



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission [sec.nv.gov](http://sec.nv.gov)

901 South Stewart Street, Suite 4001 -- Carson City, Nevada 89701-5249

## SEC Meeting Agenda December 7, 2010

The State Environmental Commission (SEC) will hold a regulatory hearing on December 7<sup>th</sup>, 2010 at 9:30 am at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of the following regulatory petitions and related SEC business.

- 1) Approval of minutes for 10/5/2010 SEC Regulatory Hearings \* Action Item
- 2) Presentation by Bureau of Air Pollution Control regarding penalty matrix and table and their use in determining recommended penalties for air quality violations -- Non Action Item
- 3) Discussion regarding procedure for penalty assessments for air quality violations by State Environmental Commission -- Non Action Item
- 4) Penalty Assessments for Air Quality Violations \* Action Items
  - a) Lake Tahoe Horizon Casino Resort – Penalty Assessments for Air Quality Violations No. 2232 and 2252: failure to apply for a renewal of an air quality operating permit prior to expiration, continuing to operate without a valid permit, and failure to conduct emission compliance tests (source tests) required by an air quality operating permit (recommended penalty \$38,100).
  - b) Eagle Peak Rock and Paving, Inc. – Penalty Assessments for Air Quality Violations No. 2248, 2249, 2257 and 2258: failure to install water sprays and enclosures and failure to comply with permitted emission limits—exceeding the permitted emission limit for visual emissions during operation of sources PF1.014, PF1.016 and PF1.023 (recommended penalty \$30,800).
  - c) Newmont Nevada Energy Investments, LLC – Penalty Assessments for Air Quality Violation No. 2226: Exceeding permitted emissions limits (PM10) on a coal-fired boiler as required by a Class I Air quality Operating Permit (recommended penalty \$13,725).
  - d) Ames Construction, Inc. – Penalty Assessments for Air Quality Violations No. 2269, 2270 and 2271: operating without a valid air quality operating permit, failing to report the throughput and operating hour

exceedances, and exceeding throughput and daily operating hour limits set in the air quality operating permit (recommended penalty \$11,550).

## Safe Drinking Water\* Action Item

**5) Arsenic Rule Extensions** – Pursuant to the federal Safe Drinking Water Act and Nevada laws and regulations (i.e., NRS 445A.935, & NAC 445A.490.5), the State Environmental Commission (SEC) has the authority to grant "extensions" to exemptions previously issued by the SEC regarding the federally mandated standard for arsenic in drinking water (i.e., 10 parts per billion). In 2006 and 2007, the SEC granted sixty-four "exemptions" to water purveyors in Nevada to extend the timeline for compliance with the federal arsenic rule.

The Nevada Division of Environmental Protection's Bureau of Safe Drinking Water (BSDW) has established criteria, based on state regulations and U.S. EPA guidance, to screen exempted facilities for a possible two-year extension to the timeline for compliance with the arsenic rule.

Accordingly, at this meeting the SEC will act on staff recommendations for, or against, a two-year extension of the timeline for compliance with the federal arsenic rule for a selected list of water purveyors in Nevada (see attached 1).

## Water Quality Planning \* Action Item

**6) R129-10: Water Quality Standards for Class D Waters & Removal of Legal References for Certain Tribal Waters:** This regulation proposes changes to Water Quality Standards for Class D waters and removal of Nevada Administrative Code references to Tribal waters on the Fort McDermitt Indian Reservation. When the Nevada Division of Environmental Protection (NDEP) updated the Class Waters to the E. coli bacteria standard in 2008, EPA required Nevada to perform an assessment of the Class D waters, which do not have contact recreation as a beneficial use, to determine if the waters would now meet the fishable/swimmable goal of the Clean Water Act. NDEP is proposing to add contact recreation and the associated bacterial water quality standard to four segments of the Class D waters.

