Permanent Regulation – Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required by Administrative Procedures Act, NRS 233B.066

State Environmental Commission
Permanent No: R123-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

Proposed regulation changes were prompted by changes to the Nevada Revised Statutes, the federal Clean Water Act, direction from the Environmental Protection Agency (EPA) to find ways of streamlining processes to provide financial assistance to more eligible recipients, and the significant increase in federal funding through the Bipartisan Infrastructure Law (BIL) of 2021.

The proposed changes address key sections of the regulations. Specifically, the proposed changes:

a) Align with the adoption of Assembly Bill 20 (82nd Session)
b) Define the term "affordability criteria"
c) Amend the federally required environmental review process
d) Amend the administrative fee for loans
e) Align state regulations with federal regulations, and
f) Clean up outdated language and update processes

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

The Legislative Counsel Bureau published its draft, R123-24P, in the Nevada Register on July 14, 2025.

The NDEP held one public workshop for R123-24P on January 7, 2026. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada, as well as at the NDEP offices at 375 East Warm Springs Road in Las Vegas, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Ten members of the public and regulated industry attended the workshop either in person or virtually. During and after the public workshop, the Division received one verbal question:

1) Nick Charles, representing the City of Reno, commented on the proposed 0.5% annual service fee asked if the annual service fee was in addition to the loan origination fee. Ms. Fontaine confirmed that the annual service fee is in addition to the loan origination fee and clarified that the 0.5% annual service fee was spread over the life of the loan.

A summary of the workshop is included on the NDEP website as well as the SEC website.

The proposed regulations were also distributed to the Office of Financial Assistance email distribution list. The Division accepted written comments on R123-24I and R123-24P for 30 days ending on January 7, 2026.

The SEC held a hybrid regulatory hearing on January 22, 2026, to consider possible action on R123-24P. The SEC posted its public notice, which included a link[1] and instructions to access R123-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The public notice was also published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

(a) Attended January 22, 2026, hearing: 40 (approximately)
(b) Testified on this petition at the hearing: 1

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(c) Submitted to the agency written comments: None

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

[1] https://sec.nv.gov/meetings/sec-meeting-january-22-2026

Comments were solicited from affected businesses through one public workshop and during the January 22, 2026, SEC hearing as noted in number 2 above. There were no verbal or written comments received regarding the regulatory amendments during the January 22, 2026, SEC meeting.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Commissioners unanimously adopted R123-24P without change because the SEC was satisfied with the proposed regulation.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry:

The proposed regulations expand the eligibility of the program to a private entity or organization for the implementation and development of nonpoint source projects, stormwater projects, watershed projects, decentralized treatment systems, or the recycling of wastewater, stormwater, or subsurface drainage. The entity or organization may or may not be a business defined by NRS 233B.0382.

This proposed regulation does introduce and an annual service fee and establishes the requirement for a reserve account, both of which may have a small adverse financial impact on water systems if they have not kept up with user rate changes in support of basic operating costs. However, the proposed regulation also requires the availability of a hardship waiver if a potential borrower is able to demonstrate that the fee would cause a hardship.

In addition, the interest rates on loans secured through the CWSRF program are lower than those offered by other, more traditional lending institutions. Because of the lower interest rates, our sample calculations show that, even with the added fee, the CWSRF program loans are more affordable than traditional loans from a lending institution.

Public:

The public receives a benefit when a wastewater or stormwater system takes out a loan from the CWSRF versus from the public market. The CWSRF is required to offer below market interest rates in order to make expensive infrastructure projects more affordable. This helps keep user rates lower than they would be if another financing option were used by the water system.

Additionally, the SRFs are required to distribute a portion of the grant as principal forgiveness loans (i.e., loans that are not repaid). This further supports our communities that would not otherwise be able to secure funding to improve their infrastructure and/or come into compliance.

The service fee and reserve accounts may have an adverse impact on the community if the recipient has not been keeping up with rate changes that support their basic operations. The CWSRF program, along with our funding partners, requires a recipient to maintain sufficient user rates for their utility. This means that wastewater user rates must be sufficient to ensure long-term sustainability, should federal funding terminate. The Division estimates this impact will be minimal.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency.

