



Proposed Regulation Revision P2024-03
Summary of Public Workshop

Date: May 15, 2024

Time: 1:00 PM – 3:00 PM

Locations:

- Bryan Building
 - 901 S. Stewart Street, Bonnie Bryan Conference Room (First Floor)
 - Carson City, NV 89701
- NDEP Las Vegas Office
 - 375 E. Warm Springs Road, Ste. 200 (Red Rock Conference Room)
 - Las Vegas, NV 89119
- Virtually via Microsoft Teams

Participants:

Name	First Join	Last Leave	In-Meeting Duration	Email	Role	Small Business?
Benjamin Moan	5/15/24, 3:27:33 PM	5/15/24, 3:27:48 PM	14s	bmoan@ndep.nv.gov	Organizer	
John Karr	5/15/24, 12:52:10 PM	5/15/24, 3:13:09 PM	2h 20m 58s	jkarr@ndep.nv.gov	Presenter	
DCNR Conf Rm Bonnie 1-E (TEAMS)	5/15/24, 12:58:25 PM	5/15/24, 2:59:49 PM	2h 1m 24s	ConfRmBonnie@ndep.nv.gov	Presenter	
DCNR Conf Rm Red Rock LV (TEAMS)	5/15/24, 12:58:35 PM	5/15/24, 2:30:19 PM	1h 31m 43s	ConfRmRedRock@ndep.nv.gov	Presenter	
Ruben Ramos-Avina	5/15/24, 12:58:23 PM	5/15/24, 3:03:22 PM	2h 4m 59s	rramos-avina@ndep.nv.gov	Presenter	
Mike Cabble	5/15/24, 12:56:25 PM	5/15/24, 2:27:57 PM	53m 39s	mcabble@ndep.nv.gov	Presenter	
14808582525	5/15/24, 1:05:00 PM	5/15/24, 1:22:13 PM	17m 13s		Attendee	
17023052650	5/15/24, 1:01:31 PM	5/15/24, 1:28:14 PM	26m 43s		Attendee	
17029273795	5/15/24, 1:09:54 PM	5/15/24, 1:22:23 PM	12m 29s		Attendee	
17029797984	5/15/24, 1:05:00 PM	5/15/24, 1:07:29 PM	2m 29s		Attendee	
19543202110	5/15/24, 1:04:59 PM	5/15/24, 1:08:22 PM	3m 22s		Attendee	
Brandy Moss	5/15/24, 1:00:59 PM	5/15/24, 1:24:50 PM	23m 50s	b.moss@trileaf.com	Attendee	
Jason Hoffman	5/15/24, 1:00:40 PM	5/15/24, 1:22:57 PM	22m 17s	jhoffman@broadbentinc.com	Attendee	
Jennifer Fieber	5/15/24, 12:58:40 PM	5/15/24, 1:22:05 PM	23m 25s	jfieber@associatesenvironmental.com	Attendee	
Paul Kaplan	5/15/24, 1:02:14 PM	5/15/24, 1:22:33 PM	20m 18s	pkaplan@newfields.com	Attendee	
Mitch Gerlinger	5/15/24, 1:10:59 PM	5/15/24, 1:30:26 PM	19m 27s	Mitch.Gerlinger@gesnevada.com	Attendee	
RENO DRAIN OIL SERVICE	5/15/24, 1:05:52 PM	5/15/24, 1:24:01 PM	18m 9s		Attendee	Yes
Rob J. Gegenheimer	5/15/24, 1:29:03 PM	5/15/24, 1:32:12 PM	3m 9s	rgegenheimer@ConverseConsultants.com	Attendee	
Schaefer, Christine @ Charlotte	5/15/24, 12:56:46 PM	5/15/24, 1:25:25 PM	28m 39s	Christine.Schaefer@cbre.com	Attendee	
Vince Yarina	5/15/24, 1:08:18 PM	5/15/24, 1:47:55 PM	39m 36s	vyarina@Langan.com	Attendee	
Bradley, Steve	5/15/24, 1:32:39 PM	5/15/24, 2:30:46 PM	58m 7s	Steve.Bradley@tetrattech.com	Attendee	
Brian Northam	5/15/24, 1:00:27 PM	5/15/24, 2:30:26 PM	1h 29m 58s	northam@SNHD.ORG	Attendee	
Charles Frey	5/15/24, 12:59:59 PM	5/15/24, 2:29:15 PM	1h 29m 16s	Charles.Frey@ghd.com	Attendee	
Dano, Rebecca K	5/15/24, 1:07:26 PM	5/15/24, 2:33:23 PM	1h 25m 56s	Rebecca.Dano@terracon.com	Attendee	
Husic, Megan	5/15/24, 1:40:17 PM	5/15/24, 2:30:40 PM	50m 23s	MHusic@scsengineers.com	Attendee	
Jonathan Zimdars	5/15/24, 12:53:57 PM	5/15/24, 2:05:29 PM	1h 11m 31s	jonathan.zimdars@anteagroup.us	Attendee	
Joseph McGinley	5/15/24, 12:57:51 PM	5/15/24, 2:29:02 PM	1h 31m 10s	JMcginley@teamues.com	Attendee	
Karin Hagan	5/15/24, 1:02:55 PM	5/15/24, 5:01:48 PM	3h 58m 53s	KHagan@kleinfelder.com	Attendee	
Kurt A. Goebel	5/15/24, 1:55:25 PM	5/15/24, 2:35:18 PM	39m 52s	KGoebel@ConverseConsultants.com	Attendee	
Molly Small	5/15/24, 12:56:06 PM	5/15/24, 2:30:34 PM	1h 34m 28s	MSmall@Geosyntec.com	Attendee	
Randy Brandt	5/15/24, 1:02:49 PM	5/15/24, 2:34:03 PM	1h 31m 14s	RBrandt@Geosyntec.com	Attendee	
Romero, Rani	5/15/24, 1:01:02 PM	5/15/24, 2:34:09 PM	1h 33m 6s	RRomero@scsengineers.com	Attendee	
Stefanie Costa Rica	5/15/24, 12:57:51 PM	5/15/24, 2:38:30 PM	1h 40m 39s	Stefanie@becnv.com	Attendee	Yes
Steve Woodhull	5/15/24, 12:52:39 PM	5/15/24, 2:31:00 PM	1h 38m 21s		Attendee	
Tomokazu Taniuchi	5/15/24, 1:09:51 PM	5/15/24, 2:35:43 PM	1h 25m 51s	ttaniuchi@teamues.com	Attendee	
Wetty, Todd	5/15/24, 1:02:49 PM	5/15/24, 2:46:47 PM	1h 43m 58s	twetty@renoairport.com	Attendee	



