

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 97005

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-106-97

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

YES 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 [xx] Temporary [] Emergency []

Brief description of action: **Petition 97005 (LCB File R-106-97)** amends NAC 445A.266 by expanding the provisions of a general water pollution control permit to include rolling stock for the purpose of working in the waters of the state. In addition, the processing time for the permit shall not exceed 60 days and provisions are established that allows for public hearing upon the notice of intent. This regulation follows the instructions defined in Assembly Bill 594 of the 1997 Nevada Legislative Session.

Authority citation other than 233B: NRS 445A.425 and 445A.465

Notice date: August 21, August 27 and September 2, 1997

Hearing date: September 23, 1997

Date of Adoption of Agency: September 23, 1997

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 97005 (LCB R-106-97)**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445A.

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 97005 (LCB R-106-97), was noticed three (3) times: August 21, August 27 and September 2 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. The public was also mailed the public notice through the Environmental Commission's mailing list. The Bureau of Water Pollution Control also did a direct mailing to affected public agencies and businesses. A regulatory workshop was held on September 10, 1997. Verbal comments were received from the Nevada Mining Association and the Lahontan Conservation District. The comments focused on clarification of the proposed changes upon existing rolling stock water pollution control permit processes. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 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; | 22 |
| (b) | Testified at each hearing; | 14 |
| (c) | Submitted to the agency written comments; | 8 |

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. Comments from Barrick Goldstrike Mines Inc. focus on allowing all temporary permit activities be included in the general permit, including construction dewatering be included in the expanded regulatory definition for general permits were. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 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 without amendments on September 23, 1997. No amendments were proposed or offered during adoption of the permanent regulation.

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.

This petition does not have an adverse economic effect upon the public, nor is there an immediate or long-term economic effect upon the public. There will be a positive economic benefit to businesses, individual and public agencies since rolling stock permits will no longer be treated as temporary permits but as part of a general permit. The Division will see annual revenues for water pollution control permits decrease by approximately \$ 2,500. Permits will be required to be issued within 60 days of the notice of intent. This will have an economic benefit to the regulated community to receive permits within such a limited timeframe.

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

There will be no increased cost to the Division of Environmental Protection for enforcement 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.

There are no other state or government agencies which the proposed regulation overlaps or duplicates.

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

This regulation is no more stringent than federal requirements.

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 adopted regulation does not include an increase in fees, however fees will be reduced from the existing \$ 250 to \$ 200 due to the conversion of the rolling stock permit from a temporary to general permit status.

ADOPTED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R106-97

Explanation: Matter in **italics** is new; matter in [] is material to be omitted.

AUTHORITY: § 1, NRS 445A.425, and 445A.465.

Section 1. NAC Chapter 445A.266 is hereby amended to read as follows:

445A.266 1. A general permit may be issued for:

(a) A discharge; **[or]**

(b) The reuse or ultimate disposal of treated wastewater and sludge [.] *or*

(c) Rolling stock for work in waters of this state, including, but not limited to, dredging or filling, bank stabilization or restoration, channel clearance, construction of irrigation diversions or pipe crossings, and the clearance of vegetation, debris or temporary obstructions.

2. The department will process a notice of intent to engage in an activity for which a general permit has been issued pursuant to this section not later than 60 days after the date on which the department receives the completed notice of intent and the required fees, unless the administrator of the division determines that it is in the public interest to hold a public hearing regarding the notice of intent. Upon making such a determination, the administrator of the division shall promptly notify the person who submitted the notice of intent that a public hearing will be held regarding the notice of intent.

3. A facility discharging any pollutant into any waters of this state must be located within:

(a) An area designated for water quality planning;

(b) A sewer district or a sewer authority;

(c) The political boundaries of a city or county;

(d) A state or county highway system; or

(e) Any other division or combination of boundaries deemed appropriate by the director, to be approved to operate under a general permit.

[3.] 4. Discharges from a facility described in subsection **[2] 3** must:

(a) Involve the same or substantially similar types of operations;

(d) Discharge the same types of pollutants or engage in the same types of use or disposal;

(c) Require the same effluent limitations, operating conditions or standards for reuse or disposal;

(d) Contain storm water;

(e) Require the same or similar monitoring; or

(f) In the opinion of the director, be more appropriately regulated by a general permit than by an individual permit.

[4.] 5. A general permit may not include a facility that holds an individual permit.

END LCB File No. R106-97