

Permanent Regulation - Informational Statement

A Regulation Relating to Water Quality Standards

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R102-14

Regulation R102-14:

On October 8, 2014, the SEC adopted a regulation modification related to the NDEP Bureau of Water Quality. The proposed regulation amends the water quality regulations for the former “Class Waters” located in the Upper Humboldt River Basin. Revisions include the addition of numeric criteria for nitrate, nitrite, total suspended solids, turbidity, color, chloride, sulfate and alkalinity based upon guidance published by the U.S. Environmental Protection Agency (EPA). These additions were deemed necessary to properly protect the designated beneficial uses.

1. Need for Regulation:

State law (NRS 445A.520) requires that standards be set at levels designed to protect beneficial uses for surface waters of the state. Nevada has been delegated authority to set water quality standards under the Clean Water act and federal regulations (40CFR 131.20) require states to periodically review their water quality standards, and as appropriate update those standards. A review of the available data, scientific literature and EPA guidance indicated that the proposed standards changes be made to protect the beneficial uses currently designated for these waters.

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.

On May 19 and May 21, 2014, NDEP conducted public workshops on LCB’s Proposed Draft Regulation R102-14. The workshops were held in Carson City and Elko. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Tahoe Conference Room) and the meeting in Elko was at the County library, located at 720 Court Street.

One (2) members of the public commented at the workshop. Those people were:

Randy Brown, Elko County

Glen Guttry, Elko County Commissioner

Both questions were related to EPA's pending rule regarding Waters of the United States.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: http://sec.nv.gov/main/hearing_1014.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 8, 2014 at the Nevada Department of Conservation and Natural Resources, 901 South Stewart Street, Carson City, Nevada. A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Division of Wildlife, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R102-14 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Water Quality Planning electronic mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://sec.nv.gov/main/hearing_1014.htm .

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

- (a) Attended October 8, 2014 hearing: 16 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 1

The name of the person who submitted written comments was not present at the hearing:

Paul Bottari
Elko County Association of Realtors
557 West Silver St. Suite 201B, Elko, NV 89801
(775) 738-2395
paul@bottarirealty.com

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 e-mail, a public workshop and at the October 8, 2014 SEC hearing as noted in number 2 above.

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 regulation was adopted without changes as the SEC determined that the comment received did not necessitate a change (see Number 2 above).

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

(a) Regulated Business/Industry. The proposed revisions are not expected to have any direct economic effect on the regulated community both immediately and long term. Water quality standards in of themselves do not directly regulate businesses, although standards do form the basis for effluent limits imposed by NDEP through the National Pollutant Discharge Elimination System (NPDES) permit program and the terms and conditions imposed through the Clean Water Act 401 program for any dredging or filling activity in Nevada waters. Currently, there is only one active NPDES permit for a discharge to any of the waters addressed in this proposal. Newmont Mining Corporation's Gold Quarry Mine has an NPDES permit to discharge mine dewatering water to Maggie Creek. A review of the available water quality data for Gold Quarry Mine indicates that the discharge is meeting the proposed additional water quality criteria.

(b) Public. The proposed revisions are expected to have some beneficial economic effect on the public both immediately and long-term. Overall, the current water quality standards have beneficial effects in terms of protecting public health and welfare, supporting aquatic wildlife, and recreational uses. All of these factors provide economic benefits to the public. The proposed changes will provide additional protection of the beneficial uses, thereby improving the level of public benefit.

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

As the changes are primarily cleanup, there will be no additional cost to the Agency.

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.

Implementation of the proposed regulations is not expected to result in additional cost to the agency for enforcement.

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

There is no federal regulation for these proposed water quality standards revisions. The federal government has delegated responsibility for establishing water quality standards to NDEP. Setting the proposed water quality standards at levels to protect beneficial uses of surface waters of the State enables NDEP to maintain its delegation of the Clean Water Act.

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.

The regulation does not address fees.