

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: R037-19

Permanent Regulation R037-19:

Nevada Revised Statute (NRS) 445A.425 establishes 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 amounts of waste which may be discharged into waters of the State.

SPECIFIC CHANGES:

NDEP amended Nevada Administration Code ((NAC) 445A.070 - 445A.2234), *Standards for Water Quality*, by making changes to the water quality standards (WQS) tables in the lower Colorado River basin from Las Vegas Valley to the Nevada/California state line. The revisions include: (1) Adjust the Lower Colorado River reaches to break out Lake Mohave as distinct from the Colorado River reaches; (2) Adjust the water quality standards in the Lower Colorado reaches for temperature and dissolved oxygen to be suitable for adult cold-water fish, because there is no evidence that stocked trout are spawning; (3) Add water quality standards for chloride and sulfate to the lower Colorado River reaches; (4) Add warm-water fish and appropriate water quality standards to both reaches of Las Vegas Wash; (5) Add contact recreation and appropriate water quality standard for E. coli to the Inner Bay of Lake Mead; (6) Adjust the Las Vegas Wash reaches to extend the Upper Las Vegas Wash from the confluence of Las Vegas Wash and Sloan Channel down to the Historic Lateral, (7) Add appropriate water quality standard for E. coli to the Las Vegas Wash; (8) Add Lake Las Vegas and appropriate water quality standards to the Nevada Administrative Code.

1. Need for Regulation:

EPA's water quality standards regulations at 40 CFR 131.11(a) (1) require states to adopt protective criteria that are based on sound scientific rationale. Section 303 of the Clean Water Act requires that states periodically review, and as appropriate, modify water quality standards. The last review of the Colorado River/Lake Mead water quality standards was in 1998. The following are the revisions to the State of Nevada (State) Water Pollution Control Regulations water quality standards for Las Vegas Wash, Lake Mead, and the Colorado River below Hoover Dam.

The Las Vegas Wash, Lake Mead, and the Colorado River are divided into six reaches or segments that consider the physical characteristics, differing land uses, and beneficial uses of each. The reaches begin at the confluence of the City of Las Vegas and Clark County Sanitation District wastewater treatment plant discharges and extend down gradient into and including Lake Mead and the Colorado River below Lake Mead. In the Colorado River below Hoover Dam, NDEP is will break-out Lake Mohave as its own reach and adjust the upstream and downstream reaches as appropriate. An adjustment to the upper Las Vegas Wash reach is proposed to extend the upper wash from the confluence of Las Vegas Wash and Sloan Channel down to the Historic Lateral to align with the discharge permit compliance point. The NDEP is also proposing to add Lake Las Vegas to the NAC with its own standards table.

Other proposed modifications to the NAC include: (1) adding warm-water fish to both segments of Las Vegas Wash NAC 445A.2156 and NAC 445A.2158; (2) revise the temperature criteria to $\leq 24^{\circ}\text{C}$ and dissolved oxygen criteria to $\geq 5.0\text{ mg/l}$ to protect adult cold-water fish in the river segments below Hoover Dam and Davis Dam; and (3) add recreation involving contact with the water beneficial use to the Lake Mead Inner Las Vegas Bay.

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 R037-19.

<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: 3

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(c) Submitted to the agency written comments: 5 (same comment letter signed by 5 individual entities)

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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, 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 with changes as a result of public input. The SEC determined the Inner Las Vegas Bay should not have a beneficial use associated with human contact and the water quality standards were adjusted accordingly and approved.

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 are not expected to have an economic effect on existing surface water discharge permits issued to regulated business and industry nor will they have economic effects on current or future regulated businesses and industries. Incorporating Lake Las Vegas into the NAC should not have an impact as NDEP is formalizing the standards from the 1988 208 Plan into the NAC with appropriate USEPA updates.

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.