

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: R146-24RP2

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 purpose of the proposed regulation is to update the NAC to reflect current conditions of stream reaches, existing names of waters, and to assure the most current criteria documents are referenced.

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 Legislative Counsel Bureau published its drafts, R146-24P, R146-24RP1, and R146-24RP2, in the Nevada Register on July 25, 2025, October 27, 2025, and December 10, 2025, respectively.

The NDEP held one public workshop for R146-24RP2 on March 10, 2026. 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. Seven members of the public and regulated industry attended the workshop either in person or virtually. During and after the public workshop, the Division received one verbal question:

- 1) Warren Turkett, representing the Colorado River Commission of Nevada, expressed appreciation for the presentation and stated that he looks forward to continued collaboration with NDEP to complete the upcoming 2026 Colorado River Salinity Control Forum Triennial Review.

A summary of the workshop is included on the NDEP website as well as the SEC website.

The proposed regulations were also distributed to the Bureau of Water Quality Planning email distribution list. The Division accepted written comments on R146-24RP2 for 30 days ending on March 26, 2026.

The following written comments were received by the Division (each followed by the Division's response):

Comments regarding the applicability of the “Below Hoover Dam” Salinity Criterion to Lake Mead

“Below Hoover Dam” is one of the three numeric criteria stations designated by the Forum for determining compliance with Colorado River salinity standards. Because Hoover Dam impounds the Colorado River to form Lake Mead, the lake lies immediately upstream of the “Below Hoover Dam” station. Under NAC 445A.1239, control-point criteria apply to all surface waters in the watershed upstream from the control point unless superseded by an upstream control point.

To reinforce alignment with the Forum’s framework, to avoid misinterpretation, and to maintain consistency across all Colorado River segments, the salinity criterion footnote in NAC 445A.2152 will be amended to state:

“As used for this parameter, flow weighted annual average concentration means the total annual salt load divided by the total annual streamflow as measured at the Below Hoover Dam station. [emphasis added]”

Comments noted that the 2023 Review specifies that the 723 mg/L criterion applies “Below Hoover Dam.” To avoid confusion, it is important to distinguish that:

- The 723 mg/L criterion applies to a discrete location, the Below Hoover Dam station selected by the Forum.
- It does not apply as the salinity criterion for the segment of the Colorado River downstream of the dam.

Comments Regarding the Relationship Between NAC 445A.1239 and The Salinity Control Forum Stations

Comments noted a perceived conflict between:

- The upstream-applicability framework in NAC 445A.1239, and
- The Forum’s station-specific compliance approach, under which salinity criteria are evaluated only at the three designated lower Colorado River stations.

Nevada’s control point provisions have been in place for decades and are part of the state’s broader water quality standards system, which differs structurally from the Forum’s compliance-station approach. Adoption of the Forum’s criteria by reference (section 1 of the regulation) allows Nevada to remain fully consistent with the basin-wide program while maintaining its own regulatory architecture.

This rationale is also supported by 40 CFR 131.10(b) which requires that water quality be maintained upstream of each station selected by the Forum to ensure attainment of that station’s criterion. The criterion must also apply to the waterbody itself, not solely at the downstream station, to support development of appropriate effluent limits for permitted discharges. NDEP will add the clarifying language discussed above that links the NAC tables to the Forum’s designated compliance locations—consistent with the

CRCN's recommendation. This will help prevent misinterpretation and harmonize both frameworks.

Comments regarding retention of the Existing TDS \leq 1000 mg/L Criterion in NAC 445A.2152

Concern was expressed regarding the proposed change for NAC 445A.2152 from the existing TDS \leq 1000 mg/L single-value criterion to a Flow Weighted A-Avg. Salinity criterion \leq 723 mg/L. In the final regulation, NDEP will retain the TDS \leq 1000 mg/L S.V. criterion in NAC 445A.2152. As proposed, the Forum's \leq 723 mg/L Flow Weighted A-Avg. salinity criterion will also be included in NAC 445A.2152.

This approach maintains the existing Nevada water quality framework while clearly incorporating the Forum's salinity criterion for its Below Hoover Dam station.

