

INFORMATIONAL STATEMENT
LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 2338.066
LCB FILE R033-18

The following statement is submitted for adopted amendments and repeals of sections of Nevada Administrative Code (NAC) Chapter 538.

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

The amendment of NAC 538.455 - *Procedures for Reallocation of Power* is to provide one process for the allocation or reallocation of power. The conforming changes are to update the reference numbers in other sections of NAC chapter 538.

Sections that dealt only with the initial allocation of Hoover Schedule D or which listed out allocations are being repealed because the initial Schedule D allocations have been completed and the information contained in the regulations which listed out allocations is out of date and current information can be found on the Colorado River Commission of Nevada (CRCNV) website.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by email to persons on the CRCNV's service list. These documents were also made available on the CRCNV's website at <http://www.crc.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Colorado River Commission website: www.crc.nv.gov

Nevada Public Notice website: <https://notice.nv.gov>

Legislative Counsel Bureau website: www.leg.state.nv.us

City of Las Vegas City Hall, 495 South Main Street, Las Vegas, NV
Clark County Government Center, 500 South Grand Central Pkwy, Las Vegas, NV
State of Nevada Grant Sawyer Building, 555 E Washington Ave, Las Vegas, NV
City of Boulder City Hall, 401 California Avenue, Boulder City, NV
City of Henderson City Hall, 240 South Water Street, Henderson, NV
City of North Las Vegas City Hall, 2250 Las Vegas Blvd N., North Las Vegas, NV
Laughlin Chamber of Commerce, 1585 South Casino Drive, Laughlin, NV
Laughlin Town Manager's Office, 101 Civic Way, Laughlin, NV
Lincoln County, 181 North Main Street, Pioche, NV
Nye County, 1520 East Basin Avenue, Pahrump, NV

Two workshops were held in conjunction with these proposed changes and the minutes of those meetings, attached hereto, contain a summary of the discussions held regarding the proposed amendments. On or about April 4, 2018, the Executive Director of the CRCNV issued a Notice of Intent to Act Upon a Regulation.

A copy of this summary of the public response to the proposed regulation may be obtained from the CRCNV, 555 E. Washington Avenue, Suite 3100, Las Vegas, NV 89101, or email to kperry@crc.nv.gov.

- 3. The number persons who:**
 - (a) Attended each Workshop:** January 24, 2018 - 15; April 23, 2018 - 9
 - (b) Testified at each Workshop:** January 24, 2018 - 1; April 23, 2018 - 0
 - (c) Submitted to the agency written comments:** 3.
- 4.** A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.
- 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 the 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 May 8, 2018 with a change (in green italics) to section 10 of NAC 538.455 found on page 6 of the LCB file:

10. After the issuance of the Commission's decision ~~[a]~~ *the* draft order, ~~[prepared by the Commission's staff pursuant to subsection 4.]~~ the Commission's staff must advertise the notice required by subsection 4 of NRS 538.181. If the Commission receives an objection to ~~[its decision on the application]~~ *its decision on the applications* ~~the draft order~~ *or the notice* within 10 days after the date of the last publication of the notice required by subsection 4 of NRS 538.181, the Commission will conduct a hearing on the objection not later than 30 days after the date of the last publication of the notice.

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 each case must include:

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

There are no economic effects on power contractors.

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 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.

There are no other state or government agency regulations that the proposed regulation duplicates or overlaps.

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

There are no federal regulations that apply.

- 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.**

This regulation does not provide a new fee or increase an existing fee.