Name	Organization	Email Address	Phone Number	Will you be providing a public comment? Y/N
COURT BROOKS	NINYO & MOORE	CBrooks@NINYOANDMOORE.COM	702 428 4872	Y
CRYSTAL CASTELLANO	NINYO & MOORE	ccastellano@NINYOANDMOORE.COM	406 885-4564	Y
Denise Rasmussen	NO Energy	robert.rasmussen@noenergy.com	(202) 402 5406	Y
MEGAN HUSIC	SCS ENGINEERS	mhwusic@scsengineers.com	725-208-2451	N

Summary:

1. CALL TO ORDER

Ben Moan called the public meeting to order at 1:00 p.m. The public meeting was held in the Bonnie Room of the Richard H. Bryan Building located at 901 South Stewart Street, Carson City, NV and video conferenced to the NDEP Las Vegas office located at 375 East Warm Springs Road, Suite 200, Las Vegas, NV. Remote participation was also available via Microsoft Teams and telephone.

A. NDEP STAFF PRESENT

- Ben Moan – Presenter
- Dave Friedman
- Ruben Ramos-Avina
- Ruby Wood
- Jeff Collins
- Scott Smale
- John Karr (virtually via Microsoft Teams)
- Mike Cabble (virtually via Microsoft Teams)

OTHERS PRESENT

- 0 members of the public attended in person in the NDEP Carson City office
- 4 members of the public attended in person in the NDEP Las Vegas office
- 25 members of the public attended virtually via Microsoft Teams
- 5 members of the public attended via telephone

2. PRESENTATION ON PROPOSED AMENDMENTS TO NAC 445A.2272 AND 445A.22735

Ben Moan began the workshop presentation at approximately 1:00 p.m.

