

Permanent Regulation – Informational Statement

A Regulation Relating to Water Quality Standards

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R101 -14

Regulation R101-14:

The Nevada Division of Environmental Protection (NDEP) is proposing to revise water quality standards for the Carson River and Lahontan Reservoir (NAC 445A.1822 - 445A.1824). Proposed changes include: 1) separate the delineation of Lahontan Reservoir from the Carson River; 2) revise phosphorus, chloride and alkalinity criteria; and 3) clarify that the dissolved oxygen criterion applies only in the epilimnion when the reservoir is stratified. Lahontan Reservoir water quality standards were last reviewed in 1984 and the revisions were deemed necessary to update water quality criteria based upon more recent data, scientific literature and guidance published by the U.S. Environmental Protection Agency (EPA).

1. Need for Regulation:

Nevada Revised Statutes (NRS) 445A.520 requires that standards be set at levels designed to protect beneficial uses for surface waters of the state. Nevada has been delegated authority to set water quality standards under the Clean Water Act and federal regulations (40CFR 131.20) require states to periodically review their water quality standards, and as appropriate update those standards. A review of the available data, scientific literature and EPA guidance indicated that the proposed standards changes be made to protect the beneficial uses currently designated for these waters.

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 November 2 and November 4, 2015, NDEP conducted public workshops on NDEP's Draft Regulation. The workshops were held in Carson City and Silver Springs, Nevada. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street and the meeting in Silver Springs was at Hillyard Hall, located at 2945 Ft. Churchill Street.

Six (6) members of the public were present at the Carson City workshop. Those people were:

Chris Mahannah, Churchill County
Ed James, Carson Water Subconservancy District
Brian Wadsworth, Pyramid Lake Paiute Tribe
Kameron Morgan, Pyramid Lake Paiute Tribe
Walter Winder, Truckee Carson Irrigation District

Rusty Jardine, Truckee Carson Irrigation District

One (1) member of the public was present at the Silver Springs workshop. That person was:

Stephanie Wilson, EPA

Questions included but were not limited to locational distinctions, dissolved oxygen and stratification issues, consequences for not meeting the proposed standards and ramifications on upstream waters.

There were no written comments.

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/docs/0216/R101_14_Workshop_Minutes.pdf.

Following the workshop, the SEC held a formal regulatory hearing on February 10, 2016 at the Nevada Department of Conservation and Natural Resources, 901 South Stewart Street, Carson City, Nevada. A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in 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 and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R101-14 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Water Quality Planning electronic mailing 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_0216.htm.

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

- (a) Attended February 10, 2016 hearing: 5 (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, a public workshop and at the February 10, 2016 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 there were no comments received by NDEP and no testimony in opposition to the regulatory changes during the hearing.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

(a) Regulated Business/Industry. The proposed revisions are not expected to have any direct economic effect on the regulated community both immediate and long term. Water quality standards, in of themselves, do not directly regulate businesses, although standards do form the basis for effluent limits imposed by NDEP through the National Pollutant Discharge Elimination System (NPDES) permit program and the terms and conditions imposed through the Clean Water Act 401 program for any dredging or filling activity in Nevada waters. Currently, there are no active NPDES permits for discharges to Lahontan Reservoir. The proposed changes are not expected to negatively impact any future permits as the proposed criteria for total phosphorus and alkalinity are less restrictive than the current criteria, and the proposed criterion for chloride is only slightly more restrictive than the current criterion.

(b) Public. The proposed revisions are not expected to have any economic effect on the public both immediately and long-term. Overall, the current water quality standards have beneficial effects in terms of protecting public health and welfare, supporting aquatic, wildlife, and recreational uses. All of these factors provide economic benefits to the public. The proposed revisions are not expected to change the current level of public benefit.

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

Implementation of the proposed regulations is not expected to result in additional cost to the agency for enforcement.

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.

There are no other state or government agency regulations which the proposed revisions duplicate.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

There is no federal regulation for these proposed water quality standards revisions. The federal government has delegated responsibility for establishing water quality standards to NDEP.

Setting the proposed water quality standards at levels to protect beneficial uses of surface waters of the State enables NDEP to maintain its delegation of the Clean Water Act.

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.