEW FEIERTAG, deputy attorney general representing Environmental Protection Service, Department of Human Resources, testified in opposition to SB378. He presented a prepared statement, entered in the record, attached as EXHIBIT "B". Mr. Feiertag suggested rewriting line 3 changing "any person" to "any permittee". The temporary permits or variances that the power company representatives talked about is a modification of the water quality standards which is presently allowed in the Act and in EPS regulations. A request to the Environmental Commission could be worded to modify the water quality standards for just a certain period of time and then they would revert back to the present standards as they presently stand. This would have to be

approved by the EPA. Appeals to the commission are already provided for in cases of revocation, modification or suspension of a permit which are three of the five things which are attempting to be covered in the appeal procedure of SB378. The Act is a very cumbersome Act that does not allow for a lot of things that we would like to see in it. There is no provision for temporary variances after July 1, 1977. Mr. Feiertag said this bill does not buy any time.

Lengthy discussion followed concerning the language of SB378.

SENATOR DODGE asked if there is any other permittee at that point on the river that the amendment of the heat standard would affect.

ERNIE GREGORY, acting administrator, Environmental Protection Services, answered no. The easy way out is the same approach as with Reno. The difference is one day. There is no hearing. On July 1, 1977, if they are out of compliance with the permit, we issue an enforcement order which puts them on a compliance schedule.

Senator Dodge asked if SSPCo had talked to EPA about that kind of procedure, and Mr. Gregory replied that no, they had not.

Mr. Gregory said SPPCo had never asked them for an easy way out. It was determined there probably was not any other company other than SPPCo that is involved in this particular position.

Senator Dodge suggested the SPPCo get together with the EPA and try to work out this particular short term problem. And try to get this sphere narrowed down as much as possible as far as legislation is concerned.

Chairman Sheerin suggested they find some language that the Committee can work with. The Committee wants to try to help with a specific problem, but will not jeopardize the state's permit issuance ability.

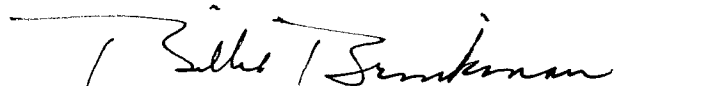
Mr. Gregory displayed a red wagon loaded with books indicating that was just a portion of the guidelines published by EPA in establishing effluent limitations for all industries.

CHAIRMAN SHEERIN reported on a meeting held Friday, April 1, 1977, in Auburn, CA, which Governor O'Callaghan invited him to attend. The meeting concerning TRPA was outlined in an article as reported in the Nevada Appeal, entered in the record and attached as EXHIBIT "C". Chairman Sheerin

said he thought there should be some way to amend the TRPA bills so that Nevada can take care of its problem with red lining, and figure out a way to have California take care of its problem, leaving Nevada alone as far as membership and dual majority is concerned. He said that if that can be accomplished, then perhaps something feasible can be reached.


There being no further business, the meeting was adjourned at 4:10 p.m.

Respectfully submitted,



Billie Brinkman, Secretary

APPROVED:



Gary A. Sheerin, Chairman

GUEST REGISTER

SENATE NATURAL RESOURCES COMMITTEE

Those wishing to testify should identify themselves before giving testimony.....

DATE: April 4, 1977

NAME	Do you wish to testify	Bill No.	REPRESENTING
MICHAEL P. SULLIVAN	YES	SB 378	SIERRA PACIFIC POWER COMPANY.
GARY SOUHE	YES	"	"
DOUGLAS FLETCHER	YES	"	"
HARRY E. GALLAWAY	YES	HB-60 218 233	Geo. Dept of Civic NEV. D. H. R.
MATTHEW H. FEIERTAG	YES	SB 378	ENVIR. PROT. SVCS.
Ernie Gregory	Yes	SB 378	NeV. Envir Prot. Services
Walter Johnson		375	SDPES
George I. Vargas	Yes	AB60	Oil Co # 179
Bob Alford	Yes	SB378	Kennerot/Copper Corp
Bruce Barnum	✓		Harvey's Wagon wheel

George Vargas

Exhibit "A"

NEVADA LEGISLATION - 1977
A. B. 60
PESTICIDES

This bill would grant State Department of Agriculture inspectors the right to enter public or private property for the purpose of sampling, inspecting, or monitoring pesticides. As written, the inspectors would have access to property for any purpose.

The bill should be amended so as to limit access to those times when there is reason to believe a violation of State Statutes has occurred. This language could be inserted as follows: (line 4)

"appointed inspectors may, when there is reason to believe a violation of State Statutes has occurred, enter upon"

Also, the words "or other operations" (lines 7 and 8) should be deleted - for the same reason - the present wording gives the State far too much power to trespass on private property.

Chevron opposes AB 60 unless the above amendments are made. If they are, we will take a neutral position.