Ben Moan concluded the workshop presentation at approximately 1:20 p.m. and opened the meeting to public comment.

3. PUBLIC COMMENT

No public comments were made in person in the NDEP Carson City or Las Vegas offices.

A representative of **Reno Drain Oil** thanked NDEP for the presentation via Microsoft Teams.

Mitch Gerlinger asked via Microsoft Teams whether a copy of the presentation would be made available. **Ben Moan** indicated that a copy of the presentation would be made available via email.

No public comments were made via telephone.

4. ADJOURNMENT

The public meeting adjourned at 2:00 p.m.

5. POST-MEETING COMMENT PERIOD

As announced during the public meeting, NDEP accepted comments via phone call, email, or mail through May 22, 2024, at 5:00 PM PDT. No comments were received.

6. COMMENT RECEIVED ON AUGUST 5, 2024, OUTSIDE OF THE COMMENT PERIOD

Received via email from dwalsh@walshcih.com to bmoan@ndep.nv.gov on August 5, 2024 at 10:20 PM:

I am writing regarding the language change to the subject regulation. Since this regulation is under NAC 445A which is for Water Controls I would request that the Regional Screening Levels being referenced only apply to water and soil, if applicable, RSLs. I request language be inserted that specifically excludes the air concentration RSLs. These RSLs are often below background and not used per the instructions for the RSLs. In addition, the air concentrations of the contaminants in typical indoor air are often coming from sources other than subsurface soil or groundwater. For example, benzene and other aromatic compounds come from nearby vehicles, chloroform can come from chlorinated water, perchloroethylene from drycleaned clothes, etc. I have found other consultants using these air RSLs for indoor air quality assessments incorrectly and making inappropriate recommendations based on them. The RSLs were not designed for this purpose, especially when only the tabulated concentrations are used without applying the risk assessment principles described in the instructions. Thank you.

Dale Walsh, MS, CIH, CSP, CEM, LEED-AP
President and Certified Industrial Hygienist
WALSH CERTIFIED CONSULTANTS, INC.
11 Clearview Avenue
Las Vegas, Nevada 89124
(702) 468-4782 (Main Phone/Cell)
www.walshcih.com
dwalsh@walshcih.com
More Info – Search Web with Dale Walsh CIH

NDEP Bureau of Corrective Actions Response, via email from Ben Moan to Dale Walsh at the above addresses:

Dale,

Thank you for your comments. They will be added for consideration when the State Environmental Commission makes a determination on the final wording for the regulation updates.

-Ben

Ben Moan

Professional Engineering Specialist, P.E.
Remediation & Leaking UST Branch, Bureau of Corrective Actions
Nevada Division of Environmental Protection
Department of Conservation and Natural Resources
901 S. Stewart Street, Suite 4001
Carson City, NV 89701
bmoan@ndep.nv.gov
(O) 775-687-9396

NDEP recommendation to the SEC regarding this comment:

NAC 445A.22605 defines “Action level” as: “ ‘Action Level’ means the level of concentration of a hazardous substance, hazardous waste or a regulated substance in soil, groundwater or surface water that is established pursuant to NAC 445A.2272, 445A.22735 and 445A.2275 and for which corrective action may be required by the Director.”

Since NAC 445A.22605 and related regulations do not specifically include “air,” NDEP does not have authority to set air standards under these regulations. To specifically call out that air is not included in these regulations would require additional revisions to the NAC 445A regulations and additional workshops. NDEP does not have a history of attempting to set or enforce air standards under these regulations. Therefore, NDEP believes that no such revisions are necessary.



WORKSHOP NOTICE AND AGENDA

Notice of Workshop to Solicit Comments on Proposed Amendments to Nevada Administrative Code Chapters 445A and 459

The Nevada Division of Environmental Protection (NDEP) is proposing regulations that will amend Nevada Administrative Code (NAC) 445A.2272, 445A.22735, and certain regulations within 459.9991 - 459.99939. The following workshop has been scheduled to solicit comments from people interested in the amendments, which are described in general below. The workshop agenda is provided on page 2 of this announcement.

May 15, 2024
1:00 PM to 3:00 PM

The workshop is open to the public and free to attend at the physical locations or virtually as provided below.

