



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission

901 South Stewart Street, Suite 4001 -- Carson City, Nevada 89701-5249



## Notice of Regulatory Hearing Adoption of Regulations and Other Matters Before the State Environmental Commission

The State Environmental Commission (SEC) will hold a meeting on Wednesday, July 1, 2020 at 9:00 am that will not have a physical location. Pursuant to Governor Sisolak's Declaration of Emergency Directive 006, the SEC is providing other methods for the public to participate and provide public comment, either virtually or telephonically, using the link below or the dial-in number below.

Join the meeting: <https://call.lifesizecloud.com/3333307>

*Join the Lifesize meeting using Skype for Business:  
<https://skype.lifesizecloud.com/3333307>*

*Call in by Phone (audio only)  
United States: +1 (312) 584-2401  
Meeting extension 3333307#*

The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this notice and the meeting agenda. The following information is provided pursuant to the requirements of NRS 233B.0603.

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### **R084-19: Bureau of Sustainable Materials Management**

NDEP is proposing to amend NAC 444. To remain consistent with federal hazardous waste regulations and maintain authorization to enforce them in lieu of the US EPA, Nevada is required to periodically update its state hazardous waste regulations in response to changes made at the federal level. Once updated, Nevada can complete the authorization application package. Changes to existing state regulations follow the "Guidelines for State Adoption of Federal RCRA Regulations by Reference" federal guidance document and provide fuller equivalence with current federal hazardous waste regulations, as well as clean up and simplify state regulations. The RCRA and other rule amendments proposed for adoption are federal rules, and the regulated business/industry must comply with them regardless of whether EPA or NDEP implements them.

No economic impact will be realized by the public or by the enforcing agency. The proposed amendments do not overlap, duplicate, or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments do not address fees.

#### **R120-19: Bureaus of Air Quality Planning & Air Pollution Control**

NDEP is proposing to amend NAC 445B.221, adoption by reference and applicability of certain provisions of federal law and regulations, to adopt applicable federal rules promulgated since the state regulation was last updated in May 2018. This is a routine activity. The update includes rulemakings under 40 CFR Part 51, "Requirements for preparation, adoption, and submittal of implementation plans," Part 60, "Standards of performance for new stationary sources (NSPS)," and Part 63, "National emission standards for hazardous air pollutants for source categories (NESHAP)."

The federal rules adopted by reference in NAC 445B.221 are federal requirements that the regulated business/industry must comply with, regardless whether EPA or NDEP implements them. Industry prefers that NDEP implement the federal rules because NDEP has an active working relationship with industry and will implement the federal regulations in as effective and efficient manner as possible.

No economic impact will be realized by the public or by the enforcing agency. The proposed amendments do not overlap, duplicate, or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments do not address fees.

#### **Permanent Regulation R121-19: Bureau of Water Pollution Control**

NDEP proposes to modify its regulations regarding wastewater operator certification; plants for sewage treatment classification (NAC 445A.2862; NAC 445A.2866; NAC 445A.2868; NAC 445A.287; NAC 445A.289; and NAC 445A.2912) NDEP proposes to revise requirements to obtain Restricted Certification and renewal of those Restricted Certifications and to revise the initial education required to test for certification.

Following the adoption of the Wastewater Operator Certification program regulations in May 2018, the SEC requested that NDEP provide a review of the program. NDEP's review identified areas for improvement associated with Restricted Certifications in addition to the education requirements for testing. NDEP proposes to make Restricted Certifications renewable and to reduce the initial education requirements for certification due to the annual contact hours that are now required. A renewal fee for restricted certification was also added. Language for fees, renewals, and decertification was amended to provide clarification.

The proposed regulations do not mandate additional actions or costs on the regulated community. The proposed addition of a renewal fee for Restricted Certificates will allow for the maintenance of Restricted Certificates in lieu of retesting every 5 years, eliminating testing fees. No economic impact will be realized by the public and costs incurred by NDEP will be managed with existing permit fees. The proposed amendments do not overlap, duplicate, or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments will provide an opportunity to renew restricted certifications. The renewal fee will be \$70 every 2 years. The new fee will compensate for the time and resources that will be required to review renewals of restricted certificates for education and Continuing Education Units requirements.

### **Permanent Regulation R018-20: Bureau of Mining Regulation & Reclamation**

NDEP is proposing to amend NAC 445A. The primary purpose of the proposed amendments is to provide a framework for BMRR to conduct reviews of site-specific scientific studies and technical evaluations prior to submittal of a water pollution control permit application, and to designate a related fee. These reviews are optional and typically conducted concurrently, and in coordination with, Federal National Environmental Policy Act (NEPA) review to expedite permitting and minimize conflicts during the permit application process. Pre-application review will be optional for prospective permittees. The amendments define what a pre-application review is, clarify the items included, and describe the required fee for the service (\$1500).

Other proposed amendments update the mining water pollution control regulations as the program evolves to ensure that waters of the state are protected for the long term. Modifying fee categories for closed facilities provides clarity and consistency in the fees for facilities in various states of closure. Closure plans must evolve as new information is gathered and the site changes. Improved closure planning and coordination with reclamation planning leads to improved reclamation and closure cost estimation for bond determinations to ensure that waters of the State are protected for the long term. The ability of BMRR to physically locate mine components and monitoring systems is vital to effectively preventing degradation of waters of the State. Requiring UTM coordinates allows BMRR to easily locate facilities using geographical information systems (GIS) technology. Removing regulations that are not used and are not effective allows for staff to focus efforts on those regulations that are necessary to protect waters of the State.

