



State of Nevada

Dept. of Conservation & Natural Resources

**State Environmental Commission** SEC.nv.gov

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

## Agenda SEC Regulatory Meeting

The State Environmental Commission (SEC) will hold a meeting on Tuesday, December 5, 2017 at 9:00 am in Carson City. The meeting location is at the Nevada Legislative Building, Room 4100, located at 401 South Carson Street. The meeting will also be video-conferenced in Las Vegas at the Grant Sawyer Building, Room 4412E, located at 555 East Washington Avenue. The meeting will be broadcasted live over the internet. The address for the Nevada Legislature website is <http://www.leg.state.nv.us>. Click on the link "Calendar of Meetings."

Please Note: The following items may be taken out of order and/or items may be combined for consideration. Items may also be removed from the agenda or the SEC may delay discussion relating to an item on the agenda at any time. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the SEC may refuse to consider public comment. See NRS 233B.126

- 1) Call to Order, Roll Call, Establish Quorum (Discussion)
- 2) Public Comment: (Discussion)

Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson.

- 3) Approval of September 13, 2017 Meeting Minutes (For Possible Action)

### REGULATORY PETITIONS

- 4) Permanent Regulation R102-16 Bureau of Water Quality Planning (For Possible Action)

The proposed amendment pertains to NAC Chapter 445A. The NDEP is proposing to amend NAC 445A.070 - 445A.2234, *Standards for Water Quality*, to align with the most current recommended numeric criteria published by the federal EPA for *Escherichia coli* (*E. coli*) bacteria to protect the water contact recreation beneficial use. The proposed revisions include: (1) change the existing reference

period from annual geometric mean (AGM) to geometric mean (GM) for all waters that have an existing AGM to protect the water contact recreation beneficial use; (2) change the unit of measurement from most probable number (MPN) per 100 mL to colony-forming-units (CFU) per 100 mL; (3) remove existing single value (SV) criteria of 235 MPN, 298 MPN and 576 MPN and replace with a SV of 410 CFU; (4) add a footnote that explains frequency and duration limits of the GM and SV criteria; and (5) add a definition of colony-forming-units.

These changes are needed to ensure Nevada is consistent with EPA's water quality standards regulation 40 CFR 131.11(a) (1) which requires states to adopt protective criteria that are based on sound scientific rationale.

This regulation will not have an immediate or long-term adverse economic impact on regulated business/industry or the public. There will be no additional costs to the State for enforcement of the proposed regulation and 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. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

**Recommendation:** Approve and adopt permanent regulatory petition R102-16, as proposed, or take other action as appropriate.

#### **5) Permanent Regulation R109-16 Bureau of Water Quality Planning (For Possible Action)**

The proposed amendment pertains to NAC Chapter 445A. The NDEP is proposing to amend NAC 445A.070 - 445A.2234, *Standards for Water Quality*, by making numerous numeric criteria and formatting changes that will 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 EPA criteria; (2) remove references to the 95<sup>th</sup> 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.

These changes are needed to ensure Nevada is consistent with EPA's water quality standards regulation 40 CFR 131.11(a) (1) which requires states to adopt protective criteria that are based on sound scientific rationale.

This regulation will not have an immediate or long-term adverse economic impact on regulated business/industry or the public. There will be no additional costs to the State for enforcement of the proposed regulation and 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. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

**Recommendation:** Approve and adopt permanent regulatory petition R109-16, as proposed, or take other action as appropriate.

- 6) **Administrator's Briefing to the Commission: (Discussion)** NDEP Administrator, Greg Lovato, will brief the Commission on management changes, NDEP recycling program activities, Nevada priorities for Low Level Radioactive Waste Management at the Nevada National Security Site (formerly the Nevada Test Site), the status of the Anaconda site and progress on testing for lead in drinking water at Nevada kindergarten and pre-K schools.
- 7) **Public Comment (Discussion)** Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to five minutes per person at the discretion of the chairperson.

## 8) Adjournment

**Additional Information:** Persons wishing to comment on the proposed actions of the State Environmental Commission (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), the Nevada Division of Minerals, 400 W. King Street, Carson City, NV and at the Nevada Department of Agriculture (405 South 21st Street, Sparks, Nevada).

In addition, copies of this notice have been deposited electronically at major library

branches in each county in Nevada. This notice and the text of the proposed regulations are also available on the State Environmental Commission's website at: [sec.nv.gov](http://sec.nv.gov). All of the proposed regulations denoted in this notice, including previous drafts, are or will be posted on the [Legislative Counsel Bureau's website](#).

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 5:00 p.m. on November 28, 2017.