The State of Nevada water quality regulations are not applicable to waterbodies on tribal lands. As a sovereign nation, the Fort McDermitt Paiute and Shoshone Tribes are responsible for regulating the water quality of the river within the boundaries of their land. Changes are proposed to the NAC to remove the segments of these reaches that are on tribal lands.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the agency for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees.

## Administrative Services \* Action Item

**7) R115-10: Financial Assistance for Construction of Wastewater Treatment & Pollution Control Projects:** This regulation would amend NAC 445A. Proposed revisions to the regulation govern financial assistance for construction of wastewater treatment & pollution control projects. Revisions to the regulation are intended to make the Clean Water and Drinking Water State Revolving Fund more consistent with program elements such as the Division of Environmental Protection's Priority List and the Intended Use Plan.

The proposed revisions also remove the requirement that project design be completed prior to project funding. The removal of this requirement will allow communities, which cannot afford up front engineering cost, to utilize state revolving funds for such activities. The proposed regulation also removes confusing language for calculating fixed amounts for planning and design costs.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the agency for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees.

## Air Quality Planning / Air Pollution Control \* Action Item

**8) T011-10: Air Pollution Control New Public Notice Provisions For Class II Air Permits:** The Nevada Division of Environmental Protection (NDEP) is proposing to amend one section in the air permitting provisions of NAC 445B, which deals with Class II permit applications. The proposed temporary regulation addresses public noticing requirements and the timeline for agency action on applications.

Specifically, the regulation would require the Director to act on all Class II permit applications within 60 days after the official date of submittal and would streamline the public notice timeline for Class II applications. It would require all new Class II air permit applications and all applications for a modification (to an existing Class II source) that exceeds a certain threshold be made available for public notice. These regulatory changes respond to U.S. EPA comments on the approvability of the NDEP's public notice provisions into Nevada's applicable State Implementation Plan. The proposed amendments are necessary to align state regulations with the federal Clean Air Act and U.S. EPA rule requirements.

This temporary regulation will not have an immediate or long-term adverse economic impact on the public or the business community. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. There will be additional costs to the NDEP to administer the new public notice provisions for all new permit applications and for all

modifications that exceed specified thresholds. The agency will bear these costs, at this time; no new fees are being proposed. (P2010-11)

## Other SEC Business

### 9) Administrator's Briefing to the Commission: **Non-Action Item**

NDEP's Administrator will provide the Commission with informational updates about bill draft requests, NDEP's mercury regulatory program at the Hawthorne Ammunition Depot, and status of the new federal greenhouse gas regulation.

### 10) Public Comment: **Non-Action Item**

Public comment may be limited to ten minutes per person at the discretion of the Chairperson. (See AG Open Meeting Law Manual, pages 58 & 81, <http://ag.state.nv.us/publications/manuals/omlmanual.pdf>)

### 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), at the State Library and Archives building in Carson City (100 Stewart Street) and at the Nevada Department of Wildlife in Reno - 11 Valley Road.

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: <http://www.sec.nv.gov/index.htm>. All of the proposed regulations denoted in this notice, including previous drafts, are also posted on the Legislative Counsel Bureau's website at: <http://www.leg.state.nv.us/register/>.

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 John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on November 29, 2010.

1 Attachment

**NDEP Bureau of Safe Drinking Water - List of Water Systems with Arsenic Exemptions and their Status for Extension  
Recommendations to the State Environmental Commission - December 7, 2010**