Nevada, California reps

discuss the TRPA

By SUE MORROW
Appeal City Editor

A meeting Friday afternoon between Sen. Gary Sheerin, D-Carson City-Douglas County, and California officials failed to produce any headway toward any Nevada legislation revising the bi-state Tahoe Regional Planning Agency.

Sheerin, along with TRPA Governing Board chairman Dick Scott of Reno, Nevada board member John Meder and agency legal counsel Kenneth Rollston, met in Auburn with California Assemblyman Eugene Gualco of Sacramento, California board members Carole Onorato, who is

Governor Jerry Brown's appointee, and Jim Burns, and Brown advisors on TRPA matters.

Sheerin said the meeting was held to discuss pending legislation before his Senate Committee on Natural Resources which provide for changes in the TRPA which governs growth and development in the Lake Tahoe Basin.

The committee is considering two bills, one proposed by Gov. Mike O'Callaghan and the other sponsored by Sheerin. A third bill, introduced in the California Assembly by Gualco and passed in that state, was killed in Sheerin's committee.

Sheerin said the group

meeting Friday could not come to a consensus on four major issues concerning the bi-state agency.

The California delegation, he said, is pushing for changes in the makeup of the governing board as provided for in Gualco's bill.

That bill enlarges the membership from five on each side to seven, and the majority would be appointed rather than elected-type persons: The present makeup is a majority, 3-2, of elected-type people. Gualco's bill calls for four appointed and three elected-types on the board.

There are no persons actually elected to the TRPA

board. They are all appointed to serve on the agency, but some of the appointees are elected-types such as city supervisors and county commissioners.

The others are state government representatives or lay persons appointed by the governors of their respective states.

The Gualco bill removes the provisions for the dual majority, 60-day rule which says that if the governing board fails to approve or deny an application for a project by a double majority vote the project is automatically approved within 60 days of the date of application.

Applications could only be approved by a simple majority under that bill.

O'Callaghan's bill provides that if action isn't taken by a double majority on a project it is automatically deemed denied.

Sheerin said that the California group would not accept O'Callaghan's proposal concerning the voting method and is holding out for the Gualco version.

He said the Californians also do not agree that proposals in both Sheerin's and O'Callaghan's bills to limit gaming by "red lining" areas in which casinos would be allowed provide sufficient controls.

And, they will not accept a provision in Sheerin's bill that calls for a "loop road" in the Stateline casino area, Sheerin said.

California has refused to cooperate with Nevada on plans to alleviate traffic congestion in the stateline areas of both states. Sheerin's bill would mandate as bi-state effort to solve the congestion problem which he says has resulted in a dangerous situation to Tahoe residents and tourists alike.

The California group, said Sheerin, doesn't want roads built at Lake Tahoe. "They are concerned that if the roads are built more casinos will follow.

"They were pleased to see the 'red lining' in the bills but they don't think it's an answer for their side of the lake," the senator said.

"I am convinced that California genuinely wants to protect their side of the lake just as Nevada should protect our side of the lake.

"The problem is there are two different problems to solve," said Sheerin.

"Nevada's is with single-point source gaming units with only two or three properties involved, and California's is sprawled from one end of the stateline to the other with thousands of land owners involved. The real problem we are running in to is trying to solve these diverse problems with the same solution. It just will not work."

Sheerin's reference to the properties involved in Nevada was in connection with sites in the Stateline area for new casinos, two of which are already under construction. All three projects received TRPA approval by the dual majority voting procedure.

"We can solve our gaming problem with the 'red line' but you can't 'red line' California's problem," said Sheerin.

"In order to effectively solve California's problem they admittedly want and need the change in governing board makeup and dual majority and that's simply not acceptable to Nevada," he said.

Sheerin said "even the governor's bill was not acceptable to the California delegation and he considers it "very much of a possibility" that California might withdraw from the bi-state agency if Nevada doesn't pass the kind of legislation it wants.

The bi-state agency was created as the result of identical legislation passed by both states and enacted by Congress. Any changes in the compact between the states must also come from identical legislation approved by the two states.

Sheerin said Assemblyman Gualco, who last summer told a gathering in Washoe Valley that if Nevada didn't pass his bill California would withdraw from the agency, "did not make any threats" at Friday's meeting.

"He was trying to be constructive and save the California side of the lake," Sheerin said. "He's doing what he thinks is right for California, and I'm doing what I think is right for Nevada, and it's an honest difference of opinion."

Sheerin said the problem was hard to solve and that it is necessary to "figure out the mechanism to do it.

"I think we can get the thing solved, but we're running out of time."

A target date of April 15 has been set for the Nevada Legislature to adjourn, but most legislators agree that the date will most likely be at least 10 days later.

A number of people attending hearings on the TRPA bills have argued that the California TRPA, a separate agency of California which also governs development at the lake must go if there is ever to be cooperation between the two states.

But, Sheerin said that while he was not advocating the retention of the CTRPA, it might prove to be the solution to

that state's problems.

He said California would not give up that agency "because that's the major arm of control at the present time."

Two years ago the California Legislature reduced the amount of money it allocates to California for the bi-state agency and increased the amount to the CTRPA.

