

FORM #1

FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS

1. Nevada Division of Environmental Protection
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2. The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is a regulatory agency.
3. Nevada Revised Statute (NRS) 445A.425 establishes the authority of the State Environmental Commission to adopt regulations to carry out provisions of NRS 445A.300 – 445A.730, including standards of water quality and amounts of waste which may be discharged into waters of the State.

SPECIFIC CHANGES:

The NDEP is proposing to amend Nevada Administration Code ((NAC) 445A.070 – 445A.2234), *Standards for Water Quality*, by making numerous numeric criteria and formatting changes to provide clarity and consistency throughout the water quality standards (WQS) tables. The proposed revisions include: (1) remove references to “natural conditions” or “no adverse effects” and establish numeric criteria for alkalinity, color and turbidity based on the most current U.S. Environmental Protection Agency (EPA) criteria; (2) remove references to the 95th percentile for the total dissolved solids beneficial use numeric criteria; (3) remove Xs in the Beneficial Use columns that refer to secondary uses; (4) reformat how the nitrogen species are presented in the WQS tables; (5) add a footnote that specifies the NAC criteria for Toxic Materials; (6) move the ammonia standards tables so they occur after standards applicability discussions and beneficial uses; and (7) make other minor formatting changes for clarity and consistency of parameter names and units throughout all the WQS tables.

4. NEED AND PURPOSE:

EPA's water quality standards regulations at 40 CFR 131.11(a) (1) require states to adopt protective criteria that are based on sound scientific rationale. Many waterbodies contained in the NAC have criteria that reference "natural conditions" or "no adverse effects" for alkalinity, color and turbidity; however it is difficult to determine natural baseline conditions making it problematic to assess if the standards are being met and to establish discharge permit limits. Numeric criteria based on the most recent EPA recommended criteria are proposed for alkalinity (single value (S.V.) ≥ 20 mg/L), color (S.V. ≤ 75 PCU), and turbidity (≤ 10 NTU).

The existing total dissolved solids (TDS) numeric criteria for many streams is "S.V. ≤ 500 mg/l or the 95th percentile (whichever is less)". All references to the 95th percentile value will be removed as this is inappropriate as a beneficial use standard. Higher water quality is protected through antidegradation requirements.

The numeric criteria shown in the Water Quality to Protect Beneficial Uses column in the WQS tables are designed to protect the most restrictive use which is indicated in the Beneficial Uses columns by an asterisk. Inconsistencies throughout the WQS tables as to the most restrictive use protected by a given parameter are being corrected. The current practice of indicating secondary uses with an X is confusing and is inconsistent throughout the WQS tables. Since it is assumed that any secondary uses associated with a particular parameter are protected under the most restrictive use, the Xs indicating secondary uses are not necessary. Removing the Xs simplifies the Beneficial Uses columns and makes it easier to see the most restrictive use.

The nitrogen species are currently placed in one row in the WQS tables. For clarification, each species (total nitrogen, nitrate and nitrite) will be placed in separate rows. No changes to the numeric criteria are being proposed at this time.

Water quality criteria for toxic materials applicable to all named waters are contained in NAC 445A.1236. For clarification a footnote specifying the NAC reference is being added to each WQS table.

The NAC reference to ammonia is being moved to place the standards for ammonia after the discussions of applicability, standards applicable to all surface waters and discussions of beneficial uses.

Other revisions for clarification, correctness and consistency include: (1) changing mg/l to mg/L; (2) changing Total Phosphates to Total Phosphorus; (3) changing Suspended Solids to Total Suspended Solids and (4) updating the reference to the Colorado River Salinity Standards to 2014.

5. ECONOMIC EFFECTS:

(a) Regulated Business and Industry

The proposed revisions are not expected to have an economic effect on existing surface water discharge permits issued to regulated business and industry. Of all the proposed revisions, only those for Alkalinity, Turbidity and Color numeric criteria have a slight, but unquantifiable, potential impact to future permitted activities. These assumptions will be included in public workshop materials and the NDEP will seek specific comment on confirmation or disagreement with the assumptions.

Proposed revisions of the TDS numeric criteria will not impact existing or future regulated businesses, as the proposed change relies on the higher (less restrictive) of the two numeric values currently in the regulations.

The other proposed changes will have no economic effects on current or future regulated businesses and industries, as they are not associated with any revisions to numeric criteria. These changes include definitions to explain terms used in the standards, updating the water quality standards tables to be more consistent throughout, correcting errors in terminology within the standards tables, adding the reference to the Toxic tables into each standard table and updating the standard tables beneficial use matrix to show only the primary beneficial use.

(b) Public

The proposed numeric standards are based on the most up to date scientific knowledge regarding the protection of beneficial uses and will have beneficial effects in terms of protecting public health and welfare.

(c) Enforcing Agency

Implementation of the proposed regulation is not expected to result in additional cost to the agency for enforcement as permit compliance is already built into the Bureau of Water Pollution Control permit fee structure.

6. The proposed regulation does not duplicate or overlap with any other State regulations.
7. The proposed regulation is not more stringent than federal regulations. It aligns Nevada's standards for alkalinity, color and turbidity with the most current EPA recommended criteria for the protection of aquatic life and municipal or domestic supplies
8. The proposed regulation does not provide for fees.