

EXHIBIT 3

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BRIAN SANDOVAL
Governor



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December 1, 2017

Ms. Brenda Erdoes, Legislative Counsel
C/o Judy Wytock
Legislative Counsel Bureau (LCB), Legal Division
401 South Carson Street
Carson City, Nevada 89701-4747

RE: P2017-10 – Bureau of Water Pollution Control

Dear Ms. Wytock:

Enclosed for drafting by the LCB Legal Division is the above referenced regulation related to Water Pollution Control. Prior to LCB finalizing the legal drafting, NDEP has respectfully requested an opportunity to review the document to help facilitate an efficient process.

The State Environmental Commission (SEC) is planning to consider this regulatory petition on February 7, 2017. Additional information about this proposed regulation is or will be available on the SEC website at:

http://sec.nv.gov/main/hearing_0217.htm.

If you have any questions about this regulatory petition, please contact Ms. Katrina Pascual at 687-9315.

Sincerely,

Valerie King, CPM
Executive Secretary

Enclosure

ecc: Greg Lovato, Administrator, NDEP
Jennifer Carr, Deputy Administrator, NDEP
Bruce Holmgren, BWPC, Chief
Joe Maez, BWPC, Supervisor
Katrina Pascual, BWPC
Henna Rasul, SEC/DAG

REVISED PROPOSED REGULATION OF
THE STATE ENVIRONMENTAL
COMMISSION File No. P2017-10

December 1, 2017

EXPLANATION – Matter in *italics* is new; matter in brackets
[omitted material] is material to be omitted.

AUTHORITY: §1, NRS 445A.425

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as Section 2 through 18, inclusive, of this regulation.

Sec. 2. Definitions. (NRS 445A.425) As used in NAC 445A.287 to NAC 445A.292, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445A.287 to NAC 445A.292, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. “Wastewater Treatment Plant” defined (NRS 445A.425). “Wastewater Treatment Plant” means a treatment works for the intended purpose of treating, storage, or reuse of municipal or domestic wastewater.

Sec. 4. “Experience in operating” defined (NR S445A.425). “Experience in operating” means having been actively engaged in the operation and maintenance activities of a wastewater treatment plant.

Sec. 5. “Tertiary treatment” defined (NRS 445A.425) “Tertiary treatment” means the process of treating wastewater beyond secondary treatment units for nutrient removal or other advanced removal methods (Membrane Filtration, etc.).

Sec. 6. “Wastewater” defined (NRS 445A.425) “Wastewater” means the liquid waste and or sewage waste collected and treated at Wastewater Treatment Plants.

Sec. 7. *“Assistant supervisor” means the person in direct responsible charge of the operations of a wastewater treatment plant in the absence of the supervisor.*

Sec. 8. *“Person in direct responsible charge” means a person who is responsible for all activities associated with the operations of a wastewater treatment plant and compliance with all applicable provisions of NRS 445A and NAC 445A relating to the operations of such a plant.*

Sec. 9. *“Supervisor” means the person in direct responsible charge of the operations of a wastewater treatment plant.*

Sec. 10. *“Postsecondary course of instruction” defined. Postsecondary course of instruction means a successfully completed college level course which is at least 36 hours and which is related to wastewater.*

Sec. 11. *Certification by reciprocity.*

1. *A certification may be issued by the Division, without examination, on a case-by-case basis to a person in a comparable classification who has passed an equivalent written examination and who holds a full certification in another state, territory or possession of the United States or another country if the requirements for the certification of operators are consistent with and not of a lower standard than the provisions of this chapter.*

2. *Reciprocity will not be granted for reciprocal certifications.*

3. *An incomplete application or an application that includes an expired certificate will not be considered.*

4. *The Division shall review an application for completeness and applicability and shall respond to the applicant not more than 60 days after the receipt of the request with a written decision.*

Sec. 12. *Restricted Certificates*

1. *Restricted certificates shall not carry responsibility to operate a wastewater treatment plant at the restricted grade level and shall be subject to the following eligibility requirements:*

- Restricted Grade I A high school diploma, GED, or equivalent, general educational development certificate or equivalent.*
- Restricted Grade II Hold an active unrestricted Grade I certification for a minimum of one year, and meet the Grade II educational requirements.*
- Restricted Grade III Hold an active unrestricted Grade II certification for a minimum of one year, and meet the Grade III educational requirements.*
- Restricted Grade IV Hold an active unrestricted Grade III certification for a minimum of one year, and meet the Grade IV educational requirements.*

