

# EXHIBIT 5

STATE OF NEVADA  
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING  
401 S. CARSON STREET  
CARSON CITY, NEVADA 89701-4747  
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800  
JASON FRIERSON, *Assemblyman, Chairman*  
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821  
JOYCE WOODHOUSE, *Senator, Chair*  
Mark Krmpotic, *Fiscal Analyst*  
Cindy Jones, *Fiscal Analyst*

RICK COMBS, *Director*  
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830  
ROCKY COOPER, *Legislative Auditor* (775) 684-6815  
MICHAEL J. STEWART, *Research Director* (775) 684-6825

January 9, 2018

Valerie King CPM  
Chief, Bureau of Administrative Services  
Nevada Division of Environmental Protection  
901 South Stewart Street, Suite 4001  
Carson City, Nevada 89701

**RECEIVED**

**JAN 11 2018**

**ENVIRONMENTAL PROTECTION**

Re: LCB File No. R155-17

Dear Ms. King:

A proposed regulation, R155-17, of the State Environmental Commission has been examined pursuant to NRS 233B.063 and is returned in revised form.

We invite you to discuss with us any questions which you may have concerning this review. Please make reference to our file number in all further correspondence relating to this regulation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Erin R. Sturdivant".

Erin R. Sturdivant  
Senior Deputy Legislative Counsel

Heidi A. Chlarson  
Senior Principal Deputy Legislative Counsel

Brenda J. Erdoes  
Legislative Counsel

ERS/slj  
Enclosure

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R155-17**

January 9, 2018

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

AUTHORITY: §§1-14, NRS 445A.425; §15, NRS 445A.425 and 445A.465.

A REGULATION relating to water pollution; defining the term “experience in operating”; setting forth the requirements for certification, reciprocal certification and restricted certification as an operator of a plant for sewage treatment; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to offer certain examinations for certification; setting forth the requirements for the renewal of a certificate; authorizing applicants with disabilities to receive special accommodations when taking an examination for certification; setting forth continuing education requirements for a holder of a certificate; requiring that continuing education courses be approved by the Division or the Division’s designee; authorizing the Division to suspend or revoke certain certificates under certain circumstances; establishing certain fees; revising classifications for plants for sewage treatment; revising certain provisions relating to injection wells; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the State Environmental Commission to require supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment to be certified by the State Department of Conservation and Natural Resources. (NRS 445A.425) **Sections 1-14** of this regulation revise requirements for the certification of such supervisors and technicians. **Section 3** sets forth the requirements for a person to apply for certification as an operator of a plant for sewage treatment, including the minimum requirements for education and experience in operating a plant for sewage treatment for each grade of certification. **Section 2** defines the term “experience in operating.” **Section 4** sets forth the requirements for a person to apply for a certificate by reciprocity. **Section 5** sets forth the requirements for a person who does not have the experience required for a full certificate to apply for a restricted certificate. **Section 6** authorizes the holder of a certificate or certificate by reciprocity to renew the certificate once

every 2 years by submitting an application for renewal to the Division of Environmental Protection of the Department.

**Section 7** requires the Division to offer examinations for certification in each grade of certification to qualified applicants at least 3 times per year. **Section 8** provides that an applicant who is disabled may request certain accommodations when taking an examination.

**Section 9** requires each holder of a certificate to complete certain hours of continuing education every 2 years to renew the certificate. **Section 10** requires a course of training to be approved by the Division for the course of training to be eligible to receive credit for the requirements of continuing education. **Section 11** sets forth certain circumstances under which the Division may deny an application or suspend or revoke a full certificate, provisional certificate or restricted certificate.

**Section 12** provides that the provisions governing the certification of operators of a plant for sewage treatment do not apply to an industrial facility. **Section 13** increases the fees charged by the Division for an initial certificate or reciprocal certificate and sets forth certain additional fees. **Section 14** revises the classification of a plant for sewage treatment.

Under existing law, the Commission is authorized to adopt regulations relating to the injection of fluids through a well. (NRS 445A.425, 445A.465) **Section 15** of this regulation clarifies that a plan for corrective action must identify all known wells within the area of review.

