

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY

NRS 233B.066

LCB FILE R054-14

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 535.

1. A clear and concise explanation of the need for the adopted regulation.

The adopted regulation is required to stay abreast of advances in dam safety state of practice, revisions to statutes and clarify language.

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.

Notices of workshop and hearing on the proposed regulation were emailed to persons who were known to have an interest in the subject of dam safety. These documents and the proposed regulation were made available at the website of the Office of the State Engineer, Division of Water Resources (DWR), www.water.nv.gov , and posted at the following locations:

Division of Water Resources, 901 South Stewart Street, Carson City, Nevada 89701

Division of Water Resources, Southern Nevada Branch Office, 400 Shadow Lane, Suite 201, Las Vegas, Nevada 89106

Division of Water Resources, Humboldt River Water Master, 1250 Lamoille Highway, Suite 1047, Elko, Nevada 89801

Blasdel Building, Musser Street, Carson City, Nevada 89701

Workshops were held in Elko, Las Vegas and Carson City and a hearing was held in Carson City. A summary of public comment is attached hereto.

A copy of the summary of public response to the proposed regulation may be obtained from the Division of Water Resources, 901 South Stewart Street, Suite 2002, Carson City, Nevada 89701, 775-684-2800. Or email to sgilbert@water.nv.gov .

3. The number of persons who:

a. Attended each hearing: July 15, 2014 - 3

b. Testified at each hearing: July 15, 2014 - 3

c. Submitted to the agency written comments: July 8, 2014 – 1; July 18, 2014 - 1

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

- a. Name;**
- b. Telephone number;**
- c. Business address;**
- d. Business telephone number;**
- e. Electronic mail address; and**
- f. Name of entity or organization represented.**
 - i. Gene Tortelli, (775) 828-9604 (bus.), gtortelli@golder.com, Golder Associates.
 - ii. Chris MacMahon, (775) 828-9604 (bus.), cjmahon@golder.com, Golder Associates.
 - iii. Gary Hurban, (775) 828-6800 (bus.), ghurban@srk.com, SRK Consulting.
 - iv. Judy Kareck, (775) 827-6111 (bus.), jkareck@lumosenineering.com, Lumos & Associates.
 - v. Steve Parrish, (702) 685-0000 (bus.), Clark County Regional Flood Control District.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in response to question #1.

6. 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 permanent regulation was adopted on August 11, 2014, and included changes suggested by staff and in response to public comment.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and in each case include:

- a. Both adverse and beneficial effects; and**
- b. Bothe immediate and long-term effects.**

- a. Both adverse and beneficial effects.

Dam owners will have an additional minor requirement for documentation of dam operation and maintenance by compilation of an operation and maintenance manual and documentation of dam conditions and activities (log) upon every visit to the dam which should not involve any additional expense. Dam owners and the public will

benefit from use of the documentation by prolonged service life of the dams and earlier discovery of any anomalous conditions that may require further intervention before a catastrophic failure occurs.

Dam owners will have an additional requirement for the application for approval of plans for construction, modification or alteration of a dam in the form of a downstream hazard analysis which should not involve any additional expense. The State Engineer currently requires justification of the hazard potential of a dam to set the parameters for design and this requirement formalizes the process. Dam owners will benefit from having the requirement plainly spelled out in the regulation instead of becoming aware of it during the review process.

Dam owners will no longer be able to provide notice of construction, reconstruction or alteration of a dam without plans prepared by a licensed engineer. This requirement will involve additional expense to the dam owner through retaining a licensed engineer. The additional expense varies greatly and is generally about 10% of construction cost. Dam owners and the public will benefit from having a better product that is less likely to fail or underperform.

b. Both immediate and long term effects.

See Item #5(a).

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

There is no additional cost to the agency for enforcement of this regulation.

9. A description of any regulations or 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.

There are no other state or government agency regulations that the proposed amendments duplicate.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

N/A

11. 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.

N/A

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The State Engineer has determined that the proposed amendments to the regulation do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination the State Engineer considered the fact that the proposed amendments codify existing practice, clarify language or impose a minor record keeping activity. The amendment disallowing non-use of a professional engineer may in fact promote small business.