

Permanent Regulation Filing Statement

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

State Environmental Commission
Nevada Division of Environmental Protection
Bureau of Water Pollution Control

Underground Injection Control (UIC): LCB File No. R103-04

This regulation changes to the permitting provisions of NAC 445A.825 through 445A.910 - Underground Injection Control (UIC). The Underground Injection Control Program is designed to protect underground sources of drinking water by ensuring injection of fluids through a well do not degrade waters of the State. The amendments to these regulations are necessary due to the conflicts with the federal rule 40 CFR 144. In addition, the regulation is needed to increase fees for the first time in fourteen (14) years to provide for future staffing increases and ensure the program is fiscally stable.

The revised regulation will generate minor increases in permit fees for underground injection control permits including creation of new permit fee categories for general and individual permits. The regulation will also clarify injection activities relating to treated effluent; change language to ensure the state regulations are as stringent as existing federal rules (40 CFR 144); and remove language related to suspension of UIC permits.

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, Bureau of Water Pollution Control held public hearings at the following locations to solicit comments from interested parties about the proposed changes in the regulations referenced above.

Carson City

Monday, April 19, 2004
10:00am – 12:00pm
Western Nevada Community
College
Reynolds Center for Technology
Room 103
2001 W. College Parkway
Carson City, Nevada

Henderson

Friday, April 23, 2004
1:00pm – 3:00pm
Henderson Convention Center
200 Water Street
Henderson, Nevada

Elko

Monday, April 26, 2004
10:00am – 12:00pm
Elko City Hall Council
Chambers
1751 College Avenue
Elko, Nevada

Proposed changes to these regulations were 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 – November 8, 15, and 22, 2004. The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing lists were used for both mailings.

At the SEC hearing, there were no public oral comments received by the Commission during the adoption of the referenced regulation.

2. The number persons who:

- (a) **Attended August 19, 2004 hearing;** 30
- (b) **Testified on this Petition at the hearing:** 1
- (c) **Submitted to the agency written comments:** None

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.

Comments were solicited from affected businesses by the notice in the newspapers, as outlined in #1 above and by direct mail to interested persons subscribing to the SEC electronic mailing lists. The public notice for the referenced SEC meeting was also sent to county libraries throughout the state and the proposed regulation was made available for public inspection in libraries in Clark and Washoe Counties, at the State Library in Carson City, and at the offices of the Nevada Division of Environmental Protection in Carson City and Las Vegas. The regulation, public notice and meeting agenda were also made available on SEC Website at: <http://www.sec.nv.gov/main/hearing113004.htm>

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 State Environmental Commission adopted the regulation on November 30, 2004 with the following changes.

- 1. Under Section 4, subsection 6, the word "protection" shall be added after the words "ground water" to read "ground water protection area pursuant to subsection 5,;
- 2. Removal of Section 8 in its entirety; and
- 3. Removal of Section 10, subsection 2 in its entirety.

5. The estimated economic effect of the adopted regulation on the

business, which it is to regulate, and on the public.

The proposed regulations will not have a significant economic impact, either immediate or long term, on the regulated industry and/or small businesses. In general, this regulation change will have beneficial effects for the regulated industry in that some permits will be regulated under a general permit instead of an individual permit at a cost and time savings.

Specifically, the economic effect will vary depending on the facility and the type of discharge(s) at a particular facility. The adverse and beneficial economic effects will be seen through the increase in application and annual fees under the proposed regulation changes. The adverse effect will be an increase in application and annual fees. Application and annual increases for 1) individual permits will be approximately 25-30 percent (\$200 - \$3000) depending on the permit type, and 2) current general permits will be approximately \$100-\$200. The beneficial effect will be a reduction of annual fees for some permittees by creation of general permit fee categories that will allow the UIC Program to transfer individual permit holders to a lower-cost general permit. Savings will be seen in the application and annual fee costs of \$1,500 and \$600 per year, respectfully.

One adverse impact on the public might be slightly higher fees (\$10-20 per year) at commercial sites like mobile home parks. Other businesses might also charge slightly higher fees for services. However, the program's goals, in addition to protecting ground water quality, are to ensure proper operation to prevent very costly repairs to systems passed onto tenants, or even worse, closure of some businesses due to poor maintenance of their systems.

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

There will be no additional costs to the Nevada Division of Environmental Protection for implementing this regulation.

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 proposed regulation changes only duplicates federal environmental protection regulations to the extent of being as stringent as the federal rule under the U.S. Environmental Protection Agency, which is a primacy requirement.

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 proposed regulations changes make the state regulations as stringent as the federal regulation.

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.

This regulation increases existing fees and provides new fees for newly created Underground Injection Control categories. This is the first new fee or fee increase in fourteen (14) years. The increase to existing fees will generate an additional \$70,000 to \$80,000 per year over current program income (approximately \$280,000) to cover the FY2005-06 budget for the permitting, inspection and compliance of the Underground Injection Control Program, including large capacity septic systems and other general permits of the Bureau of Water Pollution Control.

The fee increase will allow the UIC Program to add one new staff member in support of the administration of discharges to the subsurface environment as required in statute and regulation, including the new requirements established back in 2001 that has created a backlog in issuing new permit, renewing existing permit, and ensure compliance with the permit and regulations.

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