

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: R109-22P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

R109-22 proposes updates that align state regulations with federal changes and direction by revising the definition of “disadvantaged,” streamlining the process for funding water systems under emergency situations and amending the environmental review process. These regulations also add an administrative fee for loans and provide some other general housekeeping updates.

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.

The Division held one hybrid (in-person and virtual) public workshop for R109-22P on August 30, 2022. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada and in the NDEP offices in Las Vegas at 375 East Warm Springs Road. NDEP also provided the option to attend the workshop virtually. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. There were no attendees to the workshop, either in person or virtually.

The Legislative Counsel Bureau published its draft, R109-22P, in the Nevada Register on August 26, 2022. The Division accepted written comments on R109-22P up to September 19, 2022. The Division did not receive any written comments concerning either version of R109-22.

The SEC held a hybrid regulatory hearing on December 14, 2022, to consider possible action on R109-22P. The SEC posted its public notice, which included a link¹ and instructions to access R109-22P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-december-14-2022>

Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice 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 SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting.

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

(a) Attended December 14, 2022, hearing: 57 (approximately)

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

1. Jason B. Cooper, on behalf of the Nevada Division of Environmental Protection
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(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 one public workshop and at the December 14, 2022, 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 Commissioners unanimously adopted R109-22P with the no changes. The regulation was adopted without changes 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 regulatory amendments in R109-22P are estimated to have a minimal net economic impact on public water systems.

Public. The regulatory amendments in R109-22P are expected to have no economic impact on the public.

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

Enforcing Agency. The regulatory amendments proposed in R109-22P are not expected to result in any additional costs to the Division.

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 proposed amendments in R109-22P do not overlap or duplicate other state or 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 regulatory amendments in R109-22P are 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 proposed fee structure is dependent upon the number of loans initiated within a year, and the number of open loans from previous years that have the service fee requirement. It is not possible to determine the revenue from potential future loans. However, NDEP has looked at the previous five years to see how much the Division would have received, if these fees had been implemented:

Prior Fiscal Year Balances	Origination Fee	Service Fee	Annual Total
FY 2021	\$81,250.00	\$312,053.89	\$393,303.89
FY 2020	\$11,000.00	\$233,203.43	\$244,203.43
FY 2019	\$171,682.42	\$145,007.17	\$316,689.59
FY 2018	\$65,300.00	\$50,341.58	\$115,641.58
FY 2017	\$185,630.69	\$2,274.10	\$187,904.79
Totals	\$514,863.11	\$742,880.16	\$1,257,743.28

All funds collected will be used to offset expenses for administering the Drinking Water State Revolving Fund. The amounts collected in the beginning years are not enough to cover 100% of the administrative costs. The fee structure proposal will establish a revenue source that will eventually build up reserves to a sustainable level. Should more services fees be collected than what is needed to administer the program within a two (2) year period, service fees can be used for administration, making more grant funds available for loans.