Recently the California Senate Finance Subcommittee voted to give no funds to the TRPA, saying it has not effectively controlled the growth of gaming on the Nevada side of the lake.

Sheerin said he hopes to meet with the group again to discuss legislation but in the meantime his committee will continue to consider the two bills before it at meetings which are held every Monday, Wednesday and Friday afternoons.

Of last Friday's session with the California group, Sheerin said "while we were not able to reach a consensus of opinion, it was an excellent discussion on issues, and we were able to better understand each other's

Exhibit "B"

Matthew H. Feiertag, Deputy Attorney General
Representing Environmental Protection Services

S.B. 378

As you are aware, the State of Nevada is administering the National Pollutant Discharge Elimination System (NPDES) permit program subject to the requirements of the Federal Water Pollution Control Act (PL 92-500), hereinafter referred to as the Act, and Federal Regulations adopted pursuant to the Act. Nevada applied for administration of the program in June, 1975, pursuant to Section 402 (b) of the Act. (Exhibit I) As you can see, we were required to certify that our laws provide adequate authority to administer the program within the restraints of the Act and the appropriate regulations.

In September of 1975, pursuant to Section 402 (a) of the Act (Exhibit II), the Administrator delegated the N.P.D.E.S. program to Nevada. The last two sentences of the quoted section clearly show that the Administrator has retained a very strong and all inclusive veto power.

Section 402 (c) (Exhibit III) of the Act requires us to keep our statutes and regulations in accordance with the Act and its guidelines, and directs the Administrator to revoke a State program which is not. Section 402 (d) reiterates the Administrator's power to prevent issuance of an objectionable permit.

In my testimony last week, I briefly illustrated the permit-issuing process, with a simplified flow chart, which I again submit for your information (Exhibit IV). As you can see, E.P.A. is consulted in three of the illustrated critical steps, where the application, the proposed permit and the final proposed permit are submitted to them for comment or approval.

To better illustrate to the Committee the complexity of the permit process and show why it would be unwise to inject the State Environmental Commission into the initial issuance process as directed in Sections 2 and 3 of S.B. 378. (Appeals to the Commission are already provided for in cases of revocation, modification or suspension of a permit, NRS 445.271 through 445.277, inclusive and Water Pollution Control Regulations 2.8.3 through 2.8.3.6, inclusive), I am including the flow chart which is part of the official state program submittal used to gain approval for our administration

of the N.P.D.E.S. program (Exhibit V). If the Commission were to direct changes be made from the final permit, the process of the third sheet of the flow chart would have to be redone until the E.P.A. and the Commission arrived at a common permit. In addition, provisions presently exist for the discharger to request a public hearing on the issuance of a permit NRS 445.267 and regulation 2.3.2.

There is no general variance procedure, as established in Sections 4 through 7 of S.B. 378, authorized in the Act or regulations adopted pursuant thereto. In fact, numerous provisions illustrate that such a provision is repugnant to the requirements of the Act and would cause the revocation of E.P.A. approval of our program under previously cited authorities. Having a State variance procedure would conflict with the Federal requirements which mandate that permits issued require that Water Quality Standards be met, in addition to meeting Effluent Limitations. Section 301 (b) of the Act (Exhibit VI) is one place which requires this, in Paragraph 1 (c). Our State Water Quality Standards were approved by E.P.A. pursuant to the Act, and are the only Water Quality Standards which are applicable on waters of the State of Nevada.

In the Federal Regulations which govern requirements for our State program 40 CFR Part 124, two sections are particularly irreconcilable to having a general state variance provision. 40 CFR 124.41 (Exhibit VII) requires the State to insure that no permit be issued which authorizes certain discharges. 40 CFR 124.42 (Exhibit VIII) again mandates meeting water quality standards, in addition to some other requirements, notably a statement from the Director that the discharge will not violate applicable water quality standards and must contain "explicit verification" of that statement.

Besides the unacceptability of a general variance procedure to the program, it should also be noted that it is presently possible for a discharger to request that the Commission modify a water quality standard, which if modified would then have to be approved by the EPA. If the modification were approved, in appropriate cases, the discharge permit could then be modified accordingly.

In conclusion, we feel that the provisions of S.B. 378 are in one part inadvisable and unnecessary, and in the other totally unacceptable and repugnant to the

Federal Act under which we operate the State N.P.D.E.S. program.

Furthermore, another official document under which we operate the program, The Memorandum of Agreement Regarding Permit and Enforcement Programs, (Exhibit IX) further restricts changes in statutes and regulations and required us to notify the Regional Administrator on any change.

If this legislation is adopted and objected to by E.P.A. it will be impossible for it to be corrected within the allowable 90 days and we will lose the program at least until a subsequent convening of the Nevada Legislature. We urge that S.B. 378 be killed.

Sec. 402 (b) At any time after the promulgation of the guidelines required by subsection (h)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which-

(A) apply, and insure compliance with, any applicable requirements of section 301, 302, 306, 307, and 403;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

[Emphasis supplied.]