- 2. Upon meeting educational eligibility requirements, a person must pass the certification examination for the restricted grade level being sought.*
- 3. A restricted certificate may be converted to an unrestricted full certification upon meeting the experience requirement for the equivalent unrestricted certification and still holding an active unrestricted full certification of the grade below.*
- 4. Restricted certificates shall be issued for a period of four years and may not be renewed. Once the restricted certificate has expired, the operator must retest to be issued a new restricted certificate.*

Sec. 13. *Renewal and Decertification of Operator Certification.*

- 1. The Operator Certification may be renewed if:*
 - (a) The fee for renewal has been submitted pursuant to NAC 445A.287;*
 - (b) A complete application for renewal was made on the forms supplied by the Division and submitted prior to expiration;*
 - (c) A complete application submitted after the expiration date must pay reinstatement fee;*
 - (d) The applicant submits evidence of compliance with the requirements of continuing education set forth in Section 16.*

2. *An Operator Certification may be renewed once after each 2-year certification cycle. Multiple renewals will not be issued in advance.*
3. *An operator who holds a full certificate and a restricted certificate at a higher classification than the full certificate must comply with the requirements of continuing education for the full certificate to qualify for renewal.*
4. *If the holder of an Operator Certification does not renew the certification by their current expiration date, their certification will be suspended. The suspended operator must submit a complete renewal application and pay the renewal and reinstatement fee.*
5. *If the suspended operator does not renew the certification within 6 months after the expiration date, the suspended operator shall be deemed decertified.*
6. *Except as otherwise provided in subsections 7 and 8, the holder of a certification who is decertified may not renew the certification*
7. *If the holder of an expired full certificate provides documentation of health problems that made the holder unable to meet the requirements of continuing education for renewal of his or her full certificate in the time provided pursuant to Section 17, the holder of the expired full certificate may request, within 2 years after its date of expiration, that the full certificate be reinstated and renewed by payment of the reinstatement fee set forth in Section 20 and verification that all requirements of continuing education have been satisfied.*
8. *If the holder of a full certificate provides documentation of military duty that made the holder unable to meet the requirements of continuing education for renewal of his or her full certificate in the time provided pursuant to Section 17, the holder of the expired full certificate may request, within 4 years after its date of expiration, that the full certificate be reinstated and renewed by payment of the reinstatement fee set forth in Section 20 and verification that all requirements of continuing education have been satisfied.*

Sec. 14. Examination for certification: Application evaluation; exam issuance.

1. *The Division shall offer separate certification examinations for the four certification grades for applicants that meet the requirements.*

2. *Examination for certification shall be offered at least three times per year.*
3. *The Division or its approved designee shall review the qualifications for each applicant for certification.*

Sec. 15. Applicant with disability: Request for special arrangements for taking examination.

If an applicant has a disability that restricts the ability of the applicant to take an examination under standard conditions, the applicant may request special arrangements for taking the examination at the time of application. Such a request must be submitted in writing by a recognized health care or mental health care provider and must state the nature of the disability, and the special testing arrangements that are requested.

Sec. 16. Continuing education: General requirements.

1. *Every 2 years, the holder of a Grade I certificate must earn at least 5 contact hours of participation in a course of training approved by the Division or its approved designee pursuant to Section 17.*
2. *Every 2 years, the holder of a Grade II certificate must earn at least 10 contact hours of participation in a course of training approved by the Division or its approved designee pursuant to Section 17.*
3. *Every 2 years, the holder of a Grade III certificate must earn at least 15 contact hours of participation in a course of training approved by the Division or its approved designee pursuant to Section 17.*
4. *Every 2 years, the holder of a Grade IV or V certificate must earn at least 20 contact hours of participation in a course of training approved by the Division or its approved designee pursuant to Section 17.*
5. *Contact hours must be obtained within the 2-year effective period of the certification.*

Sec. 17. Continuing education: Conditions for obtaining credit.