Carson City Location:

The Richard H. Bryan Building
Bonnie Bryan Conference Room
901 South Stewart Street
First Floor
Carson City, NV 89701

Las Vegas Location:

NDEP Offices
Red Rock Conference Room
375 East Warm Springs Road
Suite 200 (Second Floor)
Las Vegas, NV 89119

Join the workshop virtually at:

Microsoft Teams: Meeting ID: 298 081 189 418 Pass Code: BqPjWe

Call in by Phone (audio only): +1 (775) 321-6111 Meeting extension: 960343162#

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify ndepbca@ndep.nv.gov no later than 3 working days before the workshop.

Permanent Regulation P2024-07: The NDEP is proposing to amend NAC 445A.2272 and 445A.22735 regarding establishment of action levels for contamination of soil and groundwater. The proposed changes will remove language referencing documents and acts as they existed on October 3, 1996, and replace the language with references to current and periodically updated United States Environmental Protection Agency (EPA) soil screening levels and drinking water maximum contaminant levels.

Permanent Regulation P2024-06: The NDEP is proposing to amend certain regulations under NAC 459.9991 - 459.99939 titled Fund for Brownfield Projects. The proposed revisions will address changes to program administration, applicant and project eligibility, funding instruments to reflect changes to the State's obligations under agreement with EPA, and source of the funds since passage of the original regulations.

AGENDA

(No action items)

Note: Items on this agenda may be taken out of order, may be combined for consideration by the public body, and may be pulled or removed from the agenda at any time.

Part 1: Proposed Changes to NAC 445A.2272 and 445A.22735

1:00 PM – 2:00 PM

1. Introduction (Discussion)
2. NDEP presentation on proposed changes to NAC 445A.2272 and 445A.22735 (Discussion)
Presented by Ben Moan, Ruby Wood, and Jeff Collins
3. Public comments and questions on proposed regulation P2024-07 (Discussion)*
4. Adjourn

The proposed amendments and related materials will be made available no later than 3 days before the workshop on the NDEP website at <https://ndep.nv.gov/posts>. A copy of materials relating to the proposed regulations may also be obtained at the workshop or from Ben Moan at NDEP, 901 S. Stewart Street, Suite 4001, Carson City, NV 89701; (775) 687-9396; or e-mail bmoan@ndep.nv.gov.

Part 2: Proposed Changes to NAC 459.9991 - 459.99939

2:00 PM – 3:00 PM

1. Introduction (Discussion)
2. NDEP presentation on proposed changes to NAC 459.9991 - 459.99939 (Discussion). *Presented by Ruben Ramos-Avina, David Friedman, and Jeff Collins*
3. Public comments and questions on proposed regulation P2024-06 (Discussion)*
4. Adjourn

The proposed amendments and related materials will be made available no later than 3 days before the workshop on the NDEP at <https://ndep.nv.gov/posts>. A copy of materials relating to the proposed regulations may also be obtained at the workshop or from Ruben Ramos-Avina at NDEP, 901 S. Stewart Street, Suite 4001, Carson City, NV 89701; (775) 687-9572; or e-mail rramos-avina@ndep.nv.gov.

* Public comments can be delivered during the meeting in person or virtually by joining the TEAMS meeting or calling in using the telephone numbers listed on page 1 of this notice. Members of the public will be invited to speak. Public comment may be limited to three (3) minutes per person.

Notice of this meeting was posted at the following Nevada locations:

- Nevada Public Notice Website - <https://notice.nv.gov/>
- The Nevada Division of Environmental Protection public notice website - <https://ndep.nv.gov/posts>
- Department of Conservation and Natural Resources, 901 South Stewart Street, Carson City
- NDEP's Las Vegas Office, 375 East Warm Springs Road, Suite 200, Las Vegas
- Administrative Regulation Notices website - <https://www.leg.state.nv.us/App/Notice/A/>



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**



Nevada Department of
**CONSERVATION &
NATURAL RESOURCES**

Workshop on Proposed Amendments to Nevada Administrative Code Chapters 445A and 459

NDEP Bureau of Corrective Actions (BCA)