Exhibit A

Attended January 24, 2018

Name	Telephone	Business Address	E-Mail	Organization
Dan Reaser	775-788-2226	300 E. Second St. 15 th Floor Reno, NV 89501	dreaser1@folaw.com	Tronox, LLC
Warren Hardy	702-408-6666	5841 E Charleston Blvd Ste 230-475 Las Vegas NV 89142	warren@HardjConsultingGroup.com	City of Mesquite
John Holmstrom	702-651-2305	560 W. Lake Mead Pkwy Henderson, NV 89015	John.holmstrom@tronox.com	Tronox
Melisa Garcia	702-397-2512	P.O. Box 395 Overton, NV 89040	mgarcu@opd5.com	Overton Power District No. 5
Randall Ozaki	702-397-2512	P.O. Box 395 Overton, NV 89040	rozaki@opd5.com	Overton Power District No. 5
Scott Krantz	702-691-5240	PO Box 99956, MS115 Las Vegas, NV 89193	Scott.krantz@snwa.com	Southern Nevada Water Authoritv
Tina Dobbs	702-651-2689	3200 E. Cheyenne Ave. N. Las Vegas, NV 89030	Tina.dobbs@csn.edu	College of Southern Nevada
Michael Hulin	702-402-2454	PO Box 98910, MS26A Las Vegas, NV 89151	mhulin@nvenerglf.com	Nevada Energy
Jayne Harkins	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas NV 89101	jharkins@crc.nv.gov	Colorado River Commission of Nevada
Christine Guerci-Nyhus	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas, NV 89101	cguerci@crc.nv.gov	Colorado River Commission of Nevada
Gail Bates	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas, NV 89101	gbates@crc.nv.gov	Colorado River Commission of Nevada

Kaleb Hall	702-486-2670	555 E. Washington Ave, Ste 3100 Las Veas, NV 89101	khall@crc.nv.gov	Colorado River Commission of Nevada
Craig Pyper	702-486-2670	555 E. Washington Ave, Ste 3100 Las Veas NV 89101	c12y12er@crc.nv.gov	Colorado River Commission of Nevada
Kira Bakke	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas, NV 89101	kbakk@crc.nv.gov	Colorado River Commission of Nevada
Kris Perry	702-486-2670	555 E. Washington Ave, Ste 3100 Las Veas, NV 89101	kQerry@crc.nv.gov	Colorado River Commission of Nevada

Attended January 24, 2018

Name	Telephone	Business Address	E-Mail	Organization
Shawn Mollus	702-668-8157	5857 E. Flamingo Rd. Las Vegas, NV 89122	smollis@cleanwaterteam.com	Clark County Water Reclamation District
David Stott	702-668-8041	5857 E. Flamingo Rd. Las Vegas, NV 89122	dstoft@cleanwaterteam.com	Clark County Water Reclamation District
Jayne Harkins	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas NV 89101	jharkins@crc.nv.gov	Colorado River Commission of Nevada
Christine Guerci-Nyhus	702-486-2670	555 E. Washington Ave, Ste 3100 Las Veas NV 89101	cguerci@crc.nv.gov	Colorado River Commission of Nevada
Eric Witkowski	702-486-2670	555 E. Washington Ave, Ste 3100 Las Veas NV 89101	ewitkowski@crc.nv.gov	Colorado River Commission of Nevada

Kaleb Hall	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas, NV 89101	khall@crc.nv.gov	Colorado River Commission of Nevada
Chris Smith	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas NV 89101	csmith@crc.nv.gov	Colorado River Commission of Nevada
Craig Pyper	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas, NV 89101	CQlfQer@crc.nv.gov	Colorado River Commission of Nevada
Kris Perry	702-486-2670	555 E. Washington Ave, Ste 3100 Las Vegas, NV 89101	kQer.nv@crc.nv.gov	Colorado River Commission of Nevada

STATE OF NEVADA
Colorado River Commission of Nevada
Minutes of Workshop to Solicit Comments
on Proposed Regulations
LCB File No.

The workshop was held at 1:30 p.m. on Wednesday, January 24, 2018 at the Grant Sawyer Building, 555 E. Washington Avenue, Suite 1100, Las Vegas, NV 89101.

