



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, February 21, 2018 at 9:00 am in Carson City. The meeting will be held in the Nevada Legislative Building, Room 2134, located at 401 South Carson Street. The meeting will also be video-conferenced in Las Vegas at the Grant Sawyer Building, Room 4406, 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.

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### **R155-17: Bureau of Water Pollution Control**

The NDEP is proposing to modify Chapter 445A pertaining to wastewater operator certification and the classification of sewage treatment plants.

Proposed modifications include the requirements for initial certification of a wastewater operator, renewal of an operator's certification, ascending education for grade levels, and continuing education units for certification renewals. The proposed changes will make Nevada consistent with the requirements for the Association of Boards of Certification, strengthening the program to better protect Nevada's water resources.

Also proposed is an increase in fees for initial, renewal and reciprocity certifications. The fee increase is necessary to support the certification program enhancements that will help to protect Nevada's water and also provide for a nationally and professionally competitive Wastewater Operator Certification program. It is important to note that the fee schedule has not been adjusted since 1992 and currently compensates for approximately 40% of the current operating costs, which do not include the additional administrative costs for the proposed enhancements.

NDEP also proposes to modify the methodology in which a treatment plant is classified. Treatment technology will be applied as the key factor. This will enable consistency with current technologies for wastewater treatment as well as plant size.

Finally, the NDEP is proposing to modify NAC 445A.867(6) in the Underground Injection Control program (UIC). The amendment will require that all wells within an area of review for a UIC permit have proper corrective actions completed as opposed to injection wells only. This will ensure that all applicable wells are repaired, plugged etc. to prevent degradation of groundwater as a result of the proposed injection activity.

The proposed fee increase applies to individual wastewater operators. If a private wastewater treatment plant elects to pay the certification fee for its plant operator(s), which is common, it would be voluntary and the impact would be minimal. The public will not be affected economically. The additional cost to the agency for implementing the amendments will be addressed with the proposed fee schedule. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation.

### **R156-17: Bureau of Safe Drinking Water**

The NDEP is proposing to amend regulations governing the Drinking Water operator certification process. The amendments include increased exam fees, renewal fees and conversion and reciprocity fees. In addition, the amendments will address the contact hours required for certification renewal, the time required to advance to the next operator grade level, the ability for an operator to advance two grades above the classification of the system at which they are working (based on experience) and will provide general housekeeping and clarification associated with the existing regulations.

The NDEP considered these amendments at the request of the Drinking Water and the Waste Water Operator Forum Committee. It is imperative that Nevada Operators are well trained in operation standards and treatment technologies and are well-versed in regulatory requirements to ensure the protection of public health. The new amendments ensure that operators have the appropriate level(s) of experience and are current with the most recent requirements in Drinking Water regulations and technologies. Providing Operators with the opportunity to apply for certification that is two grades above the classification of the system they are working, when they meet specific criteria, allows operators to pursue professional growth and development while concurrently ensuring well-operated Drinking Water systems.

The NDEP Operator Certification Program is funded by fees and federal grants. The current fees, which have not been increased since 2002, subsidize 39% of the program and do not accurately reflect the regulatory workload. Additionally, costs to purchase the nationally accredited exams and proctoring of the exams have increased over the years while the fees have remained unchanged. The proposed increase to operator certification fees will help to better align revenue with the regulatory workload and increased costs of the

exam process. The amendments will also provide general housekeeping and clarification of the existing regulations.

The proposed fee increases apply to individual operators. If a private water system elects to pay the certification fee for its operator(s), it would be voluntary and the impact would be minimal. There would be no additional cost to the agency for implementing the proposed fee schedule. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation.

#### **R144-17: Bureau of Air Quality Planning and Air Pollution Control**

The NDEP is proposing to amend NAC 445B.221, Adoption by Reference and applicability of certain provisions of federal law and regulations, to adopt applicable federal rules promulgated since the State regulation was last updated as of October 2016. This is a routine activity. The update includes rulemakings under 40 CFR Part 51, “Requirements for preparation, adoption, and submittal of implementation plans” Part 52, “Prevention of significant deterioration of air quality” (PSD), Part 60, “Standards of performance for new stationary sources” (NSPS), Part 61, “National emission standards for hazardous air pollutants” (NESHAP), and Part 63, “National emission standards for hazardous air pollutants for source categories” (NESHAP).

