

# **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: R126-19**

### **Permanent Regulation R126-19:**

§§1-23, NRS 445A.425, 445A.860 and 445A.880; §§24, 25 and 26, NRS 445A.425; §27, 28 and 29, NRS 445A.860 and 445A.880, §30 and 31, NRS 233B.050, 445A.425, 445A.860 and 445A.880; §§32-52, and 54-58, NRS 445B.210, NRS 459.485 and 459.500; §§53 and 59, NRS 233B.050, 459.485 and 459.500.

### **SPECIFIC CHANGES:**

NDEP amended NAC 445A, 445B, and NAC 459. Nevada Revised Statutes (NRS) 445A and NRS 459 establish the authority of the State Environmental Commission to adopt regulations governing multiple certification programs administered by NDEP. These include Drinking Water Operators & Wastewater Treatment Operators (both programs within NRS 445A), and the Certified Environmental Managers, Underground Storage Tank Testers, and Underground Storage Tank Handlers (all programs within NRS 459 and certified by the Bureau of Corrective Actions). NDEP introduced a new set of regulatory sections to clearly outline the process the agency will follow when implementing existing disciplinary authority and ensure the certified individual subject to the disciplinary action has clear due process and appeal procedures. Additional conforming amendments are included in relevant sections of NAC 445A, NAC 445B, and NAC 459.

### **Need for Regulation:**

Prior disciplinary actions taken by NDEP revealed the need for a well-defined disciplinary process for certified individuals. This regulation defines the due process afforded to individuals in NDEP's three individual certification programs when NDEP is required to take a disciplinary action. These regulation amendments may be in addition to other civil or criminal proceedings provided by NRS.

When NDEP believes a disciplinary action is warranted, it will issue a Notice of Intent to Take Disciplinary Action to the individual. This notice could ultimately result in

probation, suspension, or revocation of the certification. This modification sets procedural “due process” expectations for both NDEP and the individual as the process unfolds.

**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 February 4, 7, & 10, 2020 NDEP conducted public workshops on agency draft petition P2020-02, later identified as regulation R126-19. The workshops were held in Elko, Carson City, & Las Vegas. A total of approximately thirty (30) members of the public attended the workshops.

<p>Monday February 10, 2020 1:30 PM - 3:30 PM Grant Sawyer Bldg., RM 1100 555 E. Washington Avenue Las Vegas, NV 89122</p>	<p>Friday February 7, 2020 10:00 AM- 12:00 PM Bryan Building, 2<sup>nd</sup> Floor Tahoe Room 901 S. Stewart Street Carson City, Nevada 89701</p>	<p>Tuesday, February 4, 2020 1:00 PM- 3:00 PM 1751 College Ave. City Council Chambers Elko, Nevada</p>
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On December 1, 2020, NDEP conducted a second public workshop remotely, with no physical location. An additional nine (9) members of the public attended this workshop.

Questions from the public presented during the workshops were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: <https://sec.nv.gov/meetings/sec-regulatory-meeting-december-9-2020>.

Following the workshop, the SEC held a formal regulatory hearing on December 9, 2020. Due to COVID-19 and the Governor’s subsequent Emergency Directive 006, there was no physical location for the meeting and it was held virtually. 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: <https://sec.nv.gov/meetings/sec-regulatory-meeting-december-9-2020> .

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

(a) Attended December 9, 2020 hearing: 43 (approximately)

(b) Testified on this Petition at the hearing: 1

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(c) Submitted to the agency written comments: 1

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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, public workshops and at the December 9, 2020 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 changes because both the public and the members of the SEC were satisfied with it.

**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 amendments will have no economic impact on regulated business or industry.

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.**

This regulation does not address fees.