

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: R112-22P

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

1. Need for Regulation

R112-22 proposes increases to 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 adequate NDEP staff is 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 staff 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.

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 one hybrid (in-person and virtual) public workshop for R112-22P on October 13, 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. NDEP also provided the option to attend the workshop virtually. The workshop was held to present the substance of, and receive public

comment on, the proposed regulation. There were approximately 60 members of the public that attended the workshop, either in-person or virtually.

The Legislative Counsel Bureau published its draft, R112-22P, in the Nevada Register on August 26, 2022. The Division accepted written comments on R112-22P up to October 18, 2022. The Division received one written comment (in the form of an email) concerning R112-22P. That comment is attached as a pdf.

The SEC held a hybrid regulatory hearing on December 14, 2022, to consider possible action on R112-22P. The SEC posted its public notice, which included a link¹ and instructions to access R112-22P 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 December 14, 2022, hearing: 57 (approximately)
- (b) Testified on this Petition at the hearing: 2

1. Elizabeth Kingsland, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9357
ekingsland@ndep.nv.gov
2. Brandon Beach, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701
(775) 687-9421
bbeach@ndep.nv.gov

- (c) Submitted to the agency written comments: 1 (attached)

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-december-14-2022>

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 December 14, 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 R112-22P with NDEP proposed edits. The regulation was adopted with 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 R112-22P are estimated to have a minimal net economic impact on public water systems.

Public. The regulatory amendments in R112-22P 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 R112-22P 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 R112-22P 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 R112-22P do not regulate the same activity as a federal statute or regulation.

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 increase in revenue will be used to increase financial sustainability, ensure the program can keep pace with expenses, hire new staff to review and issue permits, to increase inspections of our permitted facilities, to provide technical assistance for wastewater facility improvements, and to address compliance issues throughout the state. 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 fee increases tied to individual permits are proposed to be implemented over a three year-period to reduce impacts on any small business. Fee increases for small general permits were kept low to also reduce impacts. The agency anticipates collecting an additional \$1,534,522 per year by the end of FY27.