

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: R104-22P

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

1. Need for Regulation

R104-22 proposes updates that follow current best engineering practices and judgments. Nevada Administrative Code (NAC) provides for the NDEP to consider special exceptions to certain engineering design regulations for public water systems. Several special exceptions to the existing NACs have been submitted and approved related to these proposed revisions, and many stakeholders have expressed frustration that NAC 445A regulations do not align with best engineering practices and judgment . These amendments seek to revise the regulations to reduce or prevent requests for special exceptions during the project review process.

Other general updates, creation of internal regulatory consistency, and regulation cleanup were performed with these proposed revisions.

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 two hybrid (in-person and virtual) public workshops for R104-22P; one on August 4, 2022, and a second on September 8, 2022. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada and in the NDEP offices in Las Vegas at 375 East Warm Springs Road, while also providing a virtual component. The workshops were held to present the substance of, and receive public comment on, the proposed regulation. Sixteen members of the public and regulated industry attended the first workshop (either in-person or virtually), and 16 members of the public attended the second workshop (either virtually or in-person).

The Legislative Counsel Bureau published its draft, R104-22P, in the Nevada Register on August 12, 2022. The Division accepted written comments on R104-22I up to September 19, 2022. The Division received one written comment (in the form of an email)

concerning R104-221. That comment is attached as a pdf. The Division also received one comment via phone call on August 4, 2022. The commenter expressed concern regarding the lack of a backflow preventer requirement on a single-family service connection that serves a townhome. Comments received during the outreach process also requested that the Bureau of Safe Drinking Water (BSDW) take a step back and reconsider the proposed revisions on allowing passive purge fire sprinkler systems on single-family dwelling units with no backflow preventer requirement. As a result of feedback during the public process, BSDW decided to strike the originally proposed amendments regarding this section prior to the SEC hearing and review again at a later date.

The SEC held a hybrid regulatory hearing on September 20, 2022, to consider possible action on R104-22P. The SEC posted its public notice, which included a link¹ and instructions to access R104-22P 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 a week for three consecutive weeks prior to the SEC regulatory meeting.

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

- (a) Attended September 20, 2022 hearing: 24 (approximately)
- (b) Testified on this Petition at the hearing: 1

- 1. Brendon Grant, on behalf of the Nevada Division of Environmental Protection
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- (c) Submitted to the agency written comments: 1 (attached)

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-regulatory-meeting-september-20-2022>

Comments were solicited from affected businesses through one public workshop and at the September 20, 2022 SEC hearing as noted in number 2 above.

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 R104-22P with the proposed edits to Sections 1, 2, 6, 7, and 12 through 14. Sections 12 through 14 have been restored to the original regulatory language. The regulation was adopted with these changes because the public and the SEC were satisfied with the proposed amendments.

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 regulatory amendments in R104-22P are estimated to have no economic impact on public water systems.

Public. The regulatory amendments in R104-22P are expected to have no economic impact on the public.

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

Enforcing Agency. The regulatory amendments proposed in R104-22P are not expected to result in any additional costs to the Division.

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 amendments in R104-22P do not overlap or duplicate other state or government agencies.

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 regulatory amendments in R104-22P are no more stringent than what is established by federal law.

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 amendments in R104-22P do not address fees.