



**Notice of Public Workshop
Proposed Regulation R130-22
Bureau of Safe Drinking Water
December 16, 2022**

The Nevada Division of Environmental Protection (NDEP), Bureau of Safe Drinking Water (BSDW) is proposing to adopt regulations amendments under the *Guidelines and Procedures* and *Miscellaneous Provision* sections of Nevada Administrative Code (NAC) 445A for certification of laboratories to analyze substances in water, the *Certification of Laboratories to Analyze Drinking Water* section of Nevada Administrative Code (NAC) 445A for public water systems, the *General Provisions* section of Nevada Administrative Code (NAC) 445A for mining facilities, and the *Guidelines and Procedures* and *Miscellaneous Provisions* sections of Nevada Administrative Code (NAC) 459 for certification of laboratories to analyze waste samples.

The proposed amendments include revising the categories of analytes for which laboratories may be certified; revising certain fees relating to certification for laboratories that analyze certain substances; replacing certain obsolete references with the State Environmental Commission and the Bureau of Safe Drinking Water of the Division of Environmental Protection of the State Department of Conservation and Natural Resources; revising references to certain standards and publications adopted by reference.

A public workshop to discuss and hear public comment regarding R130-22 will be held on **Friday, December 16, 2022, 1:00pm-3:00pm**. The meeting will be held in-person at NDEP offices in Carson City and Las Vegas at the addresses below.

Bryan Building

Please check in with the assistant on the first floor to be escorted to the conference room

901 S. Stewart Street, Great Basin Conference Room (4th Floor)

Carson City, NV 89701

NDEP Office

375 E. Warm Springs Road, Ste. 200 (Red Rock Conference Room)

Las Vegas, NV 89119

For those who are unable to join in-person, the workshop can be accessed virtually via MS Teams:

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 279 290 509 841

Passcode: jHNDbb

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 775-321-6111,,192793683#](#) United States, Reno

Phone Conference ID: 192 793 683#

[Find a local number](#) | [Reset PIN](#)

Thank you for planning to attend this Teams meeting.

Materials regarding [R130-22](#) may be obtained at <http://ndep.nv.gov/posts>, during the workshop, or by contacting BSDW at (775) 687-9490. Interested parties may provide comments at the workshop, emailed to Michael Antoine at mantoine@ndep.nv.gov, or mailed to 901 S. Stewart St., Ste. 4001, Carson City, Nevada 89701. **Written comments will be accepted until 5:00 pm Thursday, December 15, 2022.**

Members of the public who are disabled and require special accommodations or assistance at the meeting should notify BSDW no later than 5 days prior to the workshop.

This notice, agenda, and Small Business Impact Statement have been posted at the Legislative Counsel Bureau website, Department of Administration website, NDEP Offices, NDEP Website, Washoe County Health District, Southern Nevada Health District, and sent to Administrative Contacts for all Nevada Certified Laboratories.



**Agenda for Public Workshop
Proposed Regulation R130-22
Bureau of Safe Drinking Water
December 16, 2022**

The purpose of the public workshop is to receive comments from all interested parties regarding the information listed on this agenda. No action will be taken by the Nevada Division of Environmental Protection (NDEP) during the workshop. The workshop is informational only and in preparation for action that will be taken by the State Environmental Commission (SEC) during a regulatory meeting scheduled on January 18, 2023. The following items may be taken out of order and/or items may be combined for consideration.

- 1) BSDW Laboratory Certification Staff
- 2) Ways to participate and public comment
- 3) Review how regulations are created/revised and the State Environmental Commission (SEC)
- 4) NAC 445A.066
- 5) NAC 445A.54296
- 6) NAC 459.96986
- 7) Public Comments and Questions
- 8) End of Workshop

FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)
(Provide attachments as needed)

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. *(Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)*

BSDW submitted a questionnaire to some laboratories to inform initial determinations for the proposed regulatory modifications. BSDW will invite all certified laboratories to participate in a fee increase workshop. A summary of the workshop will be provided and Form 4 will be updated as necessary.

2. The manner in which the analysis was conducted (if an impact was determined).

Certified laboratories were emailed a Survey with 4 options

1. Option one is an immediate 48% increase in fees.
2. Option two is an 8% annual fee increase amortized over 5 years. This approach would have a lesser economic impact on small business.
3. Option three is an annual fee adjustment equal to the annual rate of inflation (5.3% August 2021).
4. Option four is a fee increase of 1/2 the annual inflation rate annually.

The majority of the Surveys returned favored Option 2

3. The estimated economic effect of the proposed regulation on small businesses:

The estimated economic effect on small business will be an initial 40% increase in fees and 5% annually increases for 4 consecutive years. An annual 4% increase for inflation will be determined annually from that point forward. The economic impact is expected to be minimal due to staggered implementation of the proposed fee increase.

a. Both adverse and beneficial effects:

Adverse: Without a fee increase, the lab certification program will not be solvent as the reserves are being depleted. An increase in fees will likely be passed on to the consumer resulting in an increased cost to perform the analyses.
Beneficial: The proposed fee increase will provide the funding needed to maintain a viable Laboratory Certification Program.

b. Both direct and indirect effects:

Direct: Fees will be increased by 40% increase in fees and 5% annually increases for 4 consecutive years. An annual 4% increase for inflation will be determined annually from that point forward.
Indirect: The laboratories may pass on those fees to their clients.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of the methods. (Include a discussion of any considerations of the methods listed below.)

A gradual increase in fees has been considered, while ensuring that the initial increase is high enough to ensure the viability of the Laboratory Certification Program.

A. Simplification of the proposed regulation:

The Laboratory Certification Program has been operating on fees established in 2004. The Program has been using reserves to continue operations. When the reserve is exhausted, the State will no longer be able to operate a viable Laboratory Certification Program which will have a negative effect for the environmental programs and their implementation of federal and state regulations.

B. Establishment of different standards of compliance for a small business:

Not applicable, as all laboratories regardless of size must meet the same regulatory requirements.

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine:

Fees are based on the number of analyses for which a laboratory is certified, which may lower the fees for small businesses that specialize in a small number of analyses.

5. The estimated cost to the agency for enforcement of the proposed regulation. (Include a discussion of the methods used to estimate those costs.)

None.

6. 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.

Anticipated Total revenue increase year 1 (40%) = \$194,966; Total program revenue = \$682,383
Anticipated Total revenue increase year 5 (60%) = \$236,983; Total program revenue = \$829,440
The proposed fee increase will provide funding to pay staff salaries, technical assistance to the regulated community, travel for training and inspections, databases, records retention, routine employee hardware and equipment and any other needs to ensure a viable Laboratory Certification Program. Additionally, a 2-year reserve will be established to ensure the program remains solvent.

7. 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 such duplicative or more stringent provisions are necessary.

The proposed regulation does not overlap or duplicate any other regulations.

8. The reasons for the conclusions regarding the impact of a regulation on small businesses.

The proposed amendment will provide the funding to sustain a viable Laboratory Certification Program while gradually increasing the costs to lessen the economic impact on small business. The proposed fee increases are consistent with the National Consumer Price Index.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.



Administrator, NDEP

6/27/2022

Date

Supporting Documents



Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>