Pre-application review is an optional process that will principally benefit complex operations taking place on public land. Optional pre-application reviews will positively impact the mining industry by reducing the risk of conflicts with federal agencies where scope and requirements overlap and avoiding delays during the later water pollution control permitting process. In

some cases, the fee for pre-application review will be entirely offset by avoidance of permitting delays. The \$1500 fee for pre-application review will allow BMRR to properly allocate time and resources for highly technical reviews. No economic impact will be realized by the public and costs incurred by NDEP are anticipated to be offset by associated fees. The proposed amendments do not overlap, duplicate, or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments will provide an opportunity to renew restricted certifications.

Pre-application review is optional and typically is useful for large, complex operations on federal land. There will be no financial impact to prospective permittees that have no need to employ the process. BMRR anticipates an average of \$58,075/yr revenue associated with fees for pre-application review, with a likely range of \$42,000 - \$72,000/year.

BMRR anticipates the changes to closure permit fees, which are not optional, will result in \$1500/year in additional BMRR revenue related to annual fees; however, BMRR would experience a \$6,750 reduction in 5-year renewal fees assessed. The change is therefore anticipated to result in a net revenue increase of \$750 over a 5-year period. If additional sites complete physical closure activities and migrate into the new fee category, fees will also decrease at those sites.

NDEP proposes to use the increased revenue to address the declining reserve balance of the BMRR and ensure qualified, competent staff are retained to conduct thorough technical reviews.

### **Permanent Regulation R050-20: Bureau of Safe Drinking Water**

NDEP is proposing to amend NAC 445A. Specifically, NDEP proposes to modify regulations pertaining to documents submitted to NDEP by a professional engineer, such as plans, specifications, and design reports for facilities that treat groundwater, or a specific water project, to be consistent with the Nevada Board of Engineers' regulations for stamping, signing, and submitting projects to a governmental agency.

No economic impact will be realized by the public or by the enforcing agency. The proposed amendments do not overlap, duplicate, or conflict with any other state or federal regulations and are not more stringent than what is established by federal law. The proposed amendments do not address fees.

### **Additional Information:**

Pursuant to NRS 233B.060, the regulatory petition posted on the SEC website three working days before the hearing will be the regulation considered for adoption.

Persons wishing to comment on the proposed actions of the SEC may join the scheduled public hearing at the link or telephone number above or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

If open, members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, the public notice for this hearing was posted at the following locations, although there may be no public access: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (2030 E. Flamingo Rd. Suite 230), at the State Library and Archives building in Carson City (100 Stewart Street), the Nevada Division of Minerals, 400 W. King Street, Carson City, NV and the Department of Agriculture, 405 South 21<sup>st</sup> Street, Sparks, NV.

In addition, copies of the regulatory petitions and this notice have been mailed to major library branches in each county in Nevada as specified below. This notice and the text of the proposed regulations are also available on the SEC's website at:

<https://sec.nv.gov/meetings/july-2020-regulatory-meeting>. The proposed regulation denoted in this notice, is, or will be, posted on the Legislative Counsel Bureau's website at <http://www.leg.state.nv.us/register/> and also the Department of Administration's website at <https://notice.nv.gov/>.

For additional information, contact Valerie King, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, phone (775) 687-9374, or email at [vking@ndep.nv.gov](mailto:vking@ndep.nv.gov).

This Notice was provided to the following Nevada county locations:

Carson City Library  
900 North Roop Street  
Carson City, Nevada 89701-3101

Lincoln County Library  
63 Main Street  
Pioche, Nevada 89043

Churchill County Library  
553 South Main Street  
Fallon, Nevada 89406-3306

Las Vegas-Clark County Library District  
Director of Marketing and Community Relations  
7060 W. Windmill  
Las Vegas, Nevada 89113

Douglas County Public Library  
1625 Library Lane  
Minden, Nevada 89423-0337

Elko County Library  
720 Court Street  
Elko, Nevada 89801-3397

Esmeralda County Library  
Corner of Crook & 4th Street  
P.O. Box 430  
Goldfield, Nevada 89013-0430

Eureka County Library  
10190 Monroe Street  
Eureka, Nevada 89316

Humboldt County Library  
85 East 5th Street  
Winnemucca, Nevada 89445-3095

Battle Mountain Branch Library (Lander County)  
625 South Broad Street  
Battle Mountain, Nevada 89820

Lyon County Library System  
20 Nevin Way  
Yerington, Nevada 89447-2399

Mineral County Public Library  
P.O. Box 1390  
Hawthorne, Nevada 89415

Pershing County Library  
1125 Central Avenue  
Lovelock, Nevada 89419

Storey County Library - Closed  
Posted at Clerk's Office  
Address below:

Storey County Treasurer and Clerk's Office  
Drawer D  
Virginia City, Nevada 89440

Tonopah Public Library (Nye County)  
P.O. Box 449  
Tonopah, Nevada 89049

Washoe County Library System  
301 South Center Street  
Reno, Nevada 89501-2102

White Pine County Library  
950 Campton Street  
Ely, Nevada 89301