STAFF MEMBERS PRESENT

Ms. Jayne Harkins, Executive Director
Ms. Christine Guerci-Nyhus, Special Counsel, Attorney General
Ms. Gail Bates, Assistant Director of Energy Services
Mr. Craig Pyper, Hydropower Program Manager
Mr. Kaleb Hall, Assistant Director, Energy Information Systems
Ms. Kira Bakke, Administrative Assistant IV
Ms. Kris Perry, Administrative Assistant III

OTHERS PRESENT

Mr. Dan Reaser, Fennemore Craig Attorneys, Tronox, LLC
Warren Hardy, Hardy Consulting, City of Mesquite
John Holmstrom, Tronox, LLC
MeLisa Garcu, Overton Power District No. 5
Randall Ozaki, Overton Power District No. 5
Scott Krantz, Southern Nevada Water Authority
Tina Dobbs, College of Southern Nevada
Michael Hulin, Nevada Energy

The workshop was conducted in accordance with Nevada's Open Meeting Law.

The following materials were made available at the workshop: the Notice of Workshop and Agenda, the proposed regulations, the Small Business Statement. These materials are attached to and made a part of the minutes.

Ms. Jayne Harkins welcomed everyone to the public workshop pertaining to the proposed regulations amending Chapter 538 of the Nevada Administrative Code (NAC). Ms. Harkins stated that the purpose of the workshop is to solicit comments from interested persons regarding the Colorado River Commission of Nevada (Commission) proposed regulations.

The Commission is proposing the amendment of NAC 538.455 - Procedures for the Reallocation of Power. This regulation was added in 2014 and provides a procedure for reallocating power when a contractor has lost or surrenders its allocation. The Commission would like to expand this procedure so that it can be used for all allocation and reallocation proceedings. Currently, there is no process in the regulations for an allocation proceeding. This amendment would provide a mechanism that encompasses all power resource allocations and reallocations.

Further, the Commission desires that the process be more transparent and open to the public; so an additional public meeting would be required at the start of the allocation process while the criteria and a timeline for that particular allocation were being developed. The amendments to the regulation further clarify that a draft order can be revised by staff prior to presentation to the Commission based on comments received from applicants. Also, the notice of hearing along with the proposed draft order must be provided to not only the applicants but the Commission's meeting service list at least 20 days prior to the date set for the hearing on the Order.

The Commission is proposing the repeal of NAC 538.333 - Allocation of Schedule D Power,

Commission to Develop Criteria, NAC 538.336 -Allocation of Schedule D Power, Application Process. NAC 538.333 and NAC 538.336 were added to the Commission's regulations in 2014 to provide a procedure for allocating Schedule D Hoover power to new allottees. The Schedule D Hoover allocations have been completed and contracts executed. The revisions to NAC 538.455 will provide a process for any reallocations or allocations of additional Schedule D that becomes available. NAC 538.333 and NAC 538.336 are no longer needed and if left in the regulations may cause confusion.

The Commission is also proposing the repeal of NAC 538.450 - Reallocation of Power if Entity Fails to Enter into Contract with Commission. With the amendments to NAC 538.455, specifically subsection (8), this regulation becomes duplicative and unnecessary.

Finally, the Commission is proposing the repeal of NAC 538.680 - Division of Resources into Pools, NAC 538.690 Pool 1: Applicable Resource; allocation, NAC 538.700 Pool 2: Applicable Resource; allocation, NAC 538.730 Pool 3: Applicable Resource; allocation and NAC 538.740 Pool 3: Sharing Increase or decrease in available power. These regulations were added in the 1980s as a way of documenting and publishing the allocations of the Commission's hydropower resources to the public. Today, with the length of time needed to go through the regulatory process these numbers are often incorrect. The public can access correct information immediately from the Commission's website or by calling the Commission and requesting it. These regulations do not affect the actual allocations held by our Contractors. Allocations are determined by the Commission and documented through executed contracts.

After the Workshop is finished today, Commission staff will review the comments received and may make additional changes. These proposed regulation changes must be submitted to the Legislative Counsel Bureau for their review and edit. It is expected that Legislative Counsel Bureau will make changes to the language the Commission has proposed.

When the Commission receives the Legislative Counsel Bureau-approved and edited version, the Commission will schedule an Adoption Hearing during one of its meetings at which time the Commission will review and may adopt the proposed changes. There will be an opportunity to provide comment at the Adoption Hearing. Finally, after the Commission has adopted the changes, the regulations must be submitted to the Legislative Commission for their approval.