Sec. 402 (a) (1).....

(2).....

(3).....

(4).....

(5).....The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

Sec. 402 (c) (1) (2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304 (h) (2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(d) (1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b) (5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act.

Application Received

Application Reviewed By EPS

Application Submitted to EPA for Concurrence *

Proposed Permit Prepared By EPS

Proposed Permit Submitted to Discharger for Comment

Proposed Permit Submitted to EPA for Comment *

Final proposed permit prepared By EPS

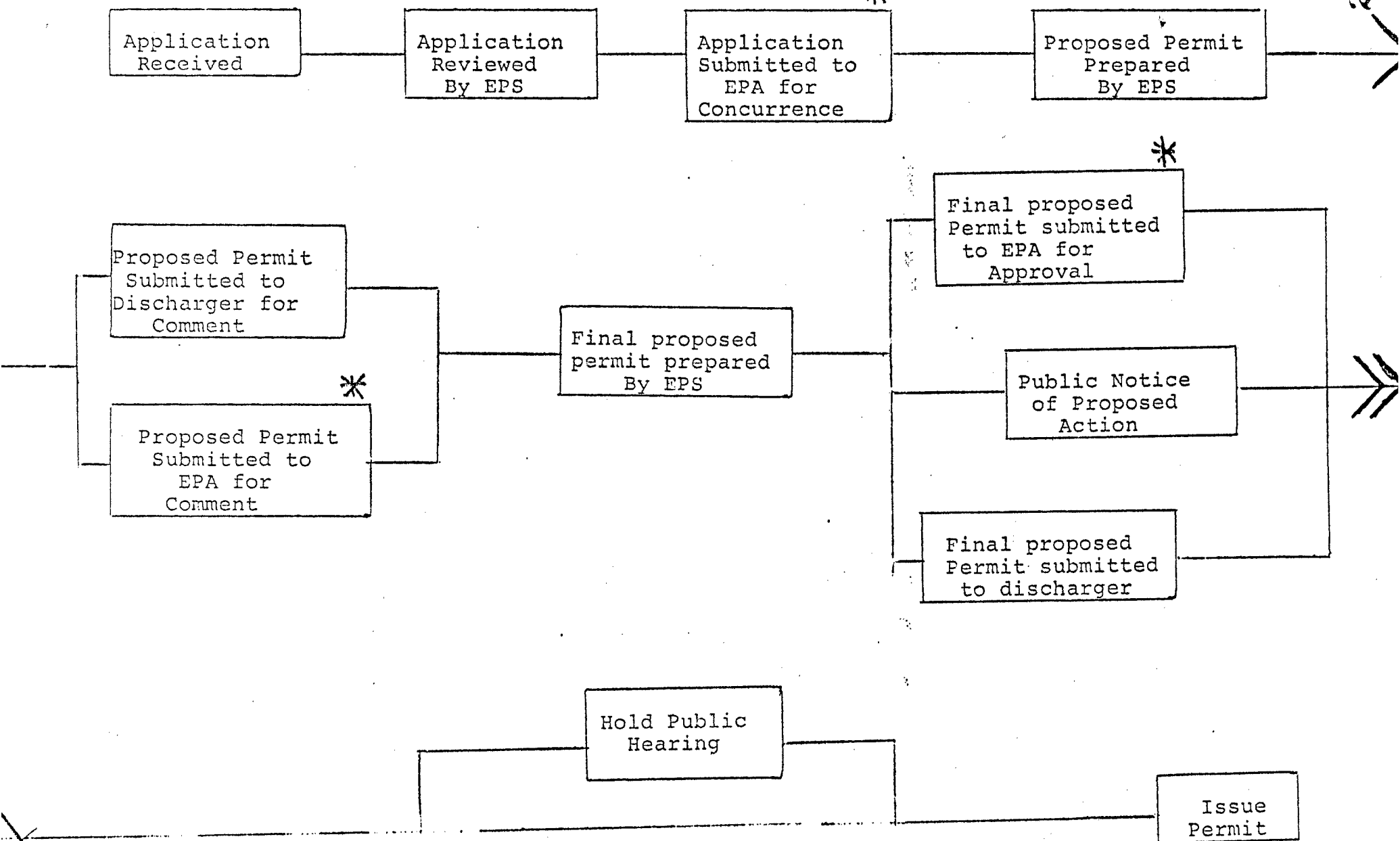
Final proposed Permit submitted to EPA for Approval *

