

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2002-01

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-096-01

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification Proposed Adopted By Agency Temporary Emergency

Brief description of action: Petition 2002-01 (LCB R-096-01) permanently amends NAC 445A.070 to 445A.348, the water pollution control program by amending 445A.100 the definition for “point source” by adding language that defines earth moving equipment, and 445A.309, the definition for “diffuse source” to incorporate runoff in various subsections of the definition. In addition, the definition for “diffuse source” clarifies provisions regarding urban area runoff and earth moving activities. The regulation will assist regulated communities in determining when water pollution control permits are necessary.

Authority citation other than 233B: NRS 445A.425 and 445A.428

Notice date: November 12, November 21 and November 29, 2001

Hearing date: December 11, 2001

Date of Adoption of Agency: December 11, 2001

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 2002-01 LCB File R-096-01
STATE ENVIRONMENTAL COMMISSION**

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

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 2002-01 (LCB File R-096-01), was noticed three (3) August 20, August 29 and September 6, 2001 as a permanent regulation in the Las Vegas Review Journal and the Reno-Gazette-Journal newspapers. Regulatory workshops were conducted by the Nevada Division of Environmental Protection's Bureau of Water Pollution Control on August 21, 2001 in Carson City.

The regulation was adopted by the State Environmental Commission as a permanent regulation on December 11, 2001. No oral comments opposing or supporting the regulation were received by the Commission during permanent adoption. Written comments supporting the clarification of the water pollution point source definitions were received by Elko County (exhibit 12) and the Nevada Attorney General (exhibit 13) at the December 11, 2001 hearing. 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 3118, 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;	48
(b)	Testified at each hearing:	0
(c)	Submitted to the agency written comments:	2

3. A description of how comment was solicited from affected businesses, a summary of their response, and an 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 of the public notices and public workshops. No oral testimony or written comments were received that opposed or supported the regulation during permanent adoption. 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 regulation was adopted by the State Environmental Commission on December 11, 2001 without any proposed amendments.

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) Estimated economic effect of the regulation on the business which it is to regulate;

The proposed permanent regulation is not anticipated to have any significant adverse short or long-term economic impact on Nevada businesses.

(b) Estimated economic effect on the public;

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 implementation of this regulation.

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 regulations.

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.

The amended regulations do not provide a new fee nor amend existing fees.

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

LCB File No. R096-01

Explanation - Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 445A.428; §§2-4, NRS 445A.425.

Section 1. NAC 445A.0586 is hereby amended to read as follows:

445A.0586 1. “Point source” has the meaning ascribed to it in NRS 445A.395.

2. The term includes wheeled, track, stationary or floating equipment used for earth- moving activity from which pollutants are or may be discharged.

Sec. 2. NAC 445A.100 is hereby amended to read as follows:

445A.100 1. “Point source” has the meaning ascribed to it in NRS 445A.395.

2. The term includes wheeled, track, stationary or floating equipment used for earth-moving activity from which pollutants are or may be discharged.

Sec. 3. NAC 445A.309 is hereby amended to read as follows:

445A.309 “Diffuse source” includes:

1. Agricultural activity, including return flows from irrigation;
2. Silvicultural activity;
3. Mining activity;
4. ~~{Construction of}~~ *Runoff from construction activities associated with* buildings, roads, dams, utility lines or other improvements or facilities;
5. Runoff from roads, streets and railroads;
6. ~~{Construction}~~ *Runoff from construction activities associated with recreational trails* or *the* use of recreational trails;

7. Modification of water courses or stream channels; and
8. Runoff from urban areas.

The term includes any of the items specified in this section regardless of whether wheeled, track, stationary or floating equipment is used for earth-moving activity.

Sec. 4. NAC 445A.372 is hereby amended to read as follows:

445A.372 *1.* “Point source” has the meaning ascribed to it in NRS 445A.395.

2. The term includes wheeled, track, stationary or floating equipment used for earth-moving activity from which pollutants are or may be discharged.

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