



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission

901 South Stewart Street, Suite 4001 -- Carson City, Nevada 89701-5249



## Notice of Regulatory Hearing Adoption of Regulations and Other Matters Before the State Environmental Commission

The State Environmental Commission (SEC) will hold a meeting on Wednesday, December 14, 2022, at 9:00 am. The meeting will be held in the Tahoe Room, on the second floor of the Bryan Building, at 901 South Stewart Street. There is also the option to participate virtually using the link below.

Join the meeting [https://teams.microsoft.com/join/19%3ameeting\\_NzNhNzdjNDctOWZiYS00MWFiLTgwMWEtNWlwMTM1MzVmNDMw%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22ddd8c148-951a-40a2-8a5f-489f3867594b%22%7d](https://teams.microsoft.com/join/19%3ameeting_NzNhNzdjNDctOWZiYS00MWFiLTgwMWEtNWlwMTM1MzVmNDMw%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22ddd8c148-951a-40a2-8a5f-489f3867594b%22%7d)

Meeting ID: 287 682 424 711

Passcode: Fh3PQf

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Call in by Phone (audio only)

United States: +1 775-321-6111

Meeting extension: 282 251 722#

The meeting will also be video-conferenced in Las Vegas in the Red Rock Conference room at the NDEP offices, located at 375 East Warm Springs Road. The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this notice and the meeting agenda. The following information is provided pursuant to the requirements of NRS 233B.0603.

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**Permanent Regulation R109-22: Bureau of Administrative Services, Office of Financial Assistance - Defining “Disadvantaged,” Amending the Environmental Review Process, Fees, and General Housekeeping**

R109-22 proposes the following changes to Nevada Administrative Code (NAC) 445A.255:

- (a) Define the term “disadvantaged,”
- (b) Streamline the process for funding drinking water systems under emergency situations,
- (c) Amend the environmental review process,
- (d) Add an administrative fee for loans,
- (e) Align state regulations with federal changes and direction, and
- (f) Make a few housekeeping amendments.

The proposed changes are expected to have minimal impact on community water systems and the communities that they serve. This impact may be greater if the water system does not have an updated or sustainable rate structure in place. These changes will not have an economic impact on the Division.

**Permanent Regulation R112-22: Bureau of Water Pollution Control - Increasing Permitting Fees**

R112-22 proposes to increase the fees required to obtain general, temporary, and five-year permits to authorize discharges to the environment (surface or groundwater). The permits are required for all discharges including private individuals as well as private, industry, and public entities. The fee increases are necessary to ensure that NDEP has adequate staff available for the timely review and approval of permit applications, to ensure adequate technical services are available for our permittees, to ensure timely and necessary compliance and enforcement actions are initiated, and to provide the necessarily administrative assistance to the public. A review of the projected revenue and expenditures generated from the existing fee schedules reveals that sufficient revenue is not generated to cover existing FTE merit increases in upcoming fiscal years. Staffing levels are currently not sufficient to adequately respond to increasing permit applications, technical review requests, and compliance issues throughout the state. These shortfalls in permitting and compliance have been documented in audits conducted by EPA. The program is also working to ensure fiscal sustainability in the event discretionary federal grant fund programs (including those from the Department of Energy) are reduced in future years. These grant programs are not mandated by yearly Congressional appropriations and may be subject to re-programming based on future federal administration priorities and funding limitations.

The proposed regulation is expected to have some impact on the regulated community, as fees will increase. This adverse effect is expected to be offset by the decrease in time required for permit application processing. The proposed regulation is expected to have a beneficial impact on the agency in

the form of additional resources. This will be passed on to the regulated community. The proposed regulation is expected to have minimal impact on the public - any rate increases are expected to be minimal.

### **Permanent Regulation R155-22: Bureau of Safe Drinking Water - Increasing Plan Review and Permitting Fees**

R155-22 proposes to increase the fees for engineering plan reviews and annual operating permits to implement the Safe Drinking Water Act in NAC 445A.6664 and NAC 445A.604, add a new fee for water haulers in NAC 445A.6728, and provide general updates to reference the correct agency in the regulations.

The NDEP last updated its fee schedule for engineering plan review and annual water system permits under R194-03, adopted on January 22, 2004. In the last 18 years, the complexity of the program has grown while fees have remained stagnant. The fees support the drinking water staff and are not commensurate with the increased regulatory workload, inspection travel costs, resource needs, training needs, and staffing levels, necessary to meet regulatory requirements and reasonable review turnarounds.

The program is also working to ensure fiscal sustainability in the event discretionary federal grant fund programs (including those from the Department of Energy) are reduced in future years. These grant programs are not mandated by yearly Congressional appropriations and may be subject to re-programming based on future federal administration priorities and funding limitations.

The proposed regulation is expected to have some impact on the regulated community, as fees will increase. These fees may be passed on to the public and are expected to range from \$0.36 to \$24.60 annually, which is an increase of \$0.14 to \$9.60 annually. This adverse effect will be offset by more timely review of projects and regulatory compliance determinations.