**Section 1.** Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

**Sec. 2.** *As used in NAC 445A.286 to 445A.292, inclusive, and sections 2 to 11, inclusive, of this regulation, “experience in operating” means having been actively engaged in the operation and maintenance activities of a plant for sewage treatment.*

**Sec. 3. 1.** *A person responsible for the operation and maintenance of a plant for sewage treatment must be certified as an operator of a plant for sewage treatment.*

**2.** *To apply for certification as an operator of a plant for sewage treatment:*

**(a)** *An applicant must submit an application to the Division or its designee that is accompanied by the appropriate fee set forth in NAC 445A.287.*

*(b) The applicant must be at least 18 years of age, possess a high school diploma or a general educational development certificate or its equivalent and meet the following additional education requirements:*

*(1) For Grade I, 60 contact hours of education related to sewage treatment.*

*(2) For Grade II, 120 contact hours of education related to sewage treatment.*

*(3) For Grade III, 120 contact hours of education related to sewage treatment and two postsecondary courses of instruction related to sewage treatment.*

*(4) For Grade IV, 120 contact hours of education related to sewage treatment and four postsecondary courses of instruction related to sewage treatment.*

*(c) The applicant must have the following experience in operating a plant for sewage treatment:*

<i>Certification Grade</i>	<i>Experience</i>
<i>Grade I</i>	<i>1 year experience in operating at a Classification I facility or higher</i>
<i>Grade II</i>	<i>Grade I Certification and 2 years experience in operating, with at least 1 year at a Classification II facility or higher</i>
<i>Grade III</i>	<i>Grade II Certification and 3 years experience in operating, with at least 1 year at a Classification III facility or higher</i>
<i>Grade IV</i>	<i>Grade III Certification and at least 4 years experience in operating, with at least 1 year at a Classification IV facility</i>

*(d) Except as otherwise provided in section 4 of this regulation, the applicant must pass the applicable examination or examinations for certification. The examinations must be taken in ascending order beginning with the Grade I examination for certification as an operator of a plant for sewage treatment.*

*3. An applicant who has been certified as an operator of a plant for sewage treatment in another state must disclose in writing any past or pending disciplinary actions related to every other such certification.*

*4. As used in this section, "postsecondary course of instruction" means a successfully completed college level course which is at least 36 hours.*

*Sec. 4. 1. A certificate as an operator of a plant for sewage treatment may be issued by the Division without examination as required by section 3 of this regulation 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, as determined by the Division.*

*2. To apply for certification by reciprocity as an operator of a plant for sewage treatment, an applicant must submit an application to the Division or its designee, which must include, without limitation:*

*(a) Evidence of the education and experience in operating a plant for sewage treatment of the applicant supporting the certification at the grade level that is requested;*

*(b) Evidence of any continuing education units completed by the applicant for the certification held by the applicant;*

*(c) Evidence of the valid, unexpired full certificate held by the applicant for which reciprocity is requested; and*

*(d) The fee required pursuant to NAC 445A.287.*

*3. An incomplete application or an application that includes an expired certificate will not be considered. The Division shall review an application to determine whether the application meets the requirements of this section and shall respond to the applicant with a written decision not more than 60 days after the receipt of the application.*

*4. The Division will not grant a request for certification by reciprocity for a reciprocal certificate issued by another state, territory or possession of the United States or another country.*

*Sec. 5. 1. A person may apply to the Division for a restricted certificate as an operator of a plant for sewage treatment if the person does not meet the requirements for a full certificate. A restricted certificate does not authorize the holder of the certificate to operate a plant for sewage treatment at the restricted grade level.*

*2. To apply for a restricted certificate, a person must:*

*(a) Meet the following requirements for his or her specific grade:*

*(1) For Restricted Grade I, a high school diploma or a general educational development certificate or the equivalent;*

*(2) For Restricted Grade II, hold an active Grade I full certification for a minimum of 1 year and meet the Grade II education requirements set forth in section 3 of this regulation;*

*(3) For Restricted Grade III, hold an active Grade II full certification for a minimum of 1 year and meet the Grade III education requirements set forth in section 3 of this regulation; and*

*(4) For Restricted Grade IV, hold an active Grade III full certification for a minimum of 1 year and meet the Grade IV education requirements set forth in section 3 of this regulation; and*

*(b) Pass the applicable examination or examinations for certification for the restricted grade level.*

*3. A restricted certificate may be converted to a full certificate if the applicant:*

*(a) Meets the experience requirement for the equivalent full certificate set forth in section 3 of this regulation; and*

*(b) Holds an active, full certificate for the grade below.*

*4. A restricted certificate is valid for 4 years after the date of its issuance and may not be renewed. After a restricted certificate has expired, an operator may take the examination for certification again and submit a new application for a restricted certificate pursuant to the requirements of this section.*

*Sec. 6. 1. A certificate issued pursuant to section 3 or 4 of this regulation may be renewed once every 2 years if the holder of the certificate submits a completed application for renewal on the form supplied by the Division before the expiration date of the certificate, which must include, without limitation:*

*(a) Evidence of completion of the requirements of continuing education set forth in section 9 of this regulation; and*