The Division or its approved designee shall not grant any credit of continuing education to the holder of a certificate for participation in training unless:

- 1. The course of training is approved by the Division or its approved designee.*
- 2. The course of training is relevant to the subject matter of the particular certification held.*
- 3. A public utility may request the written approval of the Division or its approved designee for the utility to provide a course of training for its employees that is intended to comply with any part of the requirement of continuing education.*
- 4. The Division or its approved designee shall not approve a course of training pursuant to subsection 1 unless the request meets the following criteria:*
 - (a) An outline of the course of training must be submitted with the request for written approval and must state the subjects to be included in the instruction and the time to be allotted for each subject of instruction.*
 - (b) A list of the objectives of the instructor must be submitted with the request for written approval and must specify the essential points of the instruction and the methods of instruction to be used to illustrate these points.*

Sec. 18. The Division may deny an application for a certificate or suspend or revoke an operator's full certificate, provisional certificate or restricted certificate if he or she:

- 1. In applying for or obtaining a certificate, has submitted to the Division any application, document, record, report or affidavit, or any information in support thereof, which is false or fraudulent;*
- 2. Is grossly negligent, incompetent or has committed misconduct in the performance of his or her duties as an operator of a wastewater treatment system;*
- 3. Has demonstrated disregard for the health and safety of the public and environment;*
- 4. Has acted outside the rights and privileges of his or her classification for which he or she holds a certificate;*
- 5. Has been convicted of a violation of any federal law or law of any state relating to*

wastewater treatment, including, but not limited to, the Clean Water Act;

6. *Has been convicted of a felony or other crime involving moral turpitude, dishonesty or corruption;*

7. *Has willfully made to regulatory authority any false statement which is material to the administration or enforcement of any provision of this chapter or chapter 445A of NRS;*

8. *Has failed to renew his or her certification; or*

9. *Has violated, attempted to violate, assisted or abetted in the violation of, or conspired to violate any provision of this chapter or chapter 445A of NRS.*

Sect. 19. NAC 445A.286 is hereby amended to read as follows:

NAC 445A.286 *Wastewater Treatment Plant* [~~Plants for sewage treatment~~]: Applicability of provisions. (NRS 445A.425) Unless otherwise determined by the Division, the provisions of NAC 445A.286 to 445A.292, inclusive, including Sections 1 through Section 18, inclusive, do not apply to:

1. A package plant for *wastewater* [~~sewage~~] treatment with a capacity of 5,000 gallons or less per day; or

2. Any other plant for *wastewater* [~~sewage~~] treatment, including, without limitation, a septic system, with a capacity of 10,000 gallons or less per day.

Sec. 20. NAC 445A.287 is hereby amended to read as follows:

NAC 445A.287 *Wastewater treatment plant* [~~Plant for sewage treatment~~]: Persons required to be certified as operators; application, and fees *and educational requirements* for certification [~~renewal of certificate~~; (NRS 445A.425)]

1. A person responsible for the operation and maintenance of a *wastewater treatment plant* [~~plant for sewage treatment~~] must be certified as an operator of a *wastewater treatment plant* [~~plant for sewage treatment~~].

2. To apply for certification as an operator of a *wastewater treatment plant* [plant for sewage treatment], a person must *be able to demonstrate the required operating experience delineated in Subsection 4*, [submit an application to the Division or its approved designee that is accompanied by the appropriate fee.] *be at least 18 years of age, and meet the following minimum education requirements:*

- (a) *For Grade I, a high school diploma, general educational development certificate or equivalent and 60 contact hours of wastewater related education;*
- (b) *For Grade II, requirements for Grade I and an additional 60 contact hours of wastewater related education;*
- (c) *For Grade III, requirements for Grade II and two postsecondary courses of instruction;*
- (d) *For Grade IV, requirements for Grade III and two additional postsecondary courses of instruction.*

3. The following fees must be paid to the Division:

	Fee	Period
Initial.....	\$ 60 140	2 years
<i>Reciprocity</i> [Reciprocal].....	\$ 75 150	2 years
<i>Renewal</i>	\$110	2 years
<i>Restricted certificate</i>	\$90	5 years
<i>Restricted conversion to full</i>	\$70	One time
<i>Reinstatement</i>	\$80	One time

4. *An applicant must pass the examinations for certification in ascending order beginning with the Grade I certification test. The following experience in operating a wastewater treatment plant is required in order to apply for unrestricted certification:*

<i>Certification Grade</i>	<i>Requirements</i>
<i>Grade I</i>	<i>One year of experience in operating at a Classification I Facility or higher</i>
<i>Grade II</i>	<i>Grade I Certification and two total years of experience in operating, with at least one year at a Classification II Facility or higher</i>

Grade III Grade II Certification and three years total experience in operating, with at least one year at a Classification III Facility or higher

Grade IV Grade III Certification and at least four years total experience in operating, with at least one year at a Classification IV Facility

5. *If the person applying for certification has past or pending certification disciplinary actions in other states, the disciplinary actions must be disclosed in writing.*

~~—[4.]—~~6. The holder of a certificate must pay to the Division a fee of \$20 for each duplicate certificate he or she requests. A fee of \$25 will be charged to any person whose check is returned to the Division because of a lack of funds.

