

Water Controls & Hazardous Substances Filing Statement

Legislative Review Of Adopted Regulations As Required
By Administrative Procedures Act, NRS 233B.066

Petition 2004-16 (LCB File R-061-04)
State Environmental Commission

The following statement is submitted for adopted amendments to Nevada

Administrative Code. This regulation repeals existing regulations and adopts new revised regulations. This regulation repeals Nevada Administrative Code (NAC) 445A.055 through 445A.067 and adopts NAC 445A.0552 to NAC 445A.067, (i.e., Certification of Environmental Laboratories). The authority for these regulations are defined under Nevada Revised Statutes (NRS) 445A.425, 445A.428.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Nevada Division of Environmental Protection (NDEP), Bureau of Water Quality Planning, scheduled two public workshops to present proposed revisions to the Nevada Laboratory Certification Program (Nevada Administrative Code 445A.0552 through 445A.067 and Senate Bill No. 58 as approved by the 2003 Legislative Session). The workshops were held on:

Tuesday, January 20, 2004
Division of Environmental Protection
Conference Room 217
123 W. Nye Lane
Caron City, Nevada
1:00 to 3:00 pm

Friday, February 6, 2004
Grant Sawyer Building
Conference Room 1100, First Floor
555 E. Washington Avenue
Las Vegas, Nevada
8:00 to 10:00 am

The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates – July 19, July 26 and August 9, 2004. The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing list was used for both mailings.

At the SEC hearing, there were public oral comments received by the Commission during the adoption of the referenced regulation. Comments in support of the regulation were provided by Dr. Roger Scholl of Alpha Analytical and Dr. John Cobra of Sierra Environmental Monitoring.

2. The number persons who:

- (a) **Attended August 19, 2004 hearing;** 30
- (b) **Testified on this Petition at the hearing:** 2
- (c) **Submitted to the agency written comments:** 29 (see #3 below)

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

NDEP's Bureau of Water Quality Planning (BWQP) sent eighty (80) questionnaires to businesses that might be effected by, or interested in, the state's laboratory certification program. The BWQP received 29 replies to the questionnaire that expressed interest in the new hazardous waste certification program for laboratories. Comments on this regulation were also solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list.

4. 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 by the State Environmental Commission on August 19, 2004 without any changes.

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

Adverse effects of this regulation may include a slightly higher cost to do business for some laboratories. Small laboratories will be less affected than the larger laboratories. A poll of the laboratories affected indicates that none of the in-state laboratories consider the change in fees to present a hardship. Respondents to the above mentioned questionnaire indicated that they anticipate a beneficial effect in terms of establishing the Resource Conservation & Recovery Act (RCRA) certification program in Nevada. The new certification program will level the playing field for laboratories that perform the analytical procedures appropriately. It will also enable in-state laboratories to demonstrate certified status so that they may participate in certain contracts that require it. These contracts have previously been let to out-of-state laboratories based upon their out-of-state certification. The lack of a certification program for RCRA has resulted in out-of-state laboratories obtaining an inordinate amount of RCRA work in Nevada. In-state laboratories have either been precluded from participation in out-of-state work for lack of a Nevada certification program, or have had to pay for out-of-state certification. Out-of-state laboratories have not had to pay for Nevada certification, but have had a free hand to participate in Nevada contracts.

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

Agency costs to implement the proposed regulations would not be negatively effected; that is, the more participation in the lab certification program, the more fees will be obtained to fund the agency operations. The net effect would be the addition of one full time Laboratory Certification Official and a half time Administrative Assistant.

7. 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.

The regulation does not overlap or duplicate any regulations of other state or government agencies.

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

The regulation is no more stringent than what is established by federal law.

9. 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.

Regarding fees, the new regulation does not contain changes in the fee structure for participating laboratories. The changes would better balance the wastewater and drinking water programs based upon actual time and effort required to administer the programs as well as support the RCRA certification program. These fees have been coordinated so that equivalent activities among the three program areas will be proportionally cost allocated. The new fee structure will generate an additional \$92,000.00 per year. These funds will support operational costs of the laboratory certification program as well as support a third certification officer and a part-time administrative assistance.

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