*(b) The fee for renewal set forth in NAC 445A.287.*

*2. If the holder of a certificate issued pursuant to section 3 or 4 of this regulation does not renew the certificate before the expiration date of the certificate, the Division will suspend the certificate. Except as otherwise provided in subsection 3, to renew a suspended certificate, the holder of the certificate must, in addition to the requirements of subsection 1, pay the reinstatement fee set forth in NAC 445A.287.*

*3. If the holder of a certificate issued pursuant to section 3 or 4 of this regulation does not renew a suspended certificate within 6 months after the expiration date of the certificate, the holder of the certificate shall be deemed decertified. Except as otherwise provided in subsections 4 and 5, the holder of a certificate who is decertified may not renew the certificate.*

*4. If the holder of an expired certificate issued pursuant to section 3 or 4 of this regulation provides to the Division documentation of health problems that made the holder unable to meet the requirements of continuing education for renewal of his or her certificate in the time provided pursuant to section 9 of this regulation, the holder of the expired certificate may request, within 2 years after the expiration date of the certificate, that the certificate be reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.287 and verification that all requirements of continuing education have been satisfied.*

*5. If the holder of a certificate issued pursuant to section 3 or 4 of this regulation provides to the Division documentation of military duty that made the holder unable to meet the requirements of continuing education for renewal of his or her certificate in the time provided pursuant to section 9 of this regulation, the holder of the expired certificate may request, within 4 years after the expiration date of the certificate, that the certificate be*

*reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.287 and verification that all requirements of continuing education have been satisfied.*

*Sec. 7. 1. The Division shall offer separate examinations for certification as an operator of a plant for sewage treatment in each of the four grades of certification for qualified applicants.*

*2. The examinations for certification must be offered by the Division at least 3 times per year.*

*3. The Division, or its designee, shall review the qualifications of each applicant for certification who applies to take an examination for certification.*

*Sec. 8. If an applicant has a disability that restricts the ability of the applicant to take an examination for certification under standard conditions, the applicant may request special accommodations for taking the examination at the time of application. Such a request must be submitted to the Division 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. 9. 1. Every 2 years, each holder of a certificate as an operator of a plant for sewage treatment must complete the following requirements of continuing education within the effective period of the certificate to qualify for the renewal of the certificate:*

*(a) The holder of a Grade I certificate must earn at least 5 contact hours of participation in a course of training.*

*(b) The holder of a Grade II certificate must earn at least 10 contact hours of participation in a course of training.*

*(c) The holder of a Grade III certificate must earn at least 15 contact hours of participation in a course of training.*

*(d) The holder of a Grade IV certificate must earn at least 20 contact hours of participation in a course of training.*

*2. A course of training required pursuant to subsection 1 must be approved by the Division or its designee pursuant to section 10 of this regulation.*

*3. An operator who holds a full certificate and a restricted certificate at a higher grade level than the full certificate must comply with the requirements for continuing education for the full certificate to qualify for renewal.*

*Sec. 10. 1. The Division or its designee shall not grant any credit of continuing education to the holder of a certificate as an operator of a plant for sewage treatment for completion of training pursuant to section 9 of this regulation unless the course of training is:*

*(a) Approved by the Division or its designee; and*

*(b) Relevant to the subject matter of the certificate.*

*2. The Division or its designee shall not approve a course of training pursuant to subsection 1 unless a written request for approval is submitted to the Division by the provider of the course of training or the holder of a certificate, which includes, without limitation:*

*(a) An outline of the course of training, which must state the subjects to be included in the instruction and the time to be allotted for each subject of instruction; and*

*(b) A list of the objectives of the instructor, which must specify the essential points of the instruction and the methods of instruction to be used to illustrate these points.*

3. *A public utility may request the written approval of the Division or its designee for the utility to provide a course of training for the employees of the utility that is intended to comply with the requirements of continuing education set forth in section 9 of this regulation.*

Sec. 11. *The Division may deny an application for a certificate as an operator of a plant for sewage treatment or suspend or revoke a full certificate, provisional certificate or restricted certificate if the applicant or holder of the certificate:*

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 plant for sewage treatment;*

3. *Has demonstrated disregard for the health and safety of the public and the environment;*

4. *Has acted outside the rights and privileges of the grade 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 water quality, including, but not limited to, the Clean Water Act, 33 U.S.C. §§ 1251 et seq.;*

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

7. *Has willfully made to a governmental agency with 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.*

**Sec. 12.** NAC 445A.286 is hereby amended to read as follows:

445A.286 The provisions of NAC 445A.286 to 445A.292, inclusive, *and sections 2 to 11, inclusive, of this regulation* do not apply to:

- 1. A package plant for sewage treatment with a capacity of 5,000 gallons or less per day;  
[or]
- 2. Any other plant for sewage treatment, including, without limitation, a septic system, with a capacity of 10,000 gallons or less per day [-]; *or*
- 3. *An industrial facility.*

