

LCB File No. R017-99

NEVADA STATE ENVIRONMENTAL COMMISSION NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **10:00 a.m. on Thursday, September 9, 1999**, at the Reno City Council Chambers, located at 490 South Center Street, **Reno**, Nevada.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

Petitions 1999-01, 1999-02, 1999-03, 1999-05, 1999-06, and 1999-07 have been previously adopted as temporary regulations by the Environmental Commission on December 9, 1998 or April 9, 1999. These regulations expire by limitation on November 1, 1999. These temporary regulations are before the Commission for permanent adoption.

1. Petition 1999-01 (LCB R-017-99) permanently amends NAC 445A.121, 445A.143, 445A.144, 445A.213 of the water pollution control regulations. The regulations are proposed to be amended to change the reference for limits in drinking water standards from the U.S. Public Health Service to those adopted by the Nevada State Board of Health. NAC 445A.143, the Colorado River salinity standards, is proposed to be amended to include the term "flow weighted average." NAC 445A.213, the minimum quality criteria applicable to interstate waters, is proposed to be repealed. Definitions for "annual mean flow" and "flow weighted annual average," sections 2 and 3 of the regulation, are being added since the adoption of the temporary regulation.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

2. Petition 1999-02 (LCB R-018-99) is a permanent regulation amending NAC 445A.232 "fees" in the water pollution program by extending the date of expiration from June 30, 1999 to June 30, 2001. The portion of NAC 445A.232 effective from July 1, 1999 to June 30, 2001 is repealed, and that portion of NAC 445A.232 effective on July 1, 2001 is retained. This petition affects mining water pollution control discharge fees. This petition amends a 1997

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action where the fees were amended with three rolling escalating fee schedules between the time of adoption and the year 2001. Those mining water pollution control fees currently in effect are proposed to be retained until July 1, 2001. The intermediate fee schedule is proposed to be repealed by this action.

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The proposed permanent regulation is anticipated to have significant affirmative short or long term economic impact on Nevada businesses. The mining industry will see a decrease in the fees paid regarding mining water pollution control permits. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee. The regulation decreases fees on the mining industry.

3. Petition 1999-03 (LCB R-019-99) is a permanent amendment to NAC 445B. The regulation amends NAC 445B.319, 445B.327 and 445B.331 by increasing air quality operating permit fees for administrative amendments, Class I and II operating permits and change of location permits. The regulation adds new fees for Prevention of Significant Deterioration (PSD) permits and major revisions to PSD permits. The regulation increases the annual emission fees and annual maintenance fees for all stationary sources.

The proposed permanent regulation is anticipated to have a significant economic impact on businesses in Nevada. The proposed fees will increase annual cost for all stationary sources regulated by the state by approximately \$ 1.1 million. The impact on each stationary source will vary widely depending upon the number of tons of air pollutants emitted by the sources. One stationary source will realize a substantial increase in annual fees due to the volume of their emissions. Fees for applications will also substantially increase. The fee structure will generate approximately \$ 1.9 million.

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement of the regulation. Fees will pay for the State's air pollution control program, including staffing and operating costs.

4. Petition 1999-05 (LCB R-020-99) makes permanent amendments to NAC 445A.228 to 445A.292. The amendments clarify wording, remove outdated language, conforms the water pollution regulations to statutes, addresses who must sign a discharge monitoring permit, clarifies establishment of effluent limits and compliance schedules and provides for minor water control discharge permit modifications. The amendments also provide for the transfer of permits to new owners. NAC 445A.105 and 445A.246 are proposed to be repealed.

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The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The proposed regulation should make it easier for affected businesses to comply by simplifying the requirements for securing a water pollution control permit. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

5. Petition 1999-06 (LCB R-021-99) proposes to permanently amend NAC 444.8901, 444.8906, 445A.347, and 459.9729 by removing the Division of Emergency Management in the Nevada Department of Motor Vehicles & Public Safety from the list of agencies required to be notified of spills and releases pursuant to Nevada's water pollution control regulations. The intent of this regulation is to provide for regulatory relief regarding the disclosure of spills and releases. Other emergency reporting requirements are not affected by this amendment.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. Businesses should find the process of reporting less burdensome. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

