

FORM # 4 - Part 1

**Nevada State Environmental Commission
Small Business Impact Disclosure Process
Pursuant To 233B “Nevada Administrative Procedures Act”**

RE: Amendments to NAC Chapter 445A WATER CONTROLS: PUBLIC WATER SYSTEMS -- Regulation R194-08: Public Water Systems

By: Nevada Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water

Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS 233B.0382).

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? ANSWER: YES. Regulation amendments associated with the adoption of Long Term 2 Enhanced Surface Water Treatment Rule (LT2) and Stage 2 Disinfectant and Disinfection Byproducts Rule (Stage 2) will impact the monitoring and treatment requirements of public water systems (PWS), which disinfect and/or utilize surface water.

Stage 2 will require PWS to monitor for Total Trihalomethanes (TTHM) and Haloacetic Acids (HAA5) based on population rather than the number of wells/treatment plants. Compliance with the Maximum Contaminant Levels (MCL) will be based on an average of results at each monitoring location rather than from an average of results from all monitoring locations. The rule also adds the requirement that PWS which purchase disinfected water also monitor for TTHM, HAA5, and disinfectant residuals. There are approximately 35 PWS that may be classified as small businesses, and six of these will see a slight increase in monitoring while none are expected to be required to modify their treatment to comply with the MCL.

All PWS that treat surface water will be required under LT2 to perform at least two rounds of source water monitoring six years apart, and some will have to install additional treatment processes to treat for *Cryptosporidium*. Of the 22 PWS that treat surface water, 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, they must install a second disinfectant capable of treating *Cryptosporidium*. Five of the PWS that treat surface water fall into this category, and one is considered a small business.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? ANSWER: NO. Although capital costs for installing additional treatment may be high, the regulation does not prohibit PWS from formation, operation, or expansion.

Form 4 - Part 1

3. If **Yes** to either of questions 1 & 2, the following action must be taken:

A. Was a small business impact statement prepared and was it available at the public workshop. **ANSWER: YES. ATTACHED.** *(yes or no, attach a copy of the statement or if a statement was not completed please explain)*

B. Attach the Small Business Impact Statement (part 2) as part of Form #4 upon submission of the proposed regulation to the State Environmental Commission when Form #1 (petition to the Commission) is submitted.

SMALL BUSINESS IMPACT STATEMENT
FORM #4 - Part 2
(NRS 233B.0609)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Since the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) and Stage 2 Disinfectant and Disinfection Byproducts Rule (Stage 2) were promulgated in January 2006, NDEP staff has been communicating the requirements at professional conferences, meetings and by direct mail to affected public water systems (PWS). These rules must be adopted by Nevada in order to retain primary enforcement authority (Primacy) of the Safe Drinking Water Act (SDWA).

Prior to holding workshops, NDEP contacted certain PWS by both phone and email to request information on the cost of complying with the regulation. Records indicate that there are approximately 220 PWS affected by these regulations of which approximately 35 may be classified as a small business.

A copy of the small business impact statement is being made available at the public workshops being held in Las Vegas on June 23, in Carson City on June 24, and in Elko on June 25, 2009. Copies can also be obtained on-line at http://sec.nv.gov/main/hearing_100609.htm#r194-08 or by contacting the Bureau of Safe Drinking Water at (775) 687-9521.

2. The estimated economic effect of the proposed regulation on small businesses:
- a. Both adverse and beneficial effects
 - b. Both direct and indirect effects

The estimated direct beneficial economic effect of the proposed regulation on the small businesses is that the risk of any associated litigation may be reduced by maintaining compliance with these regulations.

The estimated indirect beneficial economic effect of the proposed regulations on the small businesses is that the regulations will provide for better protection of the health and safety of the public by decreasing associated medical costs that may be incurred as a direct result of disinfection byproducts and/or waterborne disease.

The estimated direct adverse economic effect of the proposed regulations on the small business is that for some PWS there will be an increase in yearly monitoring associated with Stage 2. Each sample set for TTHM and HAA5 is approximately \$350 plus staff time. Of the 35 PWS that may be small businesses, six will see an increase from 1 per three years to 1 per year and two will see an increase from 1 per year to 2 per year.

FORM #4 - Part 2

Of the 22 PWS that treat surface water, two may be classified as small businesses. Each one will incur a minimum of two rounds of source water monitoring. For one PWS, the cost will be approximately \$6500 for two monitoring events six years apart. For the other PWS, the cost will be approximately \$24,000 for two monitoring events six years apart. For surface water systems that filter, source water monitoring results will determine additional treatment requirements. For surface water systems which only disinfect and have been granted filtration avoidance status under the Surface Water Treatment Rule, additional treatment for *Cryptosporidium* is required. Of the 22 PWS that treat surface water, five fit this category, with one considered a small business. From cost estimates provided to NDEP, the capital costs for meeting the new treatment requirements could be as much as \$4 million.

3. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses.
 - A. Simplification of the proposed regulation
 - B. Establishment of different standards of compliance for a small business
 - C. Modification of fees or other monetary interests that a small business is authorized to pay a lower fee.

Primacy requires that NDEP adopt regulations no less stringent than Federal regulations; and in an effort to not increase the burden to PWS the regulations being adopted are no more stringent. The SDWA, as amended in 1996, mandates that the State of Nevada adopt regulations for both the LT2 and Stage 2 and does not allow the agency to consider establishing different standards of compliance for a small business. However, it should be noted that the requirements for the Stage 2 and LT2 vary with respect to PWS size, type, and treatment process.

Furthermore, the Federal regulations reduce the economic impact to PWS that serve small populations while balancing public health by modifying monitoring requirements for TTHM, HAA5 and source water. For Stage 2, the rule relieved PWS from doing a one year study if a system served less than 500 people or had a history of low levels of TTHM and HAA5. Of the 35 PWS that may be small businesses, none were required to perform the one year study. For LT2, the rule established a method for surface water systems that provide filtration and serve less than 10,000 people to monitor their source water for a less costly microbial indicator. This is apparent in the aforementioned associated cost reduction from \$24,000 to \$6500.

No fee or fine is set forth in this new regulation. The NDEP has the State Revolving Fund (SRF) that can be utilized by privately owned water systems to comply with the regulations established by the SDWA. The SRF offers low interest loans to qualifying systems to aid in compliance. Both Stage 2 and LT2 offer different methods to comply with the regulations from multiple treatment options to allowing an additional two years of time to comply if capital improvements are necessary. There is a six year period between promulgation of the regulations and the largest systems being required to comply with treatment modifications.

FORM #4 - Part 2

4. The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the agency for enforcement of the proposed regulation will be in the form of additional staff time to implement the regulation, ensure monitoring occurs and review plans for new treatment processes.

5. If this regulation provides for a new fee or increases an existing fee, the total annual amount the agency expects to collect and manner in which the money will be used.

No fee or fine is set forth in this new regulation.

6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why the proposed regulation is duplicative or more stringent and why it is necessary.

The proposed regulation neither duplicates nor is more stringent than any federal regulation.

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