Ms. Harkins opened public comment. She asked participants to come forward one at a time, and clearly state and spell their name for the record.

The only commenter was Dan Reaser from the law firm of Fennemore Craig Attorneys, representing Tronox, LLC. Mr. Reaser stated that on January 19, 2018 written comments were filed, and he asked the Commission to take into consideration those comments. He was orally presenting items Tronox, LLC felt were more critical. Most of what they did in comments provided was to bring the draft closer to what they think the Legislative Counsel Bureau would like, in addition to where they had doubts about what was being intended they provided clarifying language.

Subsection 3, what was renumbered to Subsection 4: when the Commission is providing information to persons that are "potential applicants" that they do so via USPS certified mail, since it doesn't say how they will provide notice.

In the renumbered subsection 6, again was mentioned utilizing USPS certified mail when corresponding to applicants.

In renumbered subsection 10, page 3, ambiguous wording as to who the applicants were that would be offered power, if someone fell out. Tronox feels it's important to mention it should then go to someone who had submitted an application in this round. That way it would not go to someone who had applied in a previous reallocation process, but did not apply in the current process.

Provided in last subsection are definitions of "person" and "potential applicant". Tronox though it was implied that the term "potential applicant" referred to someone who had, by reason of existing contract, some claim or right to the allocation. If that's not who is meant, then there should be a definition of what class of person it is, and what causes them to be in the first notices that are given out.

Understanding that the elimination by repeal of the previous regulation that had schedule of information in it, is not intended to affect existing rights. Those allocations in the regulations are dated and not accurate, so the Commission is instead moving to recognize what is in the contract as the correct amount.

Tronox would be happy to answer any questions there may be in regard to the submitted comments. Thank you for allowing the opportunity to have them addressed.

Ms. Harkins asked if there were any additional comments. No other comments were provided. Ms. Harkins reminded the participants that written comments were due to the Commission by 5:00 p.m. on Wednesday, January 24, 2018.

The Workshop was concluded at 1:44 pm.

*Staff received written comments by the January 24, 2018 deadline from the following entities:
Tronox, LLC.*

STATE OF NEVADA
Colorado River Commission of Nevada
Minutes of Workshop to Solicit Comments
on Proposed Regulations
LCB File No. R033-18

The workshop was held at 1:30 p.m. on Wednesday, April 23, 2018 at the Grant Sawyer Building, 555 E. Washington Avenue, Suite 3100, Las Vegas, NV 89101.

STAFF MEMBERS PRESENT

Ms. Jayne Harkins, Executive Director
Ms. Christine Guerri-Nyhus, Special Counsel, Attorney General
Mr. Eric Witkoski, Deputy Executive Director
Mr. Craig Pyper, Hydropower Program Manager
Mr. Kaleb Hall, Assistant Director, Energy Information Systems
Mr. Chris Smith, Systems Coordinator
Ms. Kris Perry, Administrative Assistant III

OTHERS PRESENT

Mr. Shawn Mollus, Clark County Water Reclamation District
Mr. David Stoft, Clark County Water Reclamation District

The workshop was conducted in accordance with Nevada's Open Meeting Law.

The following materials were made available at the workshop: the Notice of Workshop and Agenda, the proposed regulations LCB File No. R033-18. These materials are attached to and made a part of the minutes.

Ms. Jayne Harkins, welcomed everyone to the public workshop pertaining to the proposed regulations amending Chapter 538 of the Nevada Administrative Code (NAC). Ms. Harkins stated that the purpose of the workshop is to solicit comments from interested persons regarding the Colorado River Commission of Nevada (Commission) proposed regulations.

The Commission is proposing the amendment of NAC 538.455 - Procedures for the Reallocation of Power. This regulation was added in 2014 and provides a procedure for reallocating power when a contractor has lost or surrenders its allocation. The Commission would like to expand this procedure so that it can be used for all allocation and reallocation proceedings. Currently, there is no process in the regulations for an allocation proceeding. This amendment would provide a mechanism that encompasses all power resource allocations and reallocations.

