

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: R130-24P

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

1. Need for Regulation

On January 12, 2023, Governor Lombardo issued Executive Order 2023-003, requiring state agencies to review their regulations for potential amendment or rescission. During a subsequent public comment period, it was noted that Nevada Administrative Code (NAC) 445A.2272 and 445A.22735 reference outdated adopted federal guidance. Specifically, NAC 445A.2272(3) adopts, by reference "the Integrated Risk Information System, adopted by the U.S. Environmental Protection Agency (EPA), as it existed on October 3, 1996." NAC 445A.22735(4) adopts, by reference "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." In practice, the Nevada Division of Environmental Protection (NDEP, Division) and environmental consultants regularly reference current EPA Regional Screening Levels and associated risk assessment guidance for managing soil corrective action cases. NDEP and consultants regularly reference current EPA Maximum Contaminant Levels for managing groundwater corrective action cases. The proposed language change to existing regulations adds clarity and consistency to current practice, and allows for soil and groundwater action levels to be updated concurrently with federal standards, without further revisions to state regulations.

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 Division held a hybrid (in-person and virtual) public workshop for R130-24P on August 20, 2024. 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. Twenty-five members of the public and regulated industry attended the workshop either in person or virtually. The proposed regulations were also distributed to the Bureau of Corrective Actions' email distribution list.

The Legislative Counsel Bureau published its draft, R130-24P, in the Nevada Register on August 2, 2024. The Division accepted written comments on R130-24I and R130-24P for 30 days ending on August 27, 2024. The Division did not receive any verbal questions concerning R130-24I and/or R130-24P during the public workshop. A summary of the workshop, including any public comment and bureau response, is included on the NDEP website as well as the SEC website.

The SEC held a hybrid regulatory hearing on March 19, 2025, to consider possible action on R130-24P. The SEC posted its public notice, which included a link¹ and instructions to access R130-24P 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 SEC also published the public notice 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 March 19, 2025, hearing: 38 (approximately)

(b) Testified on this Petition at the hearing: 2

1. Jeff Collins, on behalf of the Nevada Division of Environmental Protection
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2. Ben Moan, on behalf of the Nevada Division of Environmental Protection
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(c) Submitted to the agency written comments: one

1. Dale Walsh, President, Walsh Certified Consultants, Inc.
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¹ <https://sec.nv.gov/meetings/sec-meeting-march-19-2025>

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.

Comments were solicited from affected businesses through one public workshop and at the March 19, 2025, SEC hearing as noted in number 2 above. One written comment was received (outside the public comment period). The commenter requested that language be added to the proposed regulations specifically excluding air concentration Regional Screening Levels. During the SEC meeting on March 19, 2025, the Bureau of Corrective Actions explained that they do not regulate air and that the action levels in the amendments reference soil, ground water, and surface water, not air, so no changes were made to the proposed amendments.

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 R130-24P without change because the public and the SEC were 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: No significant effect is expected. The language change removes references to outdated federal regulations and replaces the language with references to current regulations and existing practice.

The effects are expected to be largely neutral. Approximately 875 contaminants are listed in the current EPA Regional Screening Level tables and approximately 100 contaminants have drinking water Maximum Contaminant Levels. EPA periodically updates these lists and concentrations based on new health risk data. Some contaminants may have current action levels that are lower or higher than the action levels established on October 3, 1996. The proposed language still allows for NDEP to consider action levels determined through site specific risk studies, following the guidance associated with the Regional Screening Level tables.

The immediate effect is to clarify that NDEP adopts current federal regulations and guidelines. The long-term effect is that NDEP adopts the dynamic lists, allowing for the current action and screening levels to be used with each EPA update.

Public: No adverse economic effects on the public are expected. Beneficial effects are that if EPA adjusts contaminant action levels based on new toxicology data, the new action levels would be immediately adopted by NDEP, protecting human health.

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

Enforcing Agency. The proposed regulatory language clarifies existing authority and practice and is not expected to significantly impact agency workload or incur additional cost.

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 regulatory language is to existing regulations required for NDEP's compliance with federal regulations, the Clean Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation and Liability Act. The authority to administer these federal regulations has been delegated to Nevada by EPA. The language change would adopt current and future 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 amendments in R130-24P do not include provisions which are more stringent than federal regulations, and in fact, clarify that current federal regulations are adopted.

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.

R130-24P does not provide for any new fees or increases to existing fees.