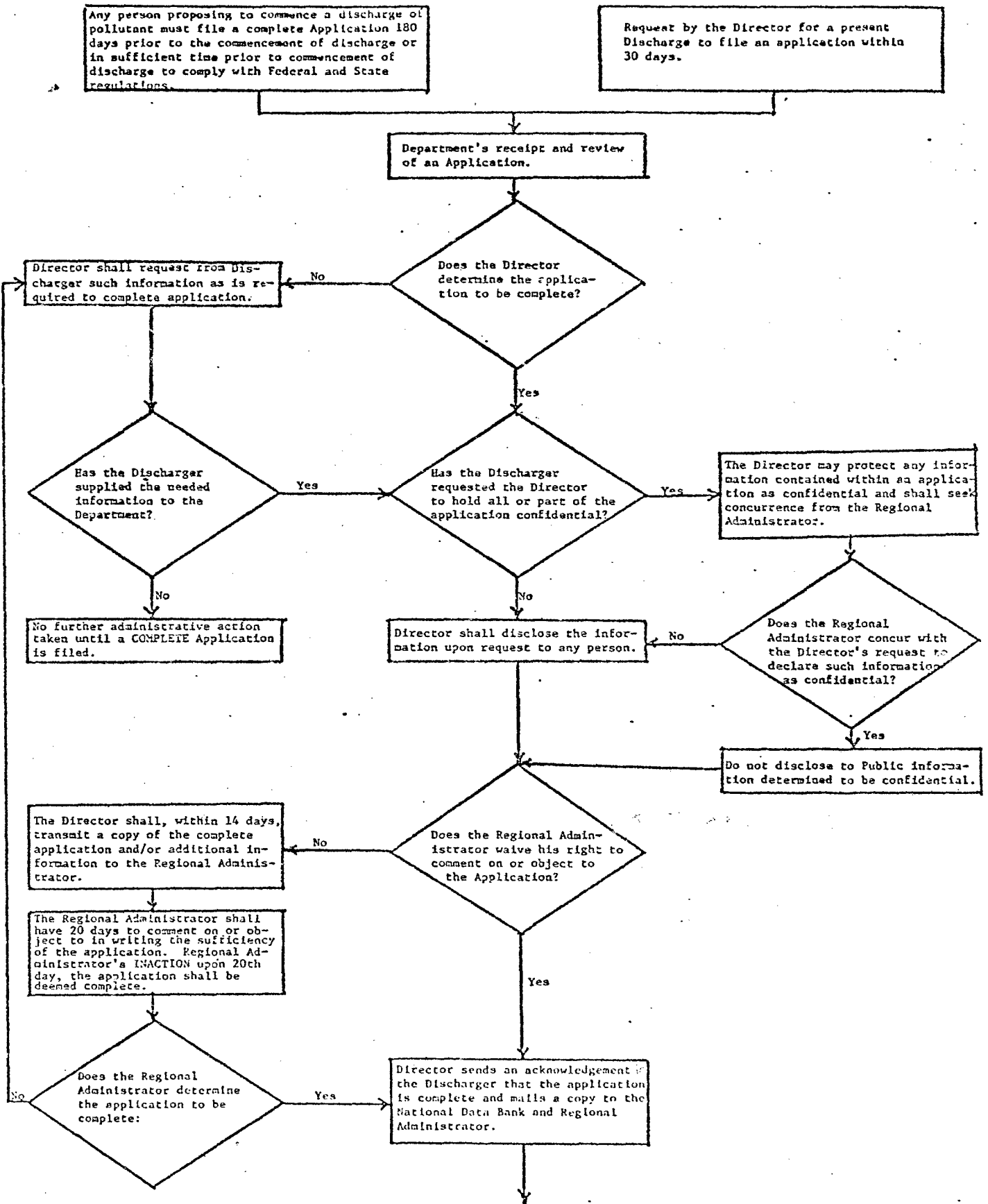
Public Notice of Proposed Action

Final proposed Permit submitted to discharger

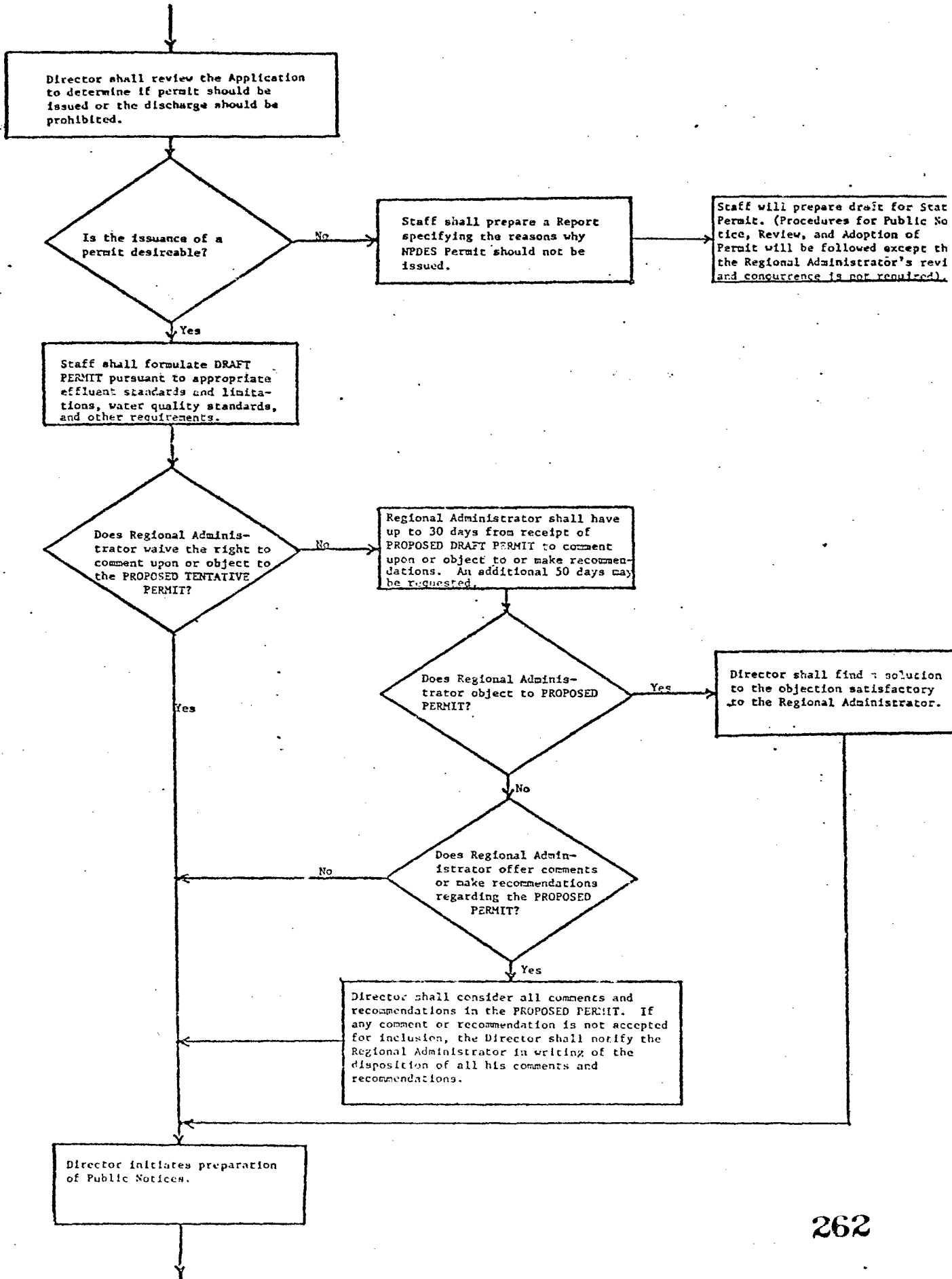
Hold Public Hearing

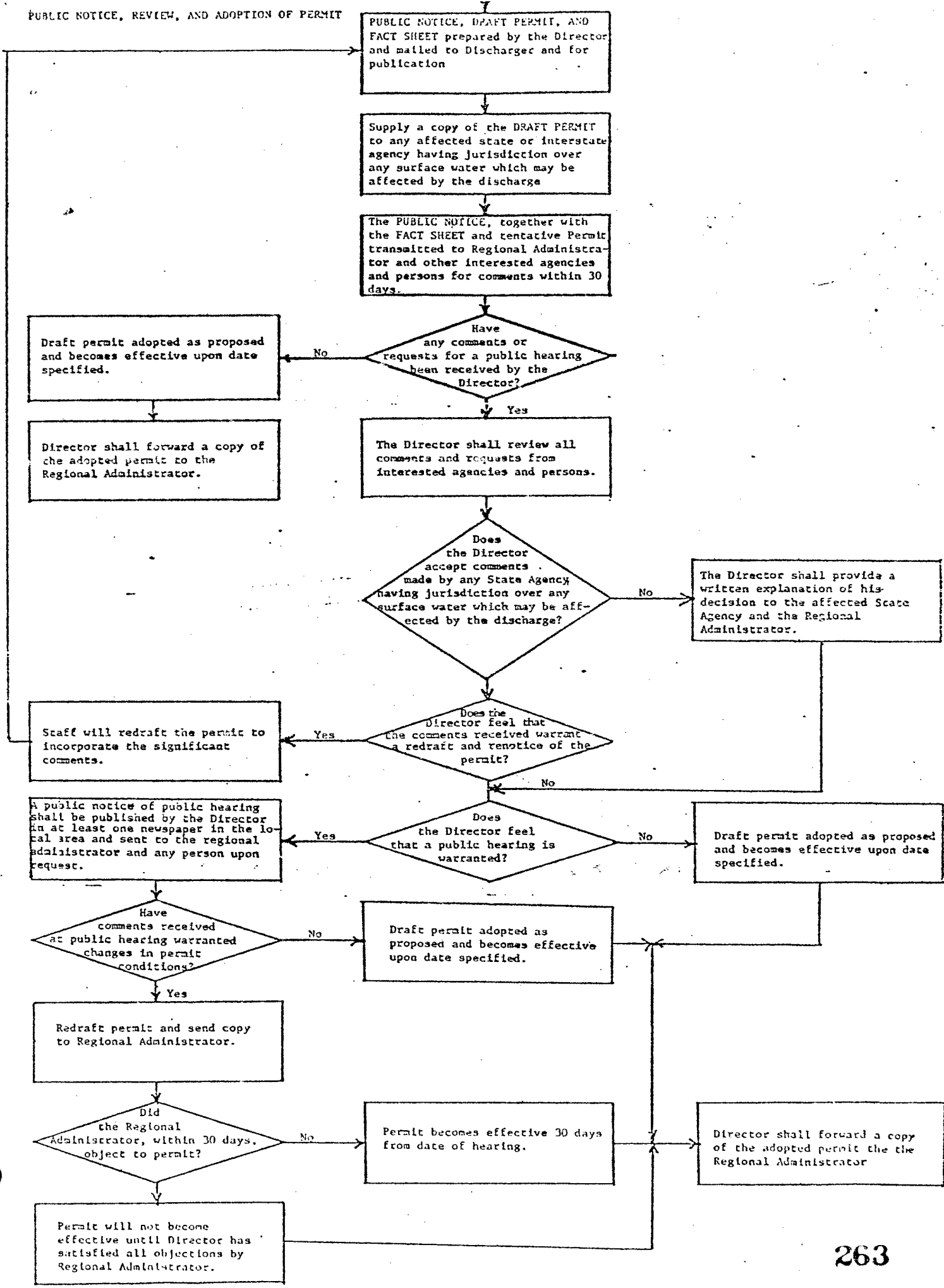
Issue Permit





FORMULATION OF PROPOSED NPDES PERMIT





Sec. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

(b) In order to carry out the objective of this Act there shall be achieved-

(1) (A) not later than July 1, 1977, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

(B) for publicly owned treatment works in existence on July 1, 1977, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), effluent limitations based upon secondary treatment as defined by the Administrator pursuant to section 304 (d)(1) of this Act; or

(C) not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 510) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this Act.

[Emphasis supplied.]

§ 124.41 Prohibited discharges.

Any State or interstate agency participating in the NPDES shall insure that no permit shall be issued authorizing any of the following discharges:

- (a) The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into navigable waters;
- (b) Any discharge which the Secretary of the Army acting through the chief of engineers finds would substantially impair anchorage and navigation;
- (c) Any discharge to which the Regional Administrator has objected in writing pursuant to any right to object provided the Administrator in section 402 (d) of the Act; and
- (d) Any discharge from a point source which is in conflict with a plan or amendment thereto approved pursuant to section 208 (b) of the Act.

§ 124.42 Application of effluent standards and limitations, water quality standards, and other requirements.

