

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection
Bureau of Water Pollution Control

Legislative Review of Adopted Regulations as Required
By Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC)
LCB File No. R194-07
SEC # P2008-01

Regulation R194-07: Proposed On-Site Sewage Disposal System: The Nevada Division of Environmental Protection (NDEP) is proposing to establish an on-site sewage disposal system regulation. This new regulation would amend NAC 445A.8335 through NAC 445A.849. In the past NDEP utilized the Nevada Division of Health's Individual Sewage Disposal Systems regulations to regulate septic applications. When the Nevada Legislature transferred the Safe Drinking Water Program from the Division of Health to NDEP in 2005 (SB 395), the authority to regulate commercial (non-residential) septic tanks and leach fields was also transferred. This action created a need for regulatory authority by NDEP of commercial septic systems.

It's worth noting that after industrial waste, septic tanks and leach field applications are the second leading cause of groundwater pollution in America. NDEP has recognized this threat and has taken a proactive approach, which, in part includes promulgation of this regulation. This threat to groundwater has also prompted the U.S. Environmental Protection Agency (USEPA) to regulate On-site Sewage Disposal Systems under the Class V well section, in the Underground Injection Control Program (UIC) (40 CFR 144.81). Currently, this is limited to systems that receive industrial waste or serve 20 or more people per day.

NDEP is the delegated agency for the UIC program in Nevada. USEPA currently allows states to determine septic flow estimates from 20 people. Accordingly, NDEP has set that flow at 3,000 gallons per day for the purposes of this regulation. By taking this action, On-site Sewage Disposal Systems of 3,000 gallons per day or less will be exempted from general USEPA oversight. This protects the majority of small businesses from potential regulatory burdens.

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

The Nevada Division of Environmental Protection held (4) separate public workshops on the above referenced regulation at the locations noted below. NDEP also prepared a 75 page "Support Document" explaining the proposed regulatory changes; that document was made available to workshop participants and posted on the Internet at: http://ndep.nv.gov/docs_07/commercial_septic_draft_reg07.pdf

Pahrump Wednesday, August 01, 2007 - 4:00PM - Bob Ruud Community Center 150 North Highway 160 Pahrump, Nevada 89060	Carson City Tuesday, August 07, 2007 - 4:00PM Department of Conservation and Natural Resources - Nevada 901 South Stewart Street - Hearing Room 200 Carson City, Nevada 89701	Elko Thursday, August 09, 2007 - 4:00PM Great Basin College 1500 College Parkway Elko, Nevada 89801
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Winnemucca Wednesday, June 4th, 2008 - 10:30AM Humboldt County Courthouse - Room 201 50 West 5th Street Winnemucca, Nevada 89445	Carson City Thursday, June 5th, 2008 - 3:00PM Department of Conservation and Natural Resources Bryan Building - Hearing Room 200 901 South Stewart Street Carson City, Nevada 89701
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Following these workshops, the State Environmental Commission (SEC) held a public hearing to consider the regulation on June 17, 2008. The hearing was held in Las Vegas at the Las Vegas Convention and Visitors Authority. The SEC hearing agenda was posted at the meeting location, at the State Library in Carson City, and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed regulation were also made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the regulation was published on Monday May 26, 2008 and on June 2nd and 9th 2008 in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_061708.htm

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended June 17, 2008 hearing; 30 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP Staff)
- (c) Submitted to the agency written comments: 2

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

Comments were solicited from affected businesses as indicated in number 1 above.

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 with one insignificant non-substantive change. The language change was made to Sec 57 (d); language in this section was excluded to allow local jurisdictions flexibility in determining when on-site sewage disposal systems are allowed in conjunction with public community sewerage systems.

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

The regulation is not anticipated to have any significant economic impact on the public or Nevada businesses.

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

There will be no additional cost to the agency for enforcement of the proposed 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.

This regulation does not duplicate any other federal, state or local regulation.

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 not more stringent than any local or federal laws and regulations.

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.

The proposed regulation does address any fees.