Further, the Commission want the process to be more transparent and open to the public; so, an additional public meeting will be required at the start of the allocation process while the criteria and a timeline for that particular allocation are being developed. The amendments to the regulation further clarify that a draft order can be revised by staff prior to presentation to the Commission based on comments received from applicants. Also, the notice of hearing along with the proposed draft order must be provided to not only the applicants but the Commission's meeting service list as least 20 days prior to the date set for the hearing on the Order.

The Commission is proposing the repeal of NAC 538.333 - Allocation of Schedule D Power, Commission to Develop Criteria, NAC 538.336 - Allocation of Schedule D Power, Application Process. NAC 538.333 and NAC 538.336 were added to the Commission's regulations in 2014 to provide a procedure for allocating Schedule D Hoover power to new allottees. The Schedule D Hoover allocations have been completed and contracts executed. The revisions to NAC 538.455 will provide a process for any reallocations or allocations of additional Schedule D that becomes available. NAC 538.333 and NAC 538.336 are no longer needed and if left in the regulations may cause confusion.

LCB has also proposed repealing three additional regulations which also addressed the 2017 Schedule D allocation - NAC 538.397- Allocation of Schedule D power in accordance with chapter; NAC 538.413 - Requirements of electric utility seeking to contract with Commission for delivery of Schedule D power from Boulder Canyon Project on or after October 1, 2017 and NAC 538.416 - Requirements of applicant that is not electric utility seeking to contract with Commission for delivery of Schedule D power from

Boulder Canyon Project on or after October 1, 2017.

The Commission is also proposing the repeal of NAC 538.450 – Reallocation of Power if Entity Fails to Enter into Contract with Commission. With the amendments to NAC 538.455, specifically subsection (8), this regulation becomes duplicative and unnecessary.

Additionally, the Commission is proposing the repeal of NAC 538.680 - Division of Resources into Pools, NAC 538.690 Pool 1: Applicable Resource; allocation, NAC 538.700 Pool 2: Applicable Resource; allocation, NAC 538.730 Pool 3: Applicable Resource; allocation and NAC 538.740 Pool 3: Sharing Increase or decrease in available power. These regulations were added in the 1980s as a way of documenting and publishing the allocations of the Commission's hydropower resources to the public. Today, with the length of time needed to go through the regulatory process these numbers are often incorrect. The public can access correct information immediately from the Commission's website or by calling the Commission and requesting it. These regulations do not affect the actual allocations held by our Contractors. Allocations are determined by the Commission and documented through executed contracts.

Finally, LCB has provided changes to the following regulations which simply conform the numbering in those regulations to the revised numbering in NAC chapter 538 after the repeal of the sections I have discussed above. Those regulations are:

- a. NAC 538.075 Scope; power of Executive Director.
- b. NAC 538.330 Petition for adoption, filing, amendment or repeal of regulation
- c. NAC 538.395 Applicability
- d. NAC 538.500 Terms of contracts; expiration
- e. NAC 538.530 Establishment and maintenance of program for integrated resource planning or similar program
- f. NAC 538.550 Assignment or other transfer of rights
- g. NAC 538.746 Nonperformance: Notice; suspension of allocation of power; temporary reallocation of power; reinstatement of allocation of power; termination of allocation and reallocation of power.

Again, there are no substantive changes to the regulations I just listed; just changes to the regulation numbers.

After the Workshop is finished today, Commission staff will review the comments received and may make additional changes. These proposed regulation changes must be submitted to the Legislative Counsel Bureau for their review and edit. It is expected that Legislative Counsel Bureau will make changes to the language the Commission has proposed.

After we finish the Workshop today, Commission staff will review the comments received and may make additional changes. On May 8, 2018 at 1:30 pm, the Commission will hold an Adoption Hearing on these proposed changes. You are welcome to attend and provide comment to the Commission at the Adoption Hearing.

Ms. Harking opened public comment. She asked participants to come forward one at a time, and clearly state and spell your name for the record.

There were no comments.

The Workshop was concluded at 1:42 pm.

Staff received written comments by the April 23, 2018 deadline from the following entities: Pioneer Americas LLC d.b.a. Olin Chlor Alkali Products.