**Sec. 13.** NAC 445A.287 is hereby amended to read as follows:

445A.287 1. ~~[A person responsible for the operation and maintenance of a plant for sewage treatment must be certified as an operator of a plant for sewage treatment.~~

~~—2.— To apply for certification as an operator of a plant for sewage treatment, a person must submit an application to the Division or its approved designee that is accompanied by the appropriate fee.~~

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

Certification	Fee	Period
Initial <i>certificate</i> .....	<del>[\$60]</del> <b>\$140</b>	2 years

Reciprocal <i>certificate</i> .....	[75] 150	2 years
<i>Renewal of a certificate</i> .....	110	2 years
<i>Restricted certificate</i> .....	90	4 years
<i>Conversion of restricted certificate to full certificate</i> .....	70	
<i>Reinstatement of a certificate</i> .....	80	

~~[4.]~~ 2. 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. 14.** NAC 445A.289 is hereby amended to read as follows:

445A.289 1. For the purpose of the certification program operated pursuant to the provisions of NAC ~~[445A.284 and 445A.288,]~~ *445A.286 to 445A.292, inclusive, and sections 2*

to 11, inclusive, of this regulation, except as otherwise provided in subsection 2, a 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:~~

	<del>0-0.1</del>	<del>0.11-1.0</del>	<del>1.1-5.0</del>	<del>5.1-10.0</del>	<del>10.1-20.0</del>	<del>Greater than 20.0</del>
	<del>MGD</del>	<del>MGD</del>	<del>MGD</del>	<del>MGD</del>	<del>MGD</del>	<del>MGD</del>
<del>Stabilization Pond</del>	<del>I</del>	<del>I</del>	<del>I</del>	<del>I</del>	<del>II</del>	<del>III</del>
<del>Primary</del>	<del>I</del>	<del>I</del>	<del>II</del>	<del>III</del>	<del>III</del>	<del>IV</del>
<del>Biofiltration</del>	<del>II</del>	<del>II</del>	<del>III</del>	<del>III</del>	<del>IV</del>	<del>IV</del>
<del>Activated Sludge</del>	<del>III</del>	<del>III</del>	<del>III</del>	<del>IV</del>	<del>IV</del>	<del>IV</del>
<del>Tertiary and Reuse</del>	<del>III</del>	<del>III</del>	<del>IV</del>	<del>IV</del>	<del>IV</del>	<del>IV</del>

<i>Treatment Process</i>	<i>Plant Classification</i>
<i>Stabilization Ponds or Lagoons</i>	<i>I</i>
<i>Primary Treatment (settling, grit removal, etc.)</i>	
<i>Fixed Film Treatment (E.G., trickling filters,</i>	

<i>etc.) for BOD Removal</i>	<i>II</i>
<i>Activated Sludge (without nitrogen removal and &lt;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 (with nitrogen removal or &gt;20,000 gallons per day)</i>	
<i>Tertiary Treatment</i>	<i>IV</i>
<i>Activated Sludge (&gt;10 million gallons per day)</i>	
<i>Indirect Potable Reuse</i>	

2. *The Division may deviate from this table if it determines that mitigating or intensifying factors exist to raise or lower a plant classification. Factors may include, without limitation, receiving stream water quality, process complexity, waste stream pollutant strength or variations and flow variability.*

3. As used in this section [~~“MGD” means millions of gallons per day.~~]:

(a) *“BOD” means biochemical oxygen demand.*

(b) *“RBC” means rotating biological contractor.*



*(c) "Tertiary treatment" means the process of treating wastewater beyond secondary treatment units for nutrient removal or other advanced removal methods, including, without limitation, membrane filtration.*

**Sec. 15.** NAC 445A.867 is hereby amended to read as follows:

445A.867 1. 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. 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:

- (a) The name of the facility.
- (b) The name and address of the owner.
- (c) The name and address of the operator, if different than the owner.
- (d) A description of the location of each injection well by the quarter-quarter section, section, township and range, and latitude and longitude.
- (e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) The drilling log for each production or injection well owned or operated by the applicant which is located within the area of review.

(j) The proposed operating data, including:

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

(k) 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.

(l) 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.

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

(n) A plan for plugging and abandoning the well as described in NAC 445A.923.

(o) 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.

2. In addition to the requirements for subsection 1, an applicant for a permit for the injection of reclaimed water for indirect potable reuse must satisfy the requirements of NAC 445A.274 to 445A.280, inclusive, as applicable.

3. As used in this section:

(a) "Indirect potable reuse" has the meaning ascribed to it in section 5 of LCB File No. R101-16.

(b) "Reclaimed water" has the meaning ascribed to it in section 7 of LCB File No. R101-16.