

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: R036-19

Permanent Regulation R036-19:

Nevada Revised Statute (NRS) 445A.425 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to carry out provisions of NRS 445A.300-445A.730, including standards of water quality and the amounts of waste that may be discharged into waters of the State. NDEP amended Nevada Administrative Code (NAC) 445A.1236 to align with the most current recommended numeric criteria published by the U.S. Environmental Protection Agency (EPA) for cadmium to protect the aquatic life beneficial use.

SPECIFIC CHANGES:

Nevada Revised Statute (NRS) 445A.425 established the authority of the State Environmental Commission to adopt regulations to carry out provisions of NRS 445A.300-445A.730, including standards of water quality and the amounts of waste that may be discharged into waters of the State. The NDEP is proposing to amend Nevada Administrative Code (NAC) 445A.1236, to align with the most current recommended numeric criteria published by the U.S. Environmental Protection Agency (EPA) for cadmium to protect the aquatic life beneficial use. The proposed revisions include changing values of exponents in the hardness-based equations for calculating values of acute and chronic criteria for cadmium (dissolved). In addition, a footnote will be added to the toxics table (445A.1236) to provide the EPA reference (EPA 2016b).

1. Need for Regulation:

EPA's regulations for water quality standards at 40 CFR 131.11(a)(1) require states to adopt protective criteria that are based on sound scientific rationale. Nevada's existing water quality criteria for cadmium to protect the aquatic life beneficial use are based on EPA criteria published in 2001.

Since 2001, EPA identified more than 100 new studies with toxicity data related to acute and chronic exposures of aquatic life to cadmium for 75 new species and 49 new genera. EPA compiled these data to derive the updated numeric criteria for cadmium in 2016 (EPA 2016). Nevada's current criteria for cadmium were adopted in 2006, based on EPA's 2001 criteria values for cadmium. The updated equations (EPA 2016)

have the effect of increasing the criteria values for chronic exposure and slightly decreasing the criteria values for acute exposure. The increases to chronic criteria will lessen the burden on dischargers; the slight decreases in acute criteria will have a minimal effect.

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 June 6, 2019, June 7, 2019, & June 10, 2019 NDEP conducted public workshops on regulation R036-19.

<p>Thursday, June 6, 2019 9:00 - 11:00 AM Bryan Building, 3rd Floor Humboldt Room 901 S. Stewart Street Carson City, Nevada 89701</p>	<p>Friday, June 7, 2019 9:15 - 11:00 AM Elko County Library 720 Court Street Elko, NV 89801</p>	<p>Monday, June 10, 2019 1:00 - 3:00 PM Wetlands Park 7050 E. Wetlands Park Lane Las Vegas, NV 89122</p>
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A total of twenty-one (21) members of the public attended the workshops, in total.

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_1019.htm.

Following the workshop, the SEC held a formal regulatory hearing on October 2, 2019 at the Nevada Legislative Building, room 3138, located at 401 South Carson Street and video-conferenced in Las Vegas at the Grant Sawyer Building, Room 4401, located at 555 East Washington Ave. A public notice for the regulatory meeting and a copy of the proposed regulation were posted at the State Library in Carson City, at NDEP offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and provided to the SEC email distribution list. The public notice was also posted 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 agenda and information where supporting documents could be located were posted 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, on the SEC website, and provided to the SEC email distribution list.

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_1019.htm.

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

- (a) Attended October 2, 2019 hearing: 21 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

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, three public workshops and at the October 2, 2019 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.

Regulated Business/Industry. The proposed revisions may have a slight beneficial effect on business by lessening the burden on dischargers for the chronic cadmium criterion. The revisions are unlikely to have any adverse effect on business.

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

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

Enforcing Agency. There will be no additional costs to the agency.

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.

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.