

LCB File No. T028-98

**TEMPORARY REGULATION
OF THE NEVADA STATE ENVIRONMENTAL COMMISSION**

(Petition 1999-01 amending chapter 445 of NAC)

**NOTICE OF HEARING
NOTICE OF INTENT TO ACT UPON REGULATIONS
NEVADA STATE ENVIRONMENTAL COMMISSION**

The Nevada State Environmental Commission will hold a public hearing beginning at **8:30 a.m. on Wednesday, December 9, 1998, at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Ave., Las Vegas, Nevada.**

The Environmental Commission will hear non regulatory business items on **Tuesday, December 8, 1998, at the above location beginning at 2:00 p.m.** Those items will include air quality ratifications, variance requests and other non regulatory petitions pending before the Commission. The non regulatory items includes a petition by the Clark County Health District regarding MTBE. Business not heard on December 8th will be carried forward to the next day.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of permanent regulations in Nevada Administrative Code (NAC) Chapters (NAC) 445A, 445B, and 459. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

Petition 1999-01 is temporary regulation amending NAC 445A.121, 445A.143, 445A.144, 445A.213 of the water pollution control regulations. The regulations are proposed to be amended to change the reference for limits in drinking water standards from the U.S. Public Health Service to those adopted by the Nevada State Board of Health. NAC 445A.143, the Colorado River salinity standards, is proposed to be amended to include the term "flow weighted average". NAC 445A.213, the minimum quality criteria applicable to interstate waters, is proposed to be repealed.

The proposed temporary regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor

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Petition 1999-01 was submitted to the State Environmental Commission (SEC) on October 20, 1998, for adoption as a temporary regulation. Petition 1999-01 will come before the SEC on December 9, 1998.

increase an existing fee.

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**ADOPTED TEMPORARY REGULATION
OF THE NEVADA STATE ENVIRONMENTAL COMMISSION**

Petition 1999-01

Explanation: Matter in italics is new language. Matter in [] is material to be omitted.

AUTHORITY: NRS 445A.425 and 445A.520

Section 1. NAC Chapter 445A.121 is hereby amended to read as follows:

445A.121 Standards applicable to all waters. The following standards are applicable to all *surface* waters of the state:

1. Waters must be free from substances attributable to domestic or industrial waste or other controllable sources that will settle to form sludge or bottom deposits in amounts sufficient to be unsightly, putrescent or odorous or in amounts sufficient to interfere with any beneficial use of the water.
2. Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water.
3. Waters must be free from materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to produce taste or odor in the water or detectable off-flavor in the flesh of fish or in amounts sufficient to change the existing color, turbidity or other conditions in the receiving stream to such a degree as to create a public nuisance or in amounts sufficient to interfere with any beneficial use of the water.
4. Waters must be free from high temperature, biocides, organisms pathogenic to human beings, toxic, corrosive or other deleterious substances attributable to domestic or industrial waste or other controllable sources at levels or combinations sufficient to be toxic to human, animal, plant or aquatic life or in amounts sufficient to interfere with any beneficial use of the water.

Compliance with the provisions of this subsection may be determined in accordance with methods of testing prescribed by the department. If used as an indicator, survival of test organisms must not

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be significantly less in test water than in control water.

5. If toxic materials are known or suspected by the department to be present in a water, testing for toxicity may be required to determine compliance with the provisions of this section and effluent limitations. The department may specify the method of testing to be used. The failure to determine the presence of toxic materials by testing does not preclude a determination by the department, on the basis of other criteria or methods, that excessive levels of toxic materials are present.

6. Radioactive materials attributable to municipal, industrial or other controllable sources must be the minimum concentrations which are physically and economically feasible to achieve. In no case must materials exceed the limits established in the **[1962 Public Health Service]** Drinking Water Standards *as adopted by the State Board of Health* **[(or later amendments) or 1/30th of the MPC values given for continuous occupational exposure in the "National Bureau of Standards Handbook No. 69."]** The concentrations in water must not result in accumulation of radioactivity in plants or animals that result in a hazard to humans or harm to aquatic life.

7. Wastes from municipal, industrial or other controllable sources containing arsenic, barium, boron, cadmium, chromium, cyanide, fluoride, lead, selenium, silver, copper and zinc that are reasonably amenable to treatment or control must not be discharged untreated or uncontrolled into the waters of Nevada. In addition, the limits for concentrations of the chemical constituents must provide water quality consistent with the mandatory requirements of **[the 1962 Public Health Service]** Drinking Water Standards *as adopted by the State Board of Health*.

