

**Form For Petitioning The State Environmental Commission For
Adoption, Filing Amendments Or Repeal Of Commission Regulations.
Form #1**

Regulation R194-08: Public Water Systems

- 1. Name, Address, telephone number, date of petition, representative capacity and signature of petitioner, authorized individual, officer or attorney.**

October 5, 2009
Nevada Division of Environmental Protection
Bureau of Safe Drinking Water
901 South Stewart Street, Suite 4001
Carson City, NV 89701

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(775) 687-9515

- 2. Specific type of petitioner (individual, partnership, corporation, government agency, or other) and the exact occupation or business, including a description of the occupation or business if necessary.**

Nevada Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water, a government agency.

- 3. Exact and specific nature of changes sought, including delineation of the regulations, statutory provisions of Commission decisions involved. May include a statement of the written term or substance of the proposed regulatory action, or a description of the subjects and issues involved.**

The NDEP is requesting adoption of these regulatory amendments governing Public Water Systems found in Chapter 445A of the Nevada Administrative Code (NAC). Statutory authority to adopt these amendments is contained in NRS 445A.855 and 445A.860.

Proposed amendments to NAC 445A serve several functions:

- 1) The proposed amendments to NAC 445A.4525 include an update to our adoption of federal regulations by reference, from regulations as they existed on July 1, 2005

to those as they existed on July 1, 2006. During this period, the U.S. EPA codified federal regulations for the new Stage 2 Disinfectant and Disinfection Byproducts Rule (Stage 2) (*Jan 4, 2006, 71 FR 388-493*) and the new Long Term 2 Enhanced Surface Water Treatment Rule (LT2) (*Jan 5, 2006, 71 FR 654-786*). Adoption of these federal rules is necessary for the NDEP to apply for continued and revised Primary Enforcement Responsibility (primacy). Primacy revision applications for LT2 and Stage 2 will be prepared and submitted to the U.S. EPA by January 4, 2010.

- 2) The proposed amendments include related changes to the Design, Construction, Operation and Maintenance (DCO&M) regulations for implementation of the LT2 and Stage 2 rules. These amendments are necessary for overall implementation of the new rules.
- 3) Based on U.S. EPA review of other pending NDEP primacy revision packages, certain proposed amendments were made necessary for the agency to attain U.S. EPA approval for previously adopted regulations. Amendments are related to the Lead and Copper Rule Minor Revisions, the Public Notice Rule, the Interim Enhanced Surface Water Treatment Rule, the Long Term 1 Enhanced Surface Water Treatment Rule, and the Variance and Exemptions program. Clarity is provided for the definition of Best Available Technology (BAT) for variances and an associated adoption of 40 CFR 142.61-142.65 is included to identify BAT options that the U.S. EPA Administrator finds are reasonably available to public water systems for variances from primary drinking water standards. An existing variance provision for "unique circumstances" in NAC 445A.4874, and associated references, are proposed for repeal as the provision was deemed by the Nevada Attorney General's office and the U.S. EPA Office of Regional Council to be in conflict with the main Variances and Exemptions program.
- 4) The 2005 Legislative transfer of the Bureau of Safe Drinking Water from the Health Division to the NDEP necessitated proposed amendments to the DCO&M regulations. Outdated references to the "Health Authority" now refer to "the Division or the appropriate district board of health". Outdated references to the "Health Division" now refer to the "Division" of Environmental Protection. The existing definition of "Health Authority" is now proposed for repeal.
- 5) A comprehensive review of the DCO&M regulations resulted in additional proposed amendments that include: authorizing appropriate County health departments to make determinations of when groundwater is under the direct influence of surface water; updating the process for providing persons aggrieved by a DCO&M decision of the NDEP to be heard, and adding the appropriate County health department's decisions to that process; providing the County health departments with the authority to grant Special Exceptions with the concurrence of the NDEP; amending the fluoridation program regulation in 445A.6682 to clarify current roles and responsibilities between the NDEP and the Health Division related to fluoridation of certain public water supplies. Other various regulatory and minor language

cleanup provisions were included by the NDEP and/or the Legislative Council Bureau during drafting.

4. A statement of the need for and purpose of the proposed regulations.

Nevada's Safe Drinking Water Program regulates public drinking water systems using a combination of State regulations and Federal regulations adopted by reference. In order to continue to have primary enforcement responsibility for desired federal drinking water programs, the NDEP submits "primacy package" revision applications for EPA approval. During the U.S. EPA Region 9's review of several pending primacy packages, they identified items in the NAC's that needed amendment prior to primacy approval. The NDEP is also adopting new programs for the Stage 2 Disinfectant and Disinfection Byproducts Rule (Stage 2) and the Long Term 2 Enhanced Surface Water Treatment Rule (LT2). These amendments are considered necessary to continue to be granted Primary Enforcement Responsibility for the Bureau of Safe Drinking Water program's federal program elements.

In addition, a comprehensive review of the Public Water System regulations for Water Quality, Treatment of Water and Design, Construction, Operation and Maintenance was conducted and amendments are proposed to cleanup associated issues found during that review.

5. A statement of the:

- (a) Estimated economic effect of the regulation on the business which it is to regulate;**
 - (1) Both adverse and beneficial effects; and**
 - (2) Both immediate and long-term effects; and**
- (b) Estimated economic effect on the public;**
 - (1) Both adverse and beneficial effects; and**
 - (2) Both immediate and long-term effects; and**
- (c) Estimated cost by the agency for enforcement of the proposed regulation.**

(a)(1) and (a)(2): The economic effect of the adoption of LT2 and Stage 2 is discussed on Form #4 in relationship to small businesses. The discussion therein can generally be applied to public water systems subject to these new program regulations.

(b)(1) and (b)(2): The economic effect on the public of the regulations for LT2 and Stage 2 cannot be directly quantified. The regulations will provide for better protection of the health and safety of the public and may result in decreased medical costs that might be incurred as a direct result of disinfection byproducts and/or waterborne disease. An unquantifiable increase in costs to public water

system customers is anticipated due to increased monitoring requirements and, in some cases, additional capital construction costs for certain public water systems.
(c): The LT2 and Stage 2 program adoptions increase the responsibilities of the NDEP, but the programs will be implemented using existing staff.

6. **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 by reference.

7. **If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions. The statement must include the specific citation of the federal statute or regulation requiring such adoption.**

This regulation amendment will not be more stringent than federal regulations.

8. **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.

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Revision Approved by SEC 10-3-95