~~—[5.]—~~ A holder of any certificate issued pursuant to the provisions of NAC 445A.286 to 445A.292, inclusive, may renew the certificate by submitting a fee of \$30 to the Division not later than the expiration date of the certificate. Except as otherwise provided in subsection 6, the holder of a certificate may renew the certificate after the expiration date of the certificate if he or she pays, in addition to the renewal fee, a late fee of \$20. If the holder of a certificate does not renew the certificate within 1 year after the expiration date of the certificate, the holder of the certificate shall be deemed decertified.

~~—6.]—~~ The holder of a certificate who is decertified may not renew the certificate.

~~—7.]—~~ The renewal of a certificate is effective for 2 years.]

Sec. 21. NAC 445A.288 is hereby amended to read as follows:

NAC 445A.288 *Wastewater Treatment Plant* [Plants for sewage treatment]: Agreement to operate program for certification of operators. (NRS 445A.425)

1. If the Division chooses not to operate the program for the certification of operators of *wastewater treatment plants* [plant for sewage treatment], the Division shall enter into an agreement with an approved designee pursuant to which the designee agrees to operate the program.

2. Any agreement entered into pursuant to subsection 1 must provide that the designee will:

- (a) Distribute application forms;
- (b) Evaluate applications;
- (c) Conduct examinations;
- (d) Evaluate the training, education and experience of the applicants;
- (e) Inform an applicant that the Division has denied his or her application for certification or recommend that the Division certify the applicant; and
- (f) Perform any other duty specified in the agreement.

Sec. 22. NAC 445A.289 is hereby amended to read as follows:

NAC 445A.289 *Wastewater Treatment Plant* [~~Plants for sewage treatment~~]: Schedule for classification. (NRS 445A.425)

1. For the purpose of the certification program operated pursuant to the provisions of NAC 445A.284 and 445A.288 and Sections I through 18, inclusive, a *wastewater treatment plant* [~~plant for sewage treatment~~] must be classified in accordance with the following schedule:

PLANT CLASSIFICATION based on the type of treatment process [~~and plant capacity~~]:

	0-0.1 MGD	0.1-1.0 MGD	1.1-5.0 MGD	5.1-10.0 MGD	10.1-20.0 MGD	Greater than 20.0 MGD
Stabilization Pond	I	I	I	I	II	III
Primary	I	I	II	III	III	IV
Biofiltration	II	II	III	III	IV	IV
Activated Sludge	III	III	III	IV	IV	IV
Tertiary and Reuse	III	III	IV	IV	IV	IV]

<i>Treatment Technology</i>	<i>Plant Classification</i>
<i>Stabilization Ponds / Lagoons</i>	<i>I</i>

<i>Primary Treatment (Settling, Grit Removal, etc.)</i>	
<i>Fixed Film Treatment (e.g. , Trickling Filters, etc.) for BOD Removal</i>	<i>II</i>
<i>Activated Sludge (w/o Nitrogen Removal and < 20,000 gallons per day)</i>	
<i>Solids Treatment (Thickening / Dewatering)</i>	
<i>Fixed Film Treatment (e.g. RBC, Trickling Filters) for Nutrient Removal</i>	<i>III</i>
<i>Activated Sludge (w/ Nitrogen Removal or > 20,000 gallons per day)</i>	
<i>Tertiary Treatment</i>	<i>IV</i>
<i>Activated Sludge > 10 million gallons per day</i>	
<i>Indirect Potable Reuse</i>	

2. [As used in this section, “MGD” means millions of gallons per day.] *The Division may deviate from this table when it determines that mitigating or intensifying factors exist to raise or lower a plant classification. Factors may include, but are not limited to, receiving stream water quality, process complexity, waste stream pollutant strength/variations, and flow variability.*

Sec. 23. NAC 445A.290 is hereby amended to read as follows:

NAC 445A.290 **Wastewater Treatment Plant** [Plants for sewage treatment]: Minimum grades of certification for operators. (NRS 445A.425)

1. The minimum grades of certification for operators of **a wastewater treatment plant** [plant for sewage treatment] are as follows:

GRADES OF CERTIFICATION based on the classification of the plant:

	Plant Classification I	Plant Classification II	Plant Classification III	Plant Classification IV
Supervisor	I	II	III	IV
Assistant Supervisor	I	I	II	III

2. Any person, other than a supervisor or assistant supervisor, who is working as an operator of a *wastewater treatment plant* [plant for sewage treatment] must be certified as at least a Grade I operator of a *wastewater treatment plant* [plant for sewage treatment], or obtain such certification within 1 year after the date on which he or she begins employment at the *wastewater treatment plant* [plant for sewage treatment] as such an operator.