	COUNTY	PWS ID#	PUBLIC WATER SYSTEM NAME	ARSENIC (ppb)	POP	DATE OF ORIGINAL EXEMPTION
<b>Systems Achieving Compliance Since December 2008 SEC Hearing</b>						
1	LI	NV0000013	CALIENTE PUBLIC UTILITIES	17	1,500	September 6th, 2006
2	MI	NV0000897	SCHURZ ELEMENTARY SCHOOL	14	320	December 4th, 2007
3	WA	NV0001086	SKY RANCH WATER SERVICE CORPORATION	14	2,030	September 6th, 2006
<b>Systems Eligible and Recommended for Extension - Arsenic Concentration &gt; 20 ppb</b>						
4	CH	NV0000047	DELUXE MHP	24	37	December 4th, 2007
5	LA	NV0000008	LA CO SEWER AND WATER DIST 1 BM	24	3,026	May 24th, 2007
6	LY	NV0000223	SILVER SPRINGS MUTUAL WATER COMPANY	25	3,000	September 6th, 2006
7	NY	NV0000009	BEATTY WATER AND SANITATION DISTRICT	24	1,100	September 6th, 2006
<b>Systems Eligible and Recommended for Extension - Arsenic Concentration &lt;= 20 ppb</b>						
8	CH	NV0000061	TOLAS PARK MHP	20	54	May 24th, 2007
9	CH	NV0000903	CMC STEEL FABRICATORS DBA CMC JOIST	16	400	September 7th, 2007
10	CH	NV0000052	OK MOBILE HOME PARK	15	90	September 6th, 2006
11	CL	NV0002501	NPS COTTONWOOD COVE	15	1,354	September 6th, 2006
12	CL	NV0000219	SEARCHLIGHT WATER COMPANY	11	760	September 6th, 2006
13	DO	NV0000887	SUNRISE ESTATES	17	91	September 6th, 2006
14	EU	NV0000043	CRESCENT VALLEY WATER SYSTEM	12	350	May 24th, 2007
15	EU	NV0002573	DEVILS GATE WATER SYSTEM GID 2	12	70	May 24th, 2007
16	HU	NV0005069	HUMBOLDT CONSERVATION CAMP NDOP	15	140	September 6th, 2006
17	HU	NV0000907	LONE TREE MINE	15	150	May 24th, 2007
18	HU	NV0000162	MC DERMITT WATER SYSTEM	19	200	December 4th, 2007
19	HU	NV0002528	TURQUOISE RIDGE JOINT VENTURE	20	250	September 6th, 2006
20	LA	NV0000006	LA CO SEWER AND WATER DIST 2 AUSTIN	14	350	May 24th, 2007
21	LI	NV0000185	PANACA FARMSTEAD WATER ASSOCIATION	20	800	May 24th, 2007
22	LY	NV0000242	WEED HEIGHTS DEVELOPMENT	18	500	May 24th, 2007
23	LY	NV0000255	YERINGTON CITY OF	19	2,900	September 6th, 2006
24	NY	NV0000237	TONOPAH PUBLIC UTILITIES	13	2,600	September 6th, 2006
25	ST	NV0000878	MASTERFOODS USA	15	140	December 4th, 2007
26	WA	NV0000896	BRISTLECONE FAMILY RESOURCES	12	25	September 6th, 2006
27	WA	NV0004021	SILVER KNOLLS MUTUAL WATER COMPANY	13	120	May 24th, 2007
28	WA	NV0003000	VERDI SCHOOL	13	250	September 6th, 2006
<b>System Recommended for Extension, But No Proof of Public Notice</b>						
29	LY	NV0002595	Silver Springs Conservation Camp NDOP	19	144	September 6th, 2006
<b>Systems Not Recommended - Concentration &gt; 25 ppb</b>						
30	CH	NV0003068	CARSON RIVER ESTATES	28	90	December 4th, 2007
31	MI	NV0000357	HAWTHORNE ARMY AMMO DEPOT	30	300	May 24th, 2007
32	NY	NV0005028	SHOSHONE ESTATES WATER COMPANY	30	240	December 4th, 2007
			(System is also not taking "all practicable steps")			
33	WA	NV0000193	CRYSTAL TP	27	80	September 6th, 2006
<b>Systems Not Recommended - Not Taking "All Practicable Steps" to Achieve Compliance</b>						
34	CH	NV0000058	WILDES MANOR	20	70	December 4th, 2007

*Updated 11/4/2010*