

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: R130 -15

Regulation R130-15:

NDEP is proposing changes to the Nevada Administrative Code (NAC) revising the Nevada water quality regulations for the former “Class Waters” located in the Lower Humboldt River Basin. Revisions include the addition of numeric criteria for nitrate, nitrite, total suspended solids, turbidity, color, chloride, sulfate, and alkalinity based upon guidance published by the U.S. Environmental Protection Agency (EPA). These additions were deemed necessary to properly protect the beneficial uses.

1. Need for Regulation:

The Nevada Revised Statutes (NRS) 445A.520 require 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 3, 2015, NDEP conducted public workshops on NDEP’s Draft Regulation. The workshops were held in Carson City and Winnemucca, Nevada. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street and the meeting in Winnemucca was at the Humboldt Public Library located at 85 East 5th Street.

Two (2) members of the public were present at the Carson City workshop. Those people were:

Allen Biaggi, Nevada Mining Association
Marvin Tebeau, Resource Concepts, Inc.

Six (6) member of the public were present at the Winnemucca workshop. Those people were:

Joe Beetler, Newmont Mining Corporation
Allen Biaggi, Nevada Mining Association

Marlene Brissenden, Humboldt County
Briony Coleman, Newmont Mining – Phoenix Mine
Rod Glimmann, Newmont Mining – Twin Creeks Mine
Sam Stine, Humboldt Sun

Questions included but were not limited to why additional constituents were added to previous Class Waters, specific beneficial uses, the 303(d) list and subsequent determinations of impaired waters and whether flow conditions are considered in the statistical evaluations.

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/R130_15_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 R130-15 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: 1
- (c) Submitted to the agency written comments: 0

The only person who testified at the hearing testified in support of the regulatory changes:

Allen Biaggi
Nevada Mining Association
201 W. Liberty Street, Suite 300
(775) 829-2121
<https://www.nevadamining.org/contactus/>

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 no comments were received by NDEP and the testimony provided at the hearing was in favor of the regulatory changes.

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 immediately and long term. Water quality standards in and 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. There are no current NPDES permits associated with small businesses for any of the waters affected by this regulation.

(b) Public. The proposed revisions are expected to have some beneficial 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 and supporting aquatic, wildlife, and recreational uses. All of these factors provide economic benefits to the public. The proposed changes will provide additional protection of the beneficial uses, thereby improving the 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.