May 15, 2024

NAC 445A.2272 and 445A.22735

1:00 – 2:00 PM

**Presented by
Ben Moan, P.E.**

NAC 459.9991 – 459.99939

2:00 – 3:00 PM

**Presented by
Dave Friedman, Supervisor**

HOUSEKEEPING ITEMS

- Public comments are welcome at the end of each presentation
- This meeting is being recorded
- Please introduce yourself for the record before commenting
- Please limit comments to 3 minutes
- For those attending virtually:
 - Please turn off your camera and mute your microphone unless speaking
 - Please raise your hand during the comment section if you'd like to speak
- Written comments will be accepted through May 22, 2024

WORKSHOP AGENDA

PART 1

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BACKGROUND

- On January 12, 2023, Governor Lombardo issued Executive Order 2023-003 directing state agencies to review their existing regulations for potential removal or revision of regulations that are obsolete or are unnecessarily onerous
- During the subsequent review and public comment period, it was pointed out that Nevada Administrative Code (NAC) 445A.2272 referenced and adopted the United States Environmental Protection Agency (EPA) Integrated Risk Information System (IRIS), as it existed on October 3, 1996, for establishing soil action levels (concentrations) for hazardous substances and hazardous or regulated waste
- NAC 445A.22735 references and adopts The Safe Drinking Water Act and 40 C.F.R. Part 141, as they existed on October 3, 1996, for establishing action levels in groundwater

BACKGROUND

- <https://www.epa.gov/iris>
- It may be difficult to obtain copies of IRIS as it existed in 1996
- The IRIS process for risk assessment is complicated and relies on extensive knowledge of toxicology, exposure assessment, and many calculations
- In practice, BCA and certified environmental managers (CEMs) routinely use 2009 and 2014 guidance that references EPA Regional Screening Levels (RSLs) for initial soil action levels
- For groundwater, BCA and CEMs routinely use current National Primary Drinking Water Regulations (maximum contaminant levels or MCLs) for groundwater action levels

PROPOSED CHANGES

SOIL ACTION LEVELS

NAC 445A.2272 Contamination of soil: Establishment of action levels. ([NRS 445A.425](#))

1. For the purposes of [NAC 445A.22695](#) to [445A.2271](#), inclusive, the action level for soil must be established at the following levels:

(a) The background concentration or volume of a hazardous substance, hazardous waste or a regulated substance set forth in:

- (1) The permit issued to the owner or operator by the Division; or
- (2) A study approved by the Division.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in the soil at an appropriate level of concentration that is based on the protection of the waters of the State, public health and safety for all identified routes of exposure and the environment. The appropriate level of concentration must be determined by the Division using the ~~[Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October 3, 1996.]~~ *United States Environmental Protection Agency approved standards and methodology for development of Regional Screening Levels adopted by reference in NAC 445A.2272 (3)*, or any other equivalent method or peer-reviewed source of information chosen by the Division.

2. Except as otherwise provided in this subsection, if more than one action level for soil may be established using the criteria set forth in paragraph (b) of subsection 1, the most restrictive action level must be used. In no case may the action level be more restrictive than the background concentration of the hazardous substance, hazardous waste or regulated substance.

3. The State Environmental Commission hereby adopts by reference the ~~[Integrated Risk Information System, adopted by the Environmental Protection Agency, as it existed on October 3, 1996. A copy of the system is available on-line through the Internet and may be obtained from an Integrated Risk Information System Representative at (301) 496-6531, free of charge.]~~ *United States Environmental Protection Agency, "Regional Screening Level (RSL) Tables and associated User's Guide." A copy of the RSL Tables and User's Guide is available free of charge at the United States Environmental Protection Agency Risk Assessment, Regional Screening Levels website at the Internet address <https://www.epa.gov/risk/regional-screening-levels-rsls>.*

(Added to NAC by Environmental Comm'n, eff. 10-3-96; A by R189-08, 8-25-2009)

EPA RSLs

- <https://www.epa.gov/risk/regional-screening-levels-rsls>
- Adoption includes the associated risk assessment guidance, RSL Generic Tables, Calculator, and RSL User's Guide
- The Generic Tables are populated by applying the IRIS process to specific contaminants, and calculating conservative values based on worst-case scenario exposure
- The most restrictive level becomes the default reportable concentration (RC) and screening level
 - This is NOT necessarily the ultimate clean up goal. A less restrictive level may be established following exposure assessment
- Adoption allows for action levels to be established through a more rigorous site-specific exposure analysis