Concern on the use of Flow-Weighted Annual Average Salinity for Lake Mead

NDEP concurs with CCWRD's comment that a flow-weighted annual average concentration cannot be directly calculated within a lentic waterbody such as Lake Mead. Lake Mead's water quality must be maintained such that the salinity criterion is achieved at the Forum-designated location "Below Hoover Dam". While the criterion applies to Lake Mead (per NAC 445A.1239), compliance is evaluated by the Forum at the "Below Hoover Dam" station, where total annual salt load and streamflow can be directly measured.

This approach is consistent with both NAC 445A.1239 and the Forum's longstanding salinity compliance methodology. Section 1 of R146-24 adopts the Forum's 2023 Review by reference. Compliance will continue to be determined by the Forum at the "Below Hoover Dam" station using its established monitoring and calculation methods.

Concerns Regarding Single-Point Exceedances within Lake Mead

Comment discussed the possibility that isolated TDS values in Lake Mead (e.g., within Las Vegas Bay) may exceed 723 mg/L and could lead to potential 303(d) impairment listings. To clarify:

- The 723 mg/L criterion is a flow-weighted annual average, not an instantaneous or spatially uniform ambient concentration requirement.
- Compliance is determined by the Forum at the "Below Hoover Dam" station, not at locations within Lake Mead.
- R146-24 does not alter Nevada's assessment protocols or impairment methodology.
- Depending on the location, the Las Vegas Bay site referenced may be within Inner Las Vegas Bay (NAC 445A.2154 - NV13-CL-04_00) which is a distinct assessment unit from Lake Mead (NAC 445A.2152 - NV13-CL-03_00). Inner Las Vegas Bay has a Single Value Total Dissolved criterion of \leq 3000 mg/L and is not directly subject to the Forum's salinity criteria.

As discussed in responses to other comments, clarifying language in response to comments received is proposed to be added to the footnote of affected waters.

Comments Clarifying Salinity Compliance for Downstream River Segments

Comments noted that the water quality tables for “Colorado River below Davis Dam” and “Lake Mohave” should clarify that the applicable flow-weighted annual average criterion is measured below Parker Dam.

To reinforce alignment with the Forum’s framework, to avoid misinterpretation, and to maintain consistency across all Colorado River segments, the salinity criteria footnotes in NAC 445A.2146, NAC 445A.2147, and NAC 445A.2148 will be amended to state:

“As used for this parameter, flow weighted annual average concentration means the total annual salt load divided by the total annual streamflow as measured at the Below Parker Dam station. [emphasis added]”

Comments Regarding Terminology Change from TDS to Salinity

Commenters raised a valid distinction that salinity and TDS are not strictly synonymous. However, the Forum explicitly uses the term “numeric salinity criteria”.

Given that R146-24 adopts the 2023 Review by reference, the terminology used in the NAC must reflect the terminology used by the Forum. The Forum continues to be responsible for defining salinity, conducting triennial reviews of the water quality standards for salinity in the Colorado River system, and determining whether their salinity standards are being met.

The SEC held a hybrid regulatory hearing on April 30, 2026, to consider possible action on R146-24RP2. The SEC posted its public notice, which included a link¹ and instructions to access R146-24RP2 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 public notice was also published 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 April 30, 2026, hearing: 45 (approximately)
- (b) Testified on this petition at the hearing: 3

¹ <https://sec.nv.gov/meetings/sec-meeting-april-30-2026>

1. Jason Kuchnicki, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9450
kuchnicki@ndep.nv.gov
2. Seth Alm, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9457
salm@ndep.nv.gov
3. Dan Fischer, representing Clark County Water Reclamation District

(c) Submitted to the agency written comments: None

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 during the April 30, 2026, SEC hearing as noted in number 2 above. There was one verbal comment received regarding the regulatory amendments during the April 30, 2026, SEC meeting: Mr. Dan Fischer, representing Clark County Water Reclamation District, spoke briefly in support of the regulations.

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 R146-24RP2 with NDEP-proposed changes because the SEC was satisfied with the proposed regulation and proposed edits to the LCB draft.

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 proposed regulations are not expected to have any adverse or beneficial effect on the regulated industry or small business either in the short or long term.

Public:

The proposed regulations are not expected to have any adverse or beneficial effect on the public either in the short or long term.

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

Enforcing Agency.

The proposed changes will not add to the Division's current workload and are not expected to have any impact on 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 regulations do not overlap or duplicate other State or 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 regulations are not more stringent than 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.

The proposed regulations do not provide for any new or increased fees.