(a) Procedures for any State or interstate program participating in the NPDES must insure that the terms and conditions of each issued NPDES permit apply and insure compliance with all of the following, whenever applicable:

(1) Effluent limitations under sections 301 and 302 of the Act;

(2) Standards of performance for new sources under section 306 of the Act;

(3) Effluent standards, effluent prohibitions, and pre-treatment standards under section 307 of the Act;

(4) Any more stringent limitation, including those (i) necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulation (under authority preserved by section 510), or (ii) necessary to meet any other Federal law or regulation, or (iii) required to implement any applicable water quality standards; such limitations to include any legally applicable requirements necessary to implement total maximum daily loads established pursuant to section 303 (d) and incorporated in the continuing planning process approved under section 303 (e) of the Act and any regulations and guidelines issued pursuant thereto;

(5) Any more stringent legally applicable requirements necessary to comply with a plan approved pursuant to section 208 (b) of the Act; and

(6) Prior to promulgation by the Administrator of applicable effluent standards and limitations pursuant to sections 301, 302, 306, and 307, such conditions as the Director determines are necessary to carry out the provisions of the Act.

(7)

(b) In any case where an issued NPDES permit applies the effluent standards and limitations described in subparagraphs (1), (2), and (3) of paragraph (a) of this section, the Director must state that the discharge authorized by the permit will not violate applicable water