



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission

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



Notice of Regulatory Hearing Adoption of Regulations and Other Matters Before the State Environmental Commission

The State Environmental Commission (SEC) has scheduled a regulatory hearing for Tuesday, June 17, 2008 beginning at 10:00 am. The hearing will be held at the Las Vegas Convention and Visitors Authority (Board Room) 3150 Paradise Road, Las Vegas, Nevada 89109.

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. If a person that may be directly affected by a proposed action does not appear and request time to make an oral presentation at the above referenced hearing, the SEC may proceed immediately to act upon any of the following regulatory petitions or other written submissions described in this notice.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

- 1) Approval of minutes 03/18/08 SEC hearing * Action Item
- 2) Settlement Agreements, Air Quality Violations *Action, Consent Calendar

Water Quality Planning

3) Regulation R160-06: Proposed Changes to Water Quality Standards: Section 303 of the Clean Water Act and 40 CFR 131 give states responsibility for setting, reviewing and revising beneficial uses and water quality standards. State of Nevada authorities are contained in Nevada Revised Statutes 445A.425, 520 and 565 and water quality standards for waters of Nevada are found in the Nevada Administrative Code (NAC) 445A.118 through 445A.225.

Water quality standards are set for a waterbody segment at a level designed to protect and ensure a continuation of the designated beneficial use(s) set for the waterbody. Standards are based on criteria, such as, physical, chemical and biological characteristics, to protect the designated beneficial use(s).

This proposed regulation makes two categories of changes to the Nevada Administrative Code: 1) standards adjustments and additions to the Class

Waters, 445A.124 through 445A.127, and; 2) an administrative reorganization of Water Quality Standards Tables, NAC 445A.124 through 127 and 445A.146 through 225.

A) Standards Adjustments and additions to the Class Waters

- Adjust class waters beneficial use terminology to match the beneficial uses listed in NAC 445A.122;
- Remove redundant narrative standards cited in the class tables given that the narratives in NAC 445A.121 apply;
- Add Total Ammonia to all current class waters by referencing the tables in NAC 445.118;
- Add E. Coli standards to all current class waters;
- Remove footnote 3 for Fecal Coliform Standards referring to class C primary contact recreation waters;
- Revise references to natural conditions for:
 - Total Dissolved Solids (TDS) in classes A, B and C; and
 - Fecal Coliform in class C.

B) Administrative Reorganizing of Water Quality Standards Tables

- Reformat all water quality standard tables to more clearly show the beneficial uses that are associated with each water quality parameter;
- Eliminate the current class waters format (NAC 445A.124 - 127) that has individual waterbodies identified as a part of a class group and create an individual table showing water quality standards for each waterbody designated within the class structure and place waters into the current single reach table format; and,
- Reorganize the individual water quality standards tables by Hydrographic Region and renumber all the waterbody tables (NAC 445A.124 through 127 and 146 through 225);

The Division of Environmental Protection is proposing these updates to class waters to reflect current EPA recommended criteria for ammonia and *Escherichia Coli*. Removing the beneficial uses and narrative standards redundancies will simplify the standards and reduce confusion. Under the current class standards structure any action necessary to address standards criteria on a class waterbody affects all other waters within the same class. Reformatting the class waters into the proposed designated waterbody structure will allow more flexibility to address the setting of appropriate water quality standards. Reorganizing and renumbering the water quality standards by hydrographic basin will facilitate the use of the tables.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees.

Water Quality Planning (continued)

4) **Regulation R083-08: Muddy River Water Quality:** The Bureau of Water Quality Planning of the Nevada Division of Environmental Protection (Division) is proposing changes to the water quality regulations and water quality criteria for the Muddy River, located in northeast Clark County, Nevada. Proposed changes to the water quality regulations involve modifying the Muddy River reaches to create a middle reach; excluding the upper reach length located on Moapa Band of Paiutes tribal land from State water quality regulations; and adding water contact recreation as a beneficial use. The proposed revisions to the water quality criteria include amending the E. coli bacteria criteria to support water contact recreation; modifying the temperature requirements to sustain endemic fish species; developing fluoride criteria based on Muddy River water chemistry; and revising the boron irrigation criteria on the lowermost section of the river.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees. (SEC Reference is P2008-10)

Water Pollution Control

5) **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 ([See 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 these regulations. 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.

This regulation will not have an immediate or long-term adverse economic impact on its regulated businesses; fees will remain the same. There is no additional cost to the agency for enforcement of the proposed regulation. The new regulation does not overlap, duplicate or is in conflict with any regulations of other government agencies. (SEC Reference P2008-01)

Air Pollution Control / Air Quality Planning

6) Regulation R076-08: Adopt By Reference Air Pollution / Air Quality Regulations: This regulation updates NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations." The Division of Environmental Protection (NDEP) is proposing to adopt into State regulation sections of the federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) rules that have been adopted by the U.S. Environmental Protection Agency (EPA) and published in the Federal Register.

NDEP is delegated implementation of the federal NSPS and NESHAP rules that apply in Nevada. In this regard it is necessary to keep the State's "adoption by reference" regulation up to date so that EPA can continue to delegate the implementation of new rules and revisions to existing rules to the State. NAC 445B.221 currently adopts the applicable NSPS and NESHAP rules, as they existed on July 1, 2007. This proposed regulatory amendment is necessary so that Nevada can request delegation for the implementation of new and revised federal NSPS and NESHAP rules promulgated after July 1, 2007. This will allow the regulated industry to continue to work with the State as opposed to the EPA.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees. (SEC Reference is P2008-09)

Other SEC Business

7) Administrator's Briefing to the Commission *Non Action Item

8) Public Comment * Non Action Items: (Public comment may be limited to ten minutes per person at the discretion of the chairperson; See AG Reference @ Pages 58 & 81) at <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.

In addition, copies of this public notice and the accompanying regulations have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are 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 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 June 9th, 2008.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this public notice has been posted at the following locations: The Las Vegas Convention and Visitors Authority and the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the SEC, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.