6. Petition 1999-07 (LCB R-022-99) proposes to permanently amend NAC 445B.001 to 445B.395, the air pollution control regulations. Amendments are proposed to NAC 445.221 to update the reference to the Code of Federal Regulations from 1997 to 1998. The amendments to 445B.300 extends the expiration of an operating permit from one year to 18 months. NAC 445B.362 and 445B.373 are proposed to be amended to correct equation errors and add the term "maximum." NAC 445B.383 is amended to correct the references from cubic feet to yards.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. Businesses should find the process of reporting less burdensome. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. The proposed amendments will make the Nevada air pollution control regulations consistent with the federal air pollution

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control rules. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

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7. **Petition 1999-08 (R-070-99)** is a permanent regulation amending NAC 445A.055 through 445A.067, the laboratory certification program. The existing regulations are proposed to be repealed and supplanted with the standards of the National Environmental Laboratory Accreditation Program. The amended regulations provide for definitions, scope of accreditation, categories of certification, laboratory certification criteria, certification requirements, and proficiency testing requirements. The regulation adopts by reference many of the provisions that have been listed. Fees in NAC 445A.066 are retained and amended to reduce the fee for toxicity bioassays from \$ 400 to \$ 125. All other provisions from NAC 445A.055 to 445A.067 are proposed to be repealed.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. Businesses should find the process of water quality laboratory certifications to open competition in other states where the national standards have been adopted. Since these regulations provide for reciprocity with other states, Nevada businesses will see reduced costs in working in other states, and in securing federal contracts. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The changes will be beneficial to the public since water quality measurements that affect the public health and environment will be more trustworthy. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. The regulations will complement Safe Drinking Water Act regulations for laboratory certification. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

The State Environmental Commission will be hearing a **variance** request to NAC 445B, the air pollution control regulations, from the U.S. Department of Energy, Albuquerque Office for the fire experiment facility at the U.S. Air Force's Tonopah Test Range in south central Nevada. The variance relates to NAC 445B.354 (opacity) and 445B.362 (particulate emissions).

Pursuant to NRS 233B.0603(c) the provisions of NRS 233B.064 (2) is hereby provided:

“Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption.”

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Persons wishing to comment upon the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least five days before the scheduled public hearing.

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A copy of the regulations to be adopted or amended will be on file at the State Library, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notice have been deposited at major library branches in each county in Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at <http://www.leg.state.nv.us>. In addition, the State Environmental Commission maintains an Internet site at <http://www.state.nv.us/ndep/admin/envir01.htm>. This site contains the public notice, agenda, codified regulations, and petitions for pending and past commission actions.

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 David Cowperthwaite, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-4670 Extension 3118, no later than 5:00 p.m. on **September 2, 1999**.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas; Reno City Council Chambers and Washoe County Library in Reno; and Division of Environmental Protection and Department of Museums, Library and Arts in Carson City.

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PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

Petition 1999-01

Explanation: Matter in italics is new language. Matter in **H** is material to be omitted.

AUTHORITY: NRS 445A.425 and 445A.520

Section 1. NAC Chapter 445A.121 is hereby amended to read as follows:

445A.121 Standards applicable to all waters. The following standards are applicable to all *surface* waters of the state:

1. Waters must be free from substances attributable to domestic or industrial waste or other controllable sources that will settle to form sludge or bottom deposits in amounts sufficient to be unsightly, putrescent or odorous or in amounts sufficient to interfere with any beneficial use of the water.

2. Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water.

3. Waters must be free from materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to produce taste or odor in the water or detectable off-flavor in the flesh of fish or in amounts sufficient to change the existing color, turbidity or other conditions in the receiving stream to such a degree as to create a public nuisance or in amounts sufficient to interfere with any beneficial use of the water.

4. Waters must be free from high temperature, biocides, organisms pathogenic to human beings, toxic, corrosive or other deleterious substances attributable to domestic or industrial waste or other controllable sources at levels or combinations sufficient to be toxic to human, animal, plant or aquatic life or in amounts sufficient to interfere with any beneficial use of the water. Compliance with the provisions of this subsection may be determined in accordance with methods of testing prescribed by the department. If used as an indicator, survival of test organisms must not be significantly less in test water than in control water.