quality standards and must have prepared some explicit verification of that statement. In any case where an issued NPDES permit applies any more stringent effluent limitation based upon applicable water quality standards, a waste load allocation must be prepared to ensure that the discharge authorized by the permit is consistent with applicable water quality standards.

[Emphasis added.]

MEMORANDUM OF AGREEMENT
REGARDING PERMIT AND ENFORCEMENT PROGRAMS
BETWEEN THE
DIRECTOR, STATE OF NEVADA DEPARTMENT OF HUMAN RESOURCES
AND THE
REGIONAL ADMINISTRATOR, REGION IX, ENVIRONMENTAL PROTECTION AGENCY

The Director, State of Nevada Department of Human Resources (hereinafter the "Director" and "Department", respectively) and the Regional Administrator, Region IX, Environmental Protection Agency (hereinafter the "Regional Administrator" and "Agency", respectively), in order to ensure a unified and coordinated program of water quality control in Nevada, believe it highly desirable to develop understandings in various program areas. The Regional Administrator and the Director have entered into this Memorandum of Agreement to delineate the respective responsibilities of the Department and the Agency for operation of cooperative state-federal waste discharge permit and enforcement programs. This agreement establishes policies and procedures and provides broad guidance for issuance of National Pollutant Discharge Elimination System (hereinafter "NPDES") permits in the State of Nevada in accordance with the 1972 Amendments to the Federal Water Pollution Control Act (P.L. 92-500, 33 U.S.C. 1251 et seq., hereinafter the "Act"). With respect to the NPDES permit program and resulting enforcement programs they do hereby agree as follows:

.....

