

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection Bureau of Safe Drinking Water

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

State Environmental Commission (SEC)
LCB File No. R194-08

With this regulation, the Nevada Division of Environmental Protection, Bureau of Safe Drinking Water (NDEP/BSDW) is proposing to update its Federal adoption by reference date for regulations that have been promulgated by the U.S. Environmental Protection Agency (US EPA) from July 1, 2005 to July 1, 2006.

During this period, US EPA codified the Long Term 2 Enhanced Surface Water Treatment Rule and the Stage 2 Disinfectants and Disinfection Byproducts Rule which the NDEP/BSDW is now adopting. The regulations also addresses related changes to the Design, Construction, Operation and Maintenance regulations as well as clarification of language related to: the Public Notice Rule; the Lead and Copper Rule; the Interim Enhanced Surface Water Treatment Rule; the Long Term 1 Enhanced Surface Water Treatment Rule; language related to Best Available Technology (BAT) and repeal of a variance provision deemed to be in conflict with another existing provision. The regulation further includes adoption of 40 CFR 142.61 to 142.65, inclusive, for purpose of better defining BAT for variances. These portions of the regulation are necessary to maintain Primary Enforcement Responsibility (Primacy) approval from the U.S. EPA for the Safe Drinking Water Act components of Nevada's program.

This regulation was further amended to update agency naming conventions in the Public Water System Design, Construction, Operation and Maintenance portion, made necessary by the 2005 Legislative transfer of the Bureau of Safe Drinking Water from the Health Division to the NDEP. Certain amendments also clarified regulatory roles and responsibilities of the NDEP/BSDW and the two large County Health Districts. Finally, this regulation makes various minor amendments to clean up existing regulatory language.

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.

Since Federal promulgation of the Long Term 2 Enhanced Surface Water Treatment Rule and the Stage 2 Disinfectants and Disinfection Byproducts Rule

in 2006, NDEP/BSDW staff has been actively engaged with the regulated community and the US EPA Region 9 in providing educational training and workshops on the future implementation of the new federal rules. Additional outreach opportunities included annual Nevada Rural Water Association Conferences, Distance Learning Broadcast trainings through the UNR Extension Service and small group meetings and trainings with identified major stakeholders.

Prior to the public hearing, the NDEP/BSDW held three (3) official public workshops on the above referenced regulation at the locations noted below.

Las Vegas June 23, 2008 9:30 am to 12:00 noon College of Southern Nevada Charleston Campus 6375 W. Charleston Blvd	Carson City June 24, 2008 1:30 pm to 4:30 pm Bryan Building 901 South Stewart St	Elko June 25, 2008 10:00am to 12:30 pm Great Basin College Main Campus 1500 College Parkway
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Notifications of the regulation adoption Workshops were posted in all requisite library locations. In addition, the Workshop notice was mailed to 1,771 individuals, including all public water systems, all certified water system operators, and a large number engineering companies on file with the Bureau.

Approximately 31 people attended the workshops. At the workshops staff from the Bureau of Safe Drinking Water utilized a slide presentation (123 slides) to explain the proposed regulatory changes as well as answered numerous questions posed by workshop participants.

Following these workshop, the State Environmental Commission (SEC) held a public hearing to consider the regulation on October 6, 2009. The hearing was conducted as a video conference in Carson City and Las Vegas. The hearing location in Carson City was the Bryan Building, 901 South Stewart Street (2nd floor, Tahoe Room). In Las Vegas the hearing was held at the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230. 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, September 14, 21, and 28, 2009 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://sec.nv.gov/main/hearing_100609.htm

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

(a) Attended October 06, 2009 hearing; 30 (approx.)

(b) Testified on this Petition at the hearing: 2 (2 NDEP Staff)

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 several non-substantive word clarifications to reflect comments acquired during the public workshop process including comments solicited from US EPA officials and NDEP staff. The changes were incorporated ("green-lined") and included in the final submittal of the regulation to the Legislative Counsel Bureau.

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

This regulation is likely to have an economic impact on portions of the public and/or the business community in cases where public water systems will require expanded monitoring and/or certain capital improvements to meet regulatory compliance requirements. More specifically, the adoption of the regulation will impact the monitoring and treatment requirements of public water systems which disinfect and/or utilize surface water.

There are approximately 35 Public Water Systems (PWS) that may be classified as small businesses that are impacted by the Stage 2 Disinfectants and Disinfection Byproducts Rule, and six of these will see a slight increase in monitoring, however none are expected to modify their treatment to comply with the regulation.

There are 22 PWS that treat surface water and are impacted by the Long Term 2 Enhanced Surface Water Treatment Rule. All PWS that treat surface waters, however, will be required to perform at least two rounds of source water monitoring six years apart, and some systems will have to install additional treatment processes to treat for Cryptosporidium. Two PWS may be classified as small businesses. It is anticipated for one PWS no additional treatment will be required. For surface water systems which only disinfect and have been

granted filtration avoidance status under the Surface Water Treatment Rule, these systems must install a second disinfectant and treat for Cryptosporidium. Five of the PWS that treat surface water fall into this category, and one is considered a small business.

Of note, an unquantifiable benefit to the public exists related to better protection of health and safety and decreased medical costs as a direct result of further regulating disinfection byproducts and waterborne disease.

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

Existing staff resources will be utilized to implement 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.

This regulation amendment will not duplicate any State regulation. In order to avoid overlap of Title 40 of the US Environmental Protection Agency's CFR, these regulations adopt portions of the federal regulations by reference.

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

This regulation amendment will not be more stringent than federal 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.

This regulation amendment does not propose new or increased fees.