

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: R115-22P

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

1. Need for Regulation

The regulations proposed in R115-22 are needed to apply a realistic and appropriate set of beneficial uses and associated water quality criteria to the channels that are tributary to the Las Vegas Wash. Waters tributary to the Las Vegas Wash 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 carried up these tributary channels. However, these tributary channels have been greatly modified by the Clark County Regional Flood Control District (CCRFC) to act as flood-conveyance structures, and do not offer suitable habitat for aquatic life, nor are these channels safe for water contact recreation.

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 R115-22P on October 19, 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 14 members of the public that attended the workshop, either in-person or virtually.

The Legislative Counsel Bureau published its draft, R115-22P, in the Nevada Register on July 25, 2022. The Division accepted written comments on R115-22P up to October 24, 2022. Of the significant comments the Division received regarding R115-22P, one was a verbal question, received during the workshop (see workshop summary, attached), which will be investigated further by NDEP, and two were written comments (via email and attached here as pdf). The written comments suggested changes to R115-22P. The

Division considered the comments and made green line edits to R115-22P as a result. All other comments received were positive. The Division also received a letter in support of this petition (attached).

The SEC held a hybrid regulatory hearing on December 14, 2022, to consider possible action on R115-22P. The SEC posted its public notice, which included a link¹ and instructions to access R115-22P 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: 7

1. Dave Simpson, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9548
dsimpson@ndep.nv.gov
2. Mary Siders, consultant to the Nevada Division of Environmental Protection
mary.siders@gmail.com
3. Barry Fulton, Benchmark Environmental LLC
266 Morgan Drive
McCall, ID 83638
Phone: 828 553 2829
4. John Tennert, Clark County Regional Flood Control District
600 Grand Central Pkwy, #300
Las Vegas, NV 89106
jtennert@regionalflood.eng

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

5. John Solvie, Clark County Water Quality
5857 E. Flamingo Rd
Las Vegas, NV 89122
jsolvie@cleanwaterteam.com
6. Larry Bazel, representing Clark County Regional Flood Control District
235 Montgomery St., Ste 935
San Francisco, CA 94104
lbazel@briscoelaw.net
7. Todd Tietjen, Southern Nevada Water Authority
Participated remotely, no contact information available

(c) Submitted to the agency written comments: 4 (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.

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 R115-22P with NDEP proposed changes. 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 R115-22P may have a slight beneficial economic impact on business.

Public. The regulatory amendments in R115-22P are not expected to have any economic effect on the public.

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

Enforcing Agency. The regulatory amendments proposed in R115-22P 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 R115-22P 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 R115-22P are not more stringent than existing federal regulations.

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.

R115-22 does not address fees.