VIII. Changes in State Statutes, Regulations, Directives, Forms or Standard Test Methods

1. Prior to taking any action to propose or effect any substantial amendment, rescission or repeal of any statute, regulations, directive or form which has been submitted to the Agency in connection with approval of the State's NPDES program, and prior to the adoption of any new form not so submitted, the Department shall notify the Agency and shall, upon request, transmit the text of any such change or such new form to the Agency. The Agency shall have twenty (20) days in which to assess such proposed change or such proposed new form as to its effect upon the State's qualification to conduct the NPDES program and to notify the State whether or not the proposed change or use of such proposed new form would disqualify the State from participation in the NPDES.
2. If an amendment, rescission or repeal of any statute, regulation, directive or form described in paragraph 1 above shall occur for any reason, including action by the Nevada legislature or a court, the Department shall, within ten (10) days of such event, notify the Agency and shall, upon request, transmit a copy of the text of such revision to the Agency.

A. B. 60

ASSEMBLY BILL NO. 60—COMMITTEE ON AGRICULTURE

JANUARY 19, 1977

Referred to Committee on Agriculture

SUMMARY—Provides authority for inspectors of the state department of agriculture to take pesticide samples. (BDR 49-266)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to insect control and noxious weeds; providing authority for inspectors of the state department of agriculture to take samples of pesticides and pesticide sprays; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 555.420 is hereby amended to read as follows:
- 2 555.420 For the purpose of carrying out the provisions of NRS
- 3 555.2605 to 555.460, inclusive, the executive director and his duly
- 4 appointed inspectors may enter upon any public or private premises at
- 5 reasonable times in order to have access for the purpose of inspecting,
- 6 auditing, *sampling* or monitoring any aircraft, ground equipment, rec-
- 7 ords, storage, *pesticides, pesticide sprays*, disposal operations or other
- 8 operations which are subject to NRS 555.2605 to 555.460, inclusive, or
- 9 regulations adopted thereunder.

Original bill is on file at
the Research Library.

ASSEMBLY BILL NO. 218—COMMITTEE ON JUDICIARY

FEBRUARY 1, 1977

Referred to Committee on Agriculture

SUMMARY—Makes technical amendments to definitions concerning pesticides and applicators. (BDR 49-313)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to pesticides; making technical amendments to certain definitions; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 555.2618 is hereby amended to read as follows:
2 555.2618 "Certified applicator" means any [individual] person
3 who is certified by the executive director as [competent] qualified to
4 use or to supervise the use of any restricted-use pesticide.
5 SEC. 2. NRS 586.053 is hereby amended to read as follows:
6 586.053 "Certified applicator" means any [individual] person who
7 is certified by the executive director as [authorized to apply or to super-
8 vise the application of any pesticide which is classified for restricted use.]
9 qualified to use or supervise the use of any restricted-use pesticide.
10 SEC. 3. NRS 586.205 is hereby amended to read as follows:
11 586.205 "Restricted-use pesticide" means any pesticide, including
12 any highly toxic pesticide, which:
13 1. The executive director has found and determined, subsequent to
14 a hearing, to be:
15 (a) Injurious to persons, pollinating insects, bees, animals, crops or
16 land, other than pests or vegetation it is intended to prevent, destroy,
17 control or mitigate; or
18 (b) Detrimental to vegetation (except weeds), wildlife or to the public
19 health and safety; or
20 2. Has been classified for ["restricted use"] restricted use by or
21 under the supervision of a certified applicator in accordance with the
22 Federal Environmental Pesticide Control Act (7 U.S.C. § 136 et seq.).
23 SEC. 4. This act shall become effective upon passage and approval.

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Original bill is on file at
the Research Library.

ASSEMBLY BILL NO. 233—COMMITTEE ON JUDICIARY

FEBRUARY 1, 1977

Referred to Committee on Agriculture

SUMMARY—Deletes obsolete reference to salary of executive director of state department of agriculture. (BDR 50-398)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to the state department of agriculture; deleting obsolete reference to the salary of the executive director; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 561.115 is hereby amended to read as follows:
2 561.115 The position of executive director of the state department
3 of agriculture is hereby created. The executive director shall be:
4 1. Appointed by the board with the approval of the governor.
5 2. In the unclassified service.
6 **[3. Entitled to receive an annual salary of \$20,500.]**
7 SEC. 2. This act shall become effective upon passage and approval.

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Original bill is on file at
the Research Library.