8. The specified standards are not considered violated when the natural conditions of the receiving water are outside the established limits, including periods of extreme high or low flow. Where effluents are discharged to such waters, the discharges are not considered a contributor to substandard conditions provided maximum treatment in compliance with permit requirements is maintained.

Section 2. NAC 445A.143 is hereby amended to read as follows:

445A.143 Cooperation regarding Colorado River; salinity standards.

1. The State of Nevada will cooperate with the other Colorado River Basin states and the Federal Government to support and carry out the conclusions and recommendations adopted April 27,

1972, by the reconvened 7th session of the conference in the matter of pollution of interstate waters of the Colorado River and its tributaries.

2. Pursuant to subsection 1, the values for total dissolved solids *as the flow-weighted average annual limits* in mg/l at the three lower main stem stations of the Colorado River are as follows:

Below Hoover Dam	723
Below Parker Dam	747
Imperial Dam	879

Section 3. NAC 445A.213 is hereby repealed.

TEXT OF REPEALED SECTION

445A.213 Minimum quality criteria applicable to interstate waters.

The minimum quality criteria applicable to interstate waters at agreed state line sampling points are as follows:

1. Waters must be free from substances attributable to domestic or industrial waste or other controllable sources that will settle to form sludge or bottom deposits in amounts sufficient to be unsightly, putrescent or odorous or in amounts sufficient to interfere with any beneficial use of the water.
2. Waters must be free from floating debris, oil, grease, scum and other floating materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to be unsightly or in amounts sufficient to interfere with any beneficial use of the water.
3. Waters must be free from materials attributable to domestic or industrial waste or other controllable sources in amounts sufficient to produce taste or odor in the water or detectable off-flavor in the flesh of fish or in amounts sufficient to change the existing color, turbidity or other conditions in the receiving stream to such degree as to create a public nuisance or in amounts sufficient to interfere with any beneficial use of the water.
4. Waters must be free from high temperature, biocides, organisms pathogenic to human beings, toxic, corrosive or other deleterious substances attributable to domestic or industrial waste or other controllable sources at levels or combinations sufficient to be toxic to human, animal, plant or aquatic life or in amounts sufficient to interfere with any beneficial use of the water.
5. Radioactive materials attributable to municipal, industrial or other controllable sources must be minimum concentrations which are physically and economically feasible to achieve. In no case must materials exceed the 1/10 of the 168-hour values for other radioactive substances specified in National Bureau of Standards Handbook 69.
6. Wastes from municipal or industrial or other controllable sources containing arsenic, barium, boron, cadmium, chromium, cyanide, fluoride, lead, selenium, silver, copper and zinc that are reasonably amendable to treatment or control must not be discharged untreated or uncontrolled into the Colorado River System. At agreed points of sampling above Imperial Dam in the

Colorado River System the limits for concentrations of these chemical constituents will be set at values that recognize their cumulative effects and which will provide river water quality consistent with the mandatory requirements of the 1962 Public Health Service Drinking Water Standards.

7. The dissolved oxygen content and pH value of the waters of the Colorado River System must be maintained at levels necessary to support the natural and developed fisheries.

End of Temporary Petition 1999-01

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**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233b.066
TEMPORARY PETITION 1999-01
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A. This temporary regulation deals with amendments to the water pollution control program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 1999-01, was noticed three (3) times: November 10th, 17th and 24th, 1998 as a temporary regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The regulation was adopted on December 9, 1998 by the State Environmental Commission. The regulatory workshop was held on November 6, 1998 in Carson City and November 9, 1998 in Elko. No oral testimony was received on this regulation. No written comments were received from at the public hearing during adoption of the regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., room 138, Carson city, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing:	38
(b)	Testified at each hearing:	8
(c)	Submitted to the agency written comments:	4

3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates and locations of workshops and notices. No oral testimony was received from businesses on this regulation. Four written comments were received from the Nevada Mining Association, Newmont Gold Company, Barrick Goldstrike Mines and Independence Mining Company. (exhibits 3, 4, 5 and 6). The comments focused the indirect adoption of Maximum Contaminant Levels and the impact on water body mixing zones. The sections of concern in the regulation was amended and deleted from the adopted regulation. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. 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 permanent regulation was adopted by the state Environmental Commission on December 9, 1998 with major modifications to the petition.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

The proposed temporary regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

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

There is no additional cost to the agency for enforcement.

7. 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 regulations do not overlap or duplicate any regulations of another state or local governmental agency.

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

The regulations are no more stringent than federal regulation.

9. 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.

There will be no additional fees, nor will there be an increase in fees associated with this regulation.