The NDEP is delegated the implementation of certain federal NSPS and NESHAP rules that apply in Nevada. The proposed amendments update the State’s “adoption by reference” regulation, so that Nevada can request delegation for the implementation of new and revised NSPS and NESHAP promulgated since the last update. This will allow the regulated industry to continue to work with the State rather than the U.S. Environmental Protection Agency (EPA). In addition, this amendment will update the Agency’s adoption of federal PSD rules as well as revisions to requirements for the preparation, adoption and submittal of implementation plans.

The federal rules adopted by reference in NAC 445B.221 are federal requirements that the regulated business/industry must comply with regardless of whether the U.S. Environmental Protection Agency (USEPA) or the NDEP implements them. Industry prefers that NDEP implement the federal rules; the NDEP has an active working relationship with industry and will implement the federal regulations in as effective and efficient manner as possible. The proposed amendments will have no economic effect on the public nor the enforcing agency.

The proposed amendments do not overlap any other State regulation, are not more stringent than what is established by federal law and do not address fees.

#### **R145-17: Bureau of Air Quality Planning and Air Pollution Control**

The NDEP is proposing to amend NAC 445B.22097, “Standards of quality for ambient air.” The change includes the revision of the Nevada ambient air quality standards table in NAC 445B.22097 to align it with the national ambient air quality standards (NAAQS) currently in effect. The proposed regulation revises the 8-hour ozone standard in the Nevada standards table from 0.075 to 0.070 parts per million (ppm). The NDEP further proposes to simplify the table by deleting the “National Standards” and “Method” columns because both are for reference only and are often out-of-date with respect to the referenced federal regulations.

The amendments are in response to a federal requirement. When the U.S. Environmental Protection Agency (EPA) promulgates a new or revised NAAQS, States must submit a plan which provides for implementation, maintenance and enforcement of such standard (Clean Air Act § 110(a)(1)). The proposed amendments address the implementation of EPA’s October 26, 2015 ozone NAAQS revision, simplify the table that lists the ambient air quality standards enforced by NDEP and provide flexibility in implementing NDEP’s ambient air monitoring program.

The economic effect of this regulation can only be determined on a case-by-case basis for each affected business. If the environmental evaluation shows that the emissions from a business are expected to exceed the air quality standards, the business must revise its operating procedures or install controls to reduce emissions. The cost will range from no cost to the cost of installing emission controls appropriate to the individual situation.

It is important to note that the proposed ozone standard is already a federal standard with which industry must comply regardless of whether the EPA or the NDEP implements it. If EPA must implement the standard, it will do so remotely, in a unilateral manner, with little experience of Nevada’s industry and without the NDEP’s commitment to support economic development. In contrast, the NDEP has active working relationships with the regulated industry and is well positioned to develop Nevada-specific implementation strategies with industry that are effective and as unobtrusive as possible.

The proposed adoption will have beneficial effects in terms of improved health and welfare. In accordance with the Clean Air Act, the primary NAAQS are established to protect against adverse effects of polluted air on human health, including protection of “sensitive” populations such as asthmatics, children, and the elderly. The cleaner the emissions are the less health effects will be experienced by those persons downwind of the facility. In addition, the emissions reductions will also benefit public welfare. Public welfare protection includes protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

There may be an incremental cost to the agency of implementing the required federal regulation, but such cost is built in to the current fee structure of the Bureau of Air Pollution Control.

The proposed amendments do not overlap any other State regulation, are no more stringent than what is established by federal law and do not address fees.

**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 21<sup>st</sup> 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\\_0218.htm](http://sec.nv.gov/main/hearing_0218.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 4:00 p.m. on February 14, 2018.

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