

# **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 (SEC) Permanent No: R186-18**

### **Permanent Regulation R186-18:**

Nevada Revised Statutes (NRS) 444.560, NRS 459.485, NRS 445A.425, NRS 445A.465, NRS 445A.590, NRS 445A.595, NRS 445A.270, NRS 445A.295, NRS 445A.135, and NRS 445A.160 establish the authority of the State Environmental Commission (SEC) to adopt regulations to carry out the provisions associated with solid waste, hazardous materials, and water controls associated with mining activities, water pollution control, and the financing of water projects.

### **SPECIFIC CHANGES:**

The NDEP revised the public notice rule provisions for regulations associated with solid waste, hazardous materials, mining activities, water pollution control, and its program for financing water projects, including the state revolving fund program. The adopted amendments removes the requirement to public notice specific NDEP actions using a one-day publication in a newspaper. Instead, NDEP will provide public notice on an internet website designed to provide general public notice unless a federal law exists that requires otherwise. The website will allow continuous access to the public notice as opposed to a single day newspaper publication.

### **1. Need for Regulation:**

On September 13, 2017, The State Environmental Commission adopted the NDEP Air Bureau's Regulatory Petition R015-17 which removed the mandatory requirement to provide public notice of certain NDEP actions through a single (one day) publication in a newspaper, and instead provide for website access (e-access) of those actions. On September 21, 2017, the Legislative Commission approved it and it became effective. Over the past year NDEP has monitored this effort to determine any impacts on public participation. NDEP has identified no negative impacts to the public participation process.

NDEP therefore proposed to amend all of its regulations that mandate a newspaper publication to require the public notice to be provided on an internet website designed to provide the general public active notice. Included in the adopted amendment is an

exception for any federal programmatic law that may require a different public notice process.

These amendments improve communication with the public on NDEP actions by allowing for information to be made available for an extended period of time on a dedicated website as opposed to a one day newspaper notice. This will result in broader and more informed public participation. Public access will be improved by making actions immediately available through a convenient and reliable e-access process. It will also provide flexibility for the NDEP by avoiding time delays associated with newspaper publication and allowing for faster correction of errors and rescheduling of events. Additionally, resources currently being spent by the NDEP will be more efficiently used by removing the newspaper publication requirement.

**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.**

On November 1, 2018 NDEP conducted a public workshop on regulation R186-18. The workshop was held in Carson City and video-conferenced in Las Vegas, Elko, Ely, Fallon, Gardnerville, Goldfield, Hawthorne, Lovelock, Reno, Winnemucca, and Yerington. The meeting locations at each facility were:

University of Nevada Cooperative Extension, Carson City Classroom 2621 Northgate Lane, Suite #12 Carson City, NV 89706 <i>Physical location of the workshop</i>	University of Nevada Cooperative Extension, Clark County Life Long Learning Center (LLLC) Room A 8050 S. Paradise Road Las Vegas, NV 89123
University of Nevada Cooperative Extension, Elko County Griswold Hall Room 31 701 Walnut Street Elko, NV 89801	University of Nevada Cooperative Extension, White Pine County Conference Room 995 Campton Street Ely, NV 89301
University of Nevada Cooperative Extension, Churchill County Classroom 111 Sheckler Road Fallon, NV 89406	University of Nevada Cooperative Extension, Douglas County Classroom 1325 Waterloo Lane Gardnerville, NV 89410
Esmeralda County School District – Goldfield K-8 Video Conference Room 233 Ramsey Goldfield, NV 89013	University of Nevada Cooperative Extension, Mineral County Video Conference Room 205 South A Street Hawthorne, NV 89415
University of Nevada Cooperative Extension, Pershing County Video Conference Room 810 Sixth Street Lovelock, NV 89419	University of Nevada Cooperative Extension, Washoe County Classroom A 4955 Energy Way Reno, NV 89502
Humboldt County School District Upper Level Conference Room 310 East Fourth Street Winnemucca, NV 89445	University of Nevada Cooperative Extension, Lyon County Video Conference Room 504 South Main Street Yerington, NV 89447

Six (6) members of the public attended the workshop.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: [http://sec.nv.gov/main/hearing\\_0218.htm](http://sec.nv.gov/main/hearing_0218.htm).

Following the workshop, the SEC held a formal regulatory hearing on December 12, 2018 at the Laxalt Building, located at 401 North Carson Street and video-conferenced in Las Vegas at the Grant Sawyer Building, Room 5100, located at 555 East Washington Ave. A public notice for the regulatory meeting was posted at the State Library in Carson City, at NDEP offices located in both Carson City and Las Vegas, 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.

Copies of the agenda, the public notice, and the proposed permanent regulation R186-18 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureaus of Sustainable Materials Management, Mining Regulation & Reclamation, Water Pollution Control, and the Office of Financial Assistance.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: [http://sec.nv.gov/main/hearing\\_1218.htm](http://sec.nv.gov/main/hearing_1218.htm).

### **3. The number of persons who attended the SEC Regulatory Hearing:**

- (a) Attended December 12, 2018 hearing: 13 (approximately)
- (b) Testified on this Petition at the hearing: 9

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(c) Submitted to the agency written comments: 4

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**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 e-mail, a public workshop and at the December 12, 2018 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 regulation was adopted without change 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.**

(a) Regulated Business/Industry. The economic impact on the regulated businesses/industry subject to this amendment is anticipated to be beneficial only, both immediately and long-term. During the permitting process, if a public notice is not published timely or if there is an error in the publication, it causes a delay in the issuance of the permit. The delay often times translates to lost revenue for the regulated business.

Although the newspapers throughout Nevada are not regulated by NDEP, there is an indirect economic effect in that they will not receive revenue associated with the cost of publications. The NDEP programs associated with this amendment spent an average of approximately \$10,545 annually between State Fiscal Years 2017 and 2018 on publication of public notices in newspapers that meet the criteria for a small business. Since the proposed regulations remove the requirements for publishing public notices in newspapers, the newspapers that are small businesses will no longer be potential recipients of those funds from the NDEP.

In a 2010 publication entitled “Public Policy and Funding the News” [https://fundingthenews.usc.edu/files/2015/07/Funding-the-News\\_report-optimized.pdf](https://fundingthenews.usc.edu/files/2015/07/Funding-the-News_report-optimized.pdf), it is cited that the National Newspaper Association estimated in 2000 that public notices accounted for 5 percent to 10 percent of all community newspaper revenue. NDEP published an average of 83 public notices annually between the State Fiscal Years 2017 and 2018 and spent an average of \$10,545 annually on publications in newspapers meeting the small business criteria. While the proposed amendments may have a direct economic impact on some small businesses, it will not be significant due to the small dollar amount provided by NDEP that contributes to a small percentage of total revenue that is reduced even further when distributed amongst multiple newspapers.

(b) Public. The regulation will have no economic impact on the public.

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

(a) Enforcing Agency. The NDEP programs associated with this amendment cumulatively spent an average of approximately \$10,545 annually between SFY 2017 and 2018 on publication of public notices in newspapers. Since the proposed regulations remove the requirements for publishing public notices in newspapers for various actions, the NDEP will no longer incur those expenses.

#### **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 adopted amendments do not overlap, duplicate or conflict with any regulations of other government agencies. Importantly, the adopted amendments are in direct alignment with the direction USEPA is taking with its federal regulations. The USEPA has already removed the requirement to publish public notices in newspapers from multiple federal programs, including the Clean Air Act, and is actively working to remove the requirement from additional federal programs, including portions of the Clean Water Act.

**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 regulation is no more stringent than what is established by federal law.

**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 regulation does not address fees.