

Form #4

Small Business Impact Disclosure and Statement

Approved 5-2-2014



NEVADA
**STATE ENVIRONMENTAL
COMMISSION**

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time employees” (NRS 233B.0382).

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No. The proposed regulation implements the existing requirements of NRS 445A.565. Economic burden associated with designating a waterbody as Tier 2.5 or Tier 3 are unclear at this time and will be assessed and evaluated during the formal decision-making process. Existing discharges to a waterbody designated Tier 2.5 or Tier 3 level of antidegradation protection water would be allowed to continue as long as the discharge is not altered or expanded. There may be indirect costs associated with the requirement of developing and implementing an approved Sampling and Analysis Plan if water quality data are not available for the antidegradation designation (including sampling and costs for certified laboratory analyses).

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No. The proposed regulation implements the existing requirements of NRS 445A.565. Impacts related to formation, operation or expansion of small businesses that could result from assigning a waterbody Tier 2.5 or Tier 3 level of antidegradation protection would be assessed and evaluated during the formal decision-making process.

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public 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.)

The proposed revisions are not expected to have an economic impact on existing surface water discharge permits issued to small businesses. A public workshop was held January 25 to solicit public and stakeholder feedback on the proposed regulation. No small businesses raised additional issues over potential economic impacts from this regulation during the public workshop held on January 25, 2024. The effluent permit limits established through implementation of the antidegradation requirements of NRS 445A.565 may have unquantifiable impact to future permitted activities. The proposed regulation assigns to the State Environmental Commission the role to designate a waterbody a Tier 2.5 or Tier 3 level of antidegradation protection. The impact to small businesses that may be affected by assigning a waterbody a Tier 2.5 or Tier 3 level of antidegradation protection will be assessed and evaluated during the formal decision-making process; the impact will be included in public workshop materials and NDEP will seek specific comment on confirmation or disagreement with NDEP's assumptions.

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

The proposed revisions are not expected to have an economic impact on existing surface water discharge permits issued to small businesses. The effluent permit limits established through implementation of the antidegradation requirements of NRS 445A.565 may have unquantifiable impact to future permitted activities.

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

Existing discharges and renewals without changes to the quantity, quality, or location of the discharge will not be affected. The proposed amendments will have an economic impact for new or expanded discharges in locations where data is insufficient to determine baseline water quality. The cost associated with developing and implementing an approved Sampling and Analysis Plan cannot be determined as it is dependent on the parameters of concern in the discharge and whether and what amount of data exists for the receiving waters for these parameters. The proposed regulation does allow for consideration of socioeconomic factors in setting less restrictive limits in discharge permits for Tier 2 parameters. The economic impacts associated with classifying a surface water as Tier 2.5 or Tier 3 water body would be evaluated on a case-by-case basis during the rulemaking process.

a. Both adverse and beneficial effects:

Adverse economic effects may include costs for water quality sampling and analyses to determine baseline water quality of for parameters of concern. If baseline water quality is determined to be of higher quality, there could be additional costs associated with treatment of a point-source discharge if a viable treatment alternative is identified, but the additional costs will depend on the types and levels of parameters to be treated and the identified treatment alternative. Beneficial effects include the protection of in-stream water quality and associated beneficial uses, and preservation of the unique water quality attributes or the special ecological, aesthetic, and/or recreational values that may be associated with these higher-quality waters.

b. Both direct and indirect effects:

The direct effects of the regulation will depend on the local conditions and a potential need for additional treatment of point-source discharges. The indirect effects will be immediate and long-term protection of high-quality surface waters in Nevada, and preservation of water bodies classified as Tier 2.5 or Tier 3 waters.

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.)

To reduce impact to industry, the concept of an interim baseline value (IBV) was integrated into the regulation which allows for discharges in locations with insufficient existing water quality data to be permitted after two years of data collection in the interim of determining baseline water quality based on five years of collected data. No small businesses raised additional issues over potential impacts from this regulation during the public workshop held on January 25, 2024.

A. Simplification of the proposed regulation:

NDEP worked with stakeholders over many years to craft a practical and usable regulation. The stakeholder review process did not result in consensus on a process for the public to nominate waters to be designated the beneficial use "extraordinary ecological, aesthetic, or recreational value", hence it was removed from the final regulation.

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

Different standards of compliance for small business are not possible, however the proposed antidegradation regulation does allow for consideration of socioeconomic factors in setting less restrictive limits in discharge permits for Tier 2 parameters.

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

No additional fees are proposed.

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

No additional costs are expected for enforcement of the proposed regulation. Antidegradation review is a required step in the permit development process and is included in the fee structure of permits issued by the Bureau of Water Pollution Control.

1. 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.

No additional fees are proposed. Antidegradation review is already required as a regulatory requirement in the permitting process. This regulation outlines the procedural steps for conducting and completing the review. Classification of waters as Tier 2.5 or Tier 3 water bodies would not involve any fees or result in generation of revenue.

2. 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 is not more stringent than federal regulations. The proposed regulation provides for implementation of the statutory requirements set forth in NRS 445A.565, and complies with antidegradation provisions of the Clean Water Act. The classification of waters as Tier 2.5 or Tier 3 water bodies provides a higher level of protection to surface waters designated as such by the Commission; this parallels federal guidance to maintain and protect waters which are considered an outstanding resource.

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

The proposed revisions are not expected to have a significant economic impact on existing surface water discharge permits issued to small businesses. A public workshop was held January 25 to solicit public and stakeholder feedback on the proposed regulation. No small businesses raised additional issues over potential impacts from this regulation during the public workshop held on January 25, 2024. Future impact to small businesses will be a factor considered during the formal decision-making process of whether to classify certain waters as Tier 2.5 or Tier 3 water bodies.

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.


Jennifer Carr (Feb 22, 2024 17:05 PST)

Administrator, NDEP

Feb 22, 2024

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>





Form4_AntiDeg_FINAL_02.22.24

Final Audit Report

2024-02-23

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