~~—[3. As used in this section:~~

~~—(a) “Assistant supervisor” means the person in direct responsible charge of the operations of a plant for sewage treatment in the absence of the supervisor.~~

~~—(b) “Person in direct responsible charge” means a person who is responsible for all activities associated with the operations of a plant for sewage treatment and compliance with all applicable provisions of NRS and NAC relating to the operations of such a plant.~~

~~—(c) “Supervisor” means the person in direct responsible charge of the operations of a plant for sewage treatment.]~~

Sec. 24. NAC 445A.292 is hereby amended to read as follows:

NAC 445A.292 *Wastewater Treatment Plant* [Plants for sewage treatment]: Provisional certification of operator. (NRS 445A.425)

1. The Division shall renew a provisional certificate as an operator of a *wastewater treatment plant* [plant for sewage treatment], without examination, only to a person who:

- (a) Held a provisional certificate on July 1, 1991;
- (b) Pays the appropriate fee; and
- (c) Submits the proper application for certification.

2. A provisional certificate is valid until:

- (a) The applicant’s employment by that plant ceases for any reason; or
- (b) The applicant assumes a position of employment at the plant that is different from the position he or she held on July 1, 1991.

Sec. 25 NAC 445A.867 is hereby amended to read as follows:

Application for permit. (NRS 445A.425, 445A.465) Except as otherwise provided in NAC 445A.8491 to 445A.8499, inclusive, an applicant for a permit to inject fluids must satisfy the Director that the underground injection will not endanger any source of drinking water. An application for a permit must be filed within 180 days after July 22, 1987, for the operation of an injection well which is existing on that date and does not have a permit. Each application for a permit must be signed by the owner or, if the owner does not operate the well, the operator of the well and must contain the following information:

1. The name of the facility.
2. The name and address of the owner.
3. The name and address of the operator, if different than the owner.
4. A description of the location of each injection well by the quarter-quarter section, section, township and range, and latitude and longitude.
5. A map of the location of the facility, preferably a topographic map prepared by the United States Geological Survey, extending at least 1 mile beyond the boundaries of the facility, locating each injection well for which a permit is sought and the area of review. The map must show, within the area of review, the number, location and type of all injection wells, producing wells, abandoned wells, surface bodies of water, surface and subsurface mines, quarries, public and private systems to supply water and other pertinent features on the surface.
6. A plan for corrective action, as required pursuant to NAC 445A.899, for each injection well within the area of review which penetrates the zone for injection, but is not correctly completed or plugged.
7. A narrative report, geologic cross section and isopach map in sufficient scale to detail the local geology and hydrology. The information should be sufficient to show the geologic formations, structural features and concentration of total dissolved solids for each formation, zone for injection and confining zone.
8. The plans and drawings for construction showing the details of the casing and cementing, including the size of the hole, type of casing and type and grade of cement.
9. The drilling log for each production or injection well owned or operated by the applicant which is located within the area of review.
10. The proposed operating data, including:

- (a) The average and maximum daily rates of injection and the volume of the fluid injected;
- (b) The average and maximum pressures of the injection; and
- (c) The source of the fluid injected and an analysis of its physical, chemical and biological characteristics.

11. A chemical analysis, if available, of the fluid in the receiving formation to ensure compatibility with the injectate, and an analysis of the hydraulic conductivity of the receiving formation.

12. The proposed procedures for injection, including additives to or storage and pretreatment, if any, of the fluid injected, the use of the well, the planned standard practices for stimulation of the well and the planned schedule for workover.

13. A certificate that the applicant has ensured, through a performance bond or other appropriate means, the resources necessary to plug and abandon the well.

14. A plan for plugging and abandoning the well as described in NAC 445A.923.

15. Any other information required by the Director to ensure that the proposed operation will not degrade an underground source of drinking water. That information may include a plan for monitoring the elevation or quality of groundwater surrounding the zone for injection.