### **Permanent Regulation R114-22: Bureau of Water Quality Planning - Updates to Beryllium Water Quality Standards and Aligning Regulatory Language Regarding "Reporting Limits"**

R114-22 NDEP proposes to update the water quality standard for beryllium to the current drinking water standard of 4 ug/L. The proposed standard of 4 ug/L is a more realistic standard than the current standard of 0 ug/L.

Additionally, the change in language under NAC 445A.1236(1)(c) from "detection limit of a method" to "reporting limit of a method" will align the regulatory language with how laboratories typically report data. Unless requested by a client, most laboratories censor data at the reporting limit (RL), which is typically a quantitation limit. However, a client can request that the laboratory report data censored at the method detection limit (MDL), with appropriate qualifiers for results detected above the MDL, but below the RL.

The proposed changes are expected to have minimal impact on the regulated community, the agency, or the public.

#### **Permanent Regulation R116-22: Bureau of Water Quality Planning - Adopting Site-Specific Selenium Standards**

R116-22 proposes to adopt protective criteria for selenium that are based on scientific rationale to protect aquatic life beneficial use in the Las Vegas Wash. These site-specific standards are based on a rigorous scientific study, conducted following EPA guidance. The site-specific values for selenium were needed to establish water quality standards for selenium that are appropriately protective of aquatic life (fish are the most sensitive aquatic species to selenium), based on site-specific conditions in the Las Vegas Wash.

The proposed regulation is not expected to have an impact on the regulated community, the agency, or the public.

#### **Permanent Regulation R115-22: Bureau of Water Quality Planning - Water Quality Criteria for Channels Tributary to the Las Vegas Wash**

R115-22 proposes to apply a realistic and appropriate set of beneficial uses and associated water quality criteria to the stormwater channels that flow into to the Las Vegas Wash. These waterways do not have a designated water quality standards table in the NAC. Water quality in these tributary channels has been assessed via the "tributary rule" (NAC 445A.1239), wherein the standards from the Las Vegas Wash (NAC 445A.2156) are applied to these waterways. However, these waterways have been greatly modified by the Clark County Regional Flood Control District (CCRFCD) to act as stormwater and flood-conveyance structures, and do not offer suitable habitat for aquatic life, nor are these channels safe for water contact recreation.

The proposed regulation may have a slight beneficial effect on business and local government. The proposed regulation is not expected to have an impact on the agency or the public.

**Additional Information:** Persons wishing to comment on the proposed actions of the SEC may participate in the scheduled public hearing (virtually or by phone) or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 375 East Warm Springs Road, Suite 200.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, the public notice for this hearing was posted at the following locations: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (375 East Warm Springs Road, Suite 200), at the State Library and Archives building in Carson City (100 Stewart Street), the Nevada Division of Minerals, 400 W. King Street, Carson City, NV and the Department of Agriculture, 405 South 21<sup>st</sup> Street, Sparks, NV.

In addition, copies of this notice have been deposited electronically at major library branches in each county in Nevada as specified below. This notice and the text of the proposed regulations will also be available on the SEC's website at: <https://sec.nv.gov/meetings/sec-regulatory-meeting-december-14-2022>. The proposed regulation denoted in this notice, is, or will be, posted on the Legislative Counsel Bureau's website at <http://www.leg.state.nv.us/register/> and also the Department of Administration's website at <https://notice.nv.gov/>.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of Sheryl Fontaine, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9374, no later than 5:00 p.m. on December 7, 2022.

This Notice was provided to or posted at the following Nevada county locations:

Carson City Library  
900 North Roop Street  
Carson City, Nevada 89701-3101

Lincoln County Library  
63 Main Street  
Pioche, Nevada 89043

Churchill County Library  
553 South Main Street  
Fallon, Nevada 89406-3306

Lyon County Library System  
20 Nevin Way  
Yerington, Nevada 89447-2399

Las Vegas-Clark County Library District  
Director of Marketing and Community Relations  
7060 W. Windmill  
Las Vegas, Nevada 89113

Mineral County Public Library  
P.O. Box 1390  
Hawthorne, Nevada 89415

Douglas County Public Library  
1625 Library Lane  
Minden, Nevada 89423-0337

Pershing County Library  
1125 Central Avenue  
Lovelock, Nevada 89419

Elko County Library  
720 Court Street

Storey County Library - Closed  
Posted at Clerk's Office

Elko, Nevada 89801-3397

Address below:

Esmeralda County Library  
Corner of Crook & 4th Street  
P.O. Box 430  
Goldfield, Nevada 89013-0430

Storey County Treasurer and Clerk's Office  
Drawer D  
Virginia City, Nevada 89440

Eureka County Library  
10190 Monroe Street  
Eureka, Nevada 89316

Tonopah Public Library (Nye County)  
P.O. Box 449  
Tonopah, Nevada 89049

Humboldt County Library  
85 East 5th Street  
Winnemucca, Nevada 89445-3095

Washoe County Library System  
301 South Center Street  
Reno, Nevada 89501-2102

Battle Mountain Branch Library (Lander County)  
625 South Broad Street  
Battle Mountain, Nevada 89820

White Pine County Library  
950 Campton Street  
Ely, Nevada 89301