CURRENT RC LOOKUP TABLE

NDEP Draft Guidelines for Discovery Events (Soil RCs)			
Appendix A1--Reportable Concentrations for common soil contaminants			Version: 01/28/2009
Contaminant Class	Reportable Concentration	Source	Comments
Contaminant	(mg/kg)		
Total Petroleum Hydrocarbons	1.0E+02	NDEP derived concentration	The TPH Reportable Concentration is only applicable to petroleum releases or the discovery of soil contamination that was likely the result of a petroleum release. Other substances, such as vegetable oil, bio-diesel, or vegetable based hydraulic fluids with no petroleum component, are only regulated based on threats to waters of the State, as determined by gross contamination, regardless of whether laboratory samples show a TPH signature.
<i>Common VOCs</i>			Where the Reportable Concentration of a contaminant is based on the Soil Screening Level, a facility owner/operator may not make additional considerations about depth to groundwater or the presence of confining layers when determining whether the levels of a contaminant discovered in soil are reportable; the Reportable Concentration must be used as is.
Benzene	3.0E-02	Soil Screening Level, DAF 20	
Carbon Tetrachloride	7.0E-02	Soil Screening Level, DAF 20	
Ethylbenzene	5.7E+00	EPA Regional Screening Level, Residential Soil	
Methyl tert-Butyl Ether (MTBE)	1.6E-01	NDEP calculated SSL, DAF 20	
Toluene	1.2E+01	Soil Screening Level, DAF 20	
Tetrachloroethylene (PCE)	6.0E-02	Soil Screening Level, DAF 20	
Trichloroethylene (TCE)	6.0E-02	Soil Screening Level, DAF 20	
Vinyl Chloride	1.0E-02	Soil Screening Level, DAF 20	
Xylene, Mixture	2.1E+02	Soil Screening Level, DAF 20	
<i>PAHs</i>			
Benz[a]anthracene	1.5E-01	EPA Regional Screening Level, Residential Soil	
Benzo[a]pyrene	1.5E-02	EPA Regional Screening Level, Residential Soil	
Naphthalene	3.9E+00	EPA Regional Screening Level, Residential Soil	A facility owner/operator is not required to make notification if metal concentrations are within an appropriately determined background, irrespective of their discovery above the Reportable Concentration.
<i>Metals</i>			
Arsenic, inorganic	3.9E-01	EPA Regional Screening Level, Residential Soil	
Beryllium and compounds	6.3E+01	Soil Screening Level, DAF 20	
Cadmium	8.0E+00	Soil Screening Level, DAF 20	
Chromium, Total	3.8E+01	Soil Screening Level, DAF 20	
Cobalt	2.3E+01	EPA Regional Screening Level, Residential Soil	
Copper	3.1E+03	EPA Regional Screening Level, Residential Soil	
Lead and Compounds	4.0E+02	EPA Regional Screening Level, Residential Soil	
Manganese	1.8E+03	EPA Regional Screening Level, Residential Soil	
Mercury (elemental)	6.7E+00	EPA Regional Screening Level, Residential Soil	
Selenium	5.0E+00	Soil Screening Level, DAF 20	
Silver	3.4E+01	Soil Screening Level, DAF 20	
Zinc (Metallic)	1.2E+04	Soil Screening Level, DAF 20	

IN PRACTICE: CASE INITIATION (RCs)

- Following adoption of final language, NDEP will develop and post updated guidance
 - On NDEP Environmental Cleanup website
 - Through Nevada Environmental Activities
 - Will be updated periodically based on current EPA RSLs



GROUNDWATER

CORRECTIVE ACTION ORDER; EXEMPTION REQUEST

- No changes are proposed for NAC 445A.22725 and 445A.2273



PROPOSED CHANGES

GROUNDWATER ACTION LEVELS

NAC 445A.22735 Contamination of groundwater: Establishment of action levels. (NRS 445A.425)

1. For the purposes of [NAC 445A.22725](#), [445A.2273](#) and [445A.2274](#), the action level for groundwater must be established ~~[at]~~ *for* the following ~~[levels]~~:

(a) The presence of 1/2 inch or more of a petroleum substance that is free-floating on the surface of the water of an aquifer, using a measurement accuracy of 0.01 feet.