5. If toxic materials are known or suspected by the department to be present in a water, testing for toxicity may be required to determine compliance with the provisions of this section and effluent limitations. The department may specify the method of testing to be used. The failure to determine the presence of toxic materials by testing does not preclude a determination by the department, on the basis of other criteria or methods, that excessive levels of toxic materials are present.

6. Radioactive materials attributable to municipal, industrial or other controllable sources must be the minimum concentrations which are physically and economically feasible to

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achieve. In no case must materials exceed the limits established in the 1962 Public Health Service Drinking Water Standards (or later amendments) or 1/30th of the MPC values given for continuous occupational exposure in the “National Bureau of Standards Handbook No. 69.” The concentrations in water must not result in accumulation of radioactivity in plants or animals that result in a hazard to humans or harm to aquatic life.

7. Wastes from municipal, industrial or other controllable sources containing arsenic, barium, boron, cadmium, chromium, cyanide, fluoride, lead, selenium, silver, copper and zinc that are reasonably amenable to treatment or control must not be discharged untreated or uncontrolled into the waters of Nevada. In addition, the limits for concentrations of the chemical constituents must provide water quality consistent with the mandatory requirements of the 1962 Public Health Service Drinking Water Standards.

8. The specified standards are not considered violated when the natural conditions of the receiving water are outside the established limits, including periods of extreme high or low flow. Where effluents are discharged to such waters, the discharges are not considered a contributor to substandard conditions provided maximum treatment in compliance with permit requirements is maintained.

Section 2. NAC 445A.143 is hereby amended to read as follows:

445A.143 Cooperation regarding Colorado River; salinity standards.

1. The State of Nevada will cooperate with the other Colorado River Basin states and the Federal Government to support and carry out the conclusions and recommendations adopted April 27, 1972, by the reconvened 7th session of the conference in the matter of pollution of interstate waters of the Colorado River and its tributaries.

2. Pursuant to subsection 1, the values for total dissolved solids *as the flow-weighted annual average* in mg/l at the three lower main stem stations of the Colorado River are as follows:

Below Hoover Dam	723
Below Parker Dam	747
Imperial Dam	879

Section 3. NAC 445A.213 is hereby repealed.

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TEXT OF REPEALED SECTION

445A.213 Minimum quality criteria applicable to interstate waters.

The minimum quality criteria applicable to interstate waters at agreed state line sampling points are as follows:

1. Waters must be free from substances attributable to domestic or industrial waste or other controllable sources that will settle to form sludge or bottom deposits in amounts sufficient to be unsightly, putrescent or odorous or in amounts sufficient to interfere with any beneficial use of the water.

2. Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water.

3. Waters must be free from materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to produce taste or odor in the water or detectable off-flavor in the flesh of fish or in amounts sufficient to change the existing color, turbidity or other conditions in the receiving stream to such degree as to create a public nuisance or in amounts sufficient to interfere with any beneficial use of the water.

4. Waters must be free from high temperature, biocides, organisms pathogenic to human beings, toxic, corrosive or other deleterious substances attributable to domestic or industrial waste or other controllable sources at levels or combinations sufficient to be toxic to human, animal, plant or aquatic life or in amounts sufficient to interfere with any beneficial use of the water.

5. Radioactive materials attributable to municipal, industrial or other controllable sources must be minimum concentrations which are physically and economically feasible to achieve. In no case must materials exceed the 1/10 of the 168-hour values for other radioactive substances specified in National Bureau of Standards Handbook 69.

6. Wastes from municipal or industrial or other controllable sources containing arsenic, barium, boron, cadmium, chromium, cyanide, fluoride, lead, selenium, silver, copper and zinc that are reasonably amendable to treatment or control must not be discharged untreated or uncontrolled into the Colorado River System. At agreed points of sampling above Imperial Dam in the Colorado River System the limits for concentrations of these chemical constituents will be set at values that recognize their cumulative effects and which will provide river water quality consistent with the mandatory requirements of the 1962 Public Health Service Drinking Water Standards.

7. The dissolved oxygen content and pH value of the waters of the Colorado River System must be maintained at levels necessary to support the natural and developed fisheries.

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