The proposed changes would not have a significant impact on OFA's ability to enforce program requirements. Service fees would be collected as part of our routine semi-annual debt service collections.

8. 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.

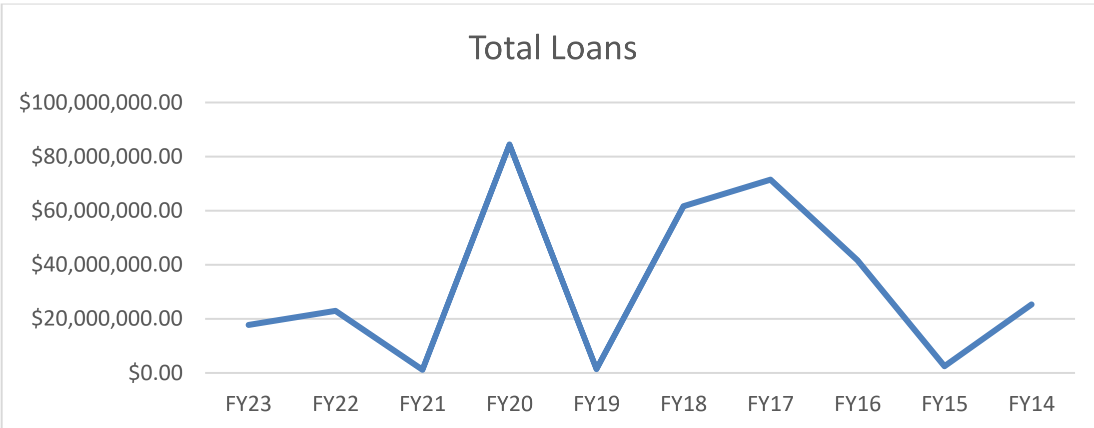
The proposed regulations do not overlap or duplicate other State or Federal Regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The proposed regulations are not more stringent than federal regulations.

10. 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.

The proposed fee structure is dependent upon the number of loans initiated within a year, and the number of open loans from previous years that have the service fee requirement. The amount of funds awarded in contracts that have been executed over the last ten years have fluctuated drastically. It is not possible to determine the revenue from potential future loans.



However, NDEP has looked at the previous ten years to see how much the Division would have received, if these fees had been implemented:

Prior Fiscal Year Balances	Origination Fee	Service Fee	Annual Total
FY 2023	$81,800.00	$75,503.02	$157,303.02
FY 2022	115,000.00	72,876.36	187,876.36
FY 2021	5,875.00	69,043.02	74,918.02
FY 2020	413,000.00	68,749.27	481,749.27
FY 2019	2,000.00	50,499.27	52,499.27
FY 2018	306,000.00	50,499.27	356,499.27
FY 2017	352,827.59	34,591.38	387,418.97
FY 2016	208,250.00	17,100.00	225,350.00
FY 2015	11,000.00	6,687.50	17,687.50
FY 2014	125,750.00	6,187.50	131,937.50
Totals	**$1,621,502.59**	**$451,736.61**	**$2,073,239.19**

All funds collected will be used to offset expenses for administering the CWSRF. The loan origination fee that has been collected since 2006 has built up a cash reserve that by itself is not sustainable should the federal grants terminate. An annual fee collected is needed to ensure current cash is generated to fund current expenditures.

CWSRF Administration Expenditures			
State Fiscal Year	Paid By Service Fees	Paid By Grants	Total Administration
2023[B]	$65,890.37	$313,937.75	$379,828.12
2022[B]	176,475.92	148,274.55	324,750.47
2021	264,852.88	0	264,852.88
2020[A]	330,749.23	0	330,749.23
2019	214,900.51	0	214,900.51

[A] Administration costs in SFY 2020 increased due to the development of a new web-based system that increases efficiency in implementing the program. The ongoing costs for this system are minimal.
[B] Administration costs starting in SFY 2022 and forward have increased due to additional staff being added to manage new loans from the Bipartisan Infrastructure Law. Ongoing costs are expected to be elevated from 2019 levels