(b) The presence of a hazardous substance, hazardous waste or a regulated substance in groundwater at a level of concentration equal to the maximum contaminant level for that substance or waste established pursuant to the ~~[Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections existed on October 3, 1996.]~~ *United States Environmental Protection Agency, “National Primary Drinking Water Regulations” adopted by reference in NAC 445A.22735 (4).*

(c) A level of concentration equal to the background concentration of a hazardous substance, hazardous waste or a regulated substance, if that level of concentration is greater than the maximum contaminant level established pursuant to paragraph (b).

(d) If a maximum contaminant level has not been established for a hazardous substance, hazardous waste or a regulated substance, a level of concentration equal to:

(1) The background concentration of the waste or substance; or

(2) An appropriate level of concentration that is based on the protection of public health and safety and the environment. The appropriate level of concentration must be determined by the Division using the ~~[Integrated Risk Information System,]~~ *United States Environmental Protection Agency, “Regional Screening Level (RSL) Tables and associated User’s Guide,”* adopted by reference in [NAC 445A.2272](#), or an equivalent method approved by the Division.

PROPOSED CHANGES

GROUNDWATER ACTION LEVELS

2. In establishing an action level pursuant to subsection 1, the Division may consider:

(a) The presence of more than one hazardous substance, hazardous waste or regulated substance in the groundwater;

(b) Any potential threat the contamination may pose to sensitive areas of the environment; and

(c) Any other threat or potential threat to groundwater that is specifically related to the site.

3. If more than one action level for groundwater may be established using the criteria set forth in subsection 1, the most restrictive action level must be used.

4. ~~{The Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and 40 C.F.R. Part 141, as those sections existed on October 3, 1996, are hereby adopted by reference. A copy of those sections may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, at a cost of \$30.}~~ *The State Environmental Commission hereby adopts by reference the United States Environmental Protection Agency, “National Primary Drinking Water Regulations” available free of charge at the United States Environmental Protection Agency National Primary Drinking Water Regulations website at the Internet address <https://www.epa.gov/groundwater-and-drinking-water/national-primary-drinking-water-regulations>. A copy of the Regulations may be obtained by mail from the EPA Office of Ground Water and Drinking Water, 1200 Pennsylvania Ave, N.W. (Mail Code 4606M), Washington, DC 20460 or by toll-free telephone at (800) 490-9198.*

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

NAC 445A.2274 Contamination of groundwater: Remediation standard. ([NRS 445A.425](#)) Unless remediation of a release may be terminated pursuant to [NAC 445A.22745](#), the remediation standard for groundwater shall be deemed to be the action level of the groundwater.

(Added to NAC by Environmental Comm’n, eff. 10-3-96)

SUMMARY AND NEXT STEPS

- Changes will remove references to outdated federal regulations and replace them with current practice and periodically updated values
- Updated NDEP guidance will include single values for each contaminant for soil and groundwater RCs
- No change to language regarding background concentrations
- The process allows for less restrictive action levels to eventually be established on a site-specific bases, following exposure and risk assessment
- NDEP did not identify “a direct and significant economic burden” that would be imposed upon a small business due to the proposed changes
- Next steps: submit the proposed language to the Legislative Council Bureau and schedule a hearing with the State Environmental Commission (SEC) at a date and time TBD. If the SEC adopts the amended regulations, the regulations will be submitted for final approval by the Legislative Commission.
- If substantial language changes are made subsequent to this initial workshop, NDEP will hold another workshop

A vertical photograph on the left side of the slide shows a scenic mountain landscape. In the foreground, a clear blue river flows through a lush green forest. The middle ground features a rocky shoreline with patches of yellow grass. In the background, several jagged mountain peaks are visible under a clear blue sky.

Public Comment

Submit written comments to:

Ben Moan, P.E.

NDEP Bureau of Corrective Actions

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Email: bmoan@ndep.nv.gov

NDEP

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Carson City, NV 89701

By 5:00 PM PDT on **May 22, 2024**

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