



STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

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Summary of Minutes and Comments of the Nevada Division of Environmental Protections (NDEP) Public Workshops on Proposed Regulation Amendments to Nevada's Administrative Code NAC 445A.450 to 445A.5335 and 445A.65825 to 445A.67185

Four workshops were held on the following dates and at the following locations:

- November 5, 2014, 9:00 AM, Tonopah Convention Center, Tonopah
- November 6, 2014, 9:00 AM, Elko Campus Great Basin College, Elko
- November 13, 2014, 9:30 AM, Charleston Campus, College of Southern Nevada, Las Vegas
- November 18, 2014, 10:00 AM, Carson City Community Center, Carson City

Participants were notified that workshop proceedings and comments would be recorded. The intent of the workshop was to provide an informational overview of the proposed regulation changes to state public water systems, and provide a framework for understanding primacy and the adoption of federal regulations by reference. It was further noted that proposed changes will be reviewed by the State Environmental Commission (SEC) meeting on December 3; they will send their recommendations to the appropriate Nevada Legislative committee for final action.

Tonopah Workshop, November 5, 2014

Meeting attendees

Name	Affiliation	Name	Affiliation
Larry Koch	Air Force Facilities	Jay Lake	Air Force Facilities
Dan Kimsey	Air Force Facilities	Mark Madsen	Air Force Facilities
Larry Grant	Hawthorne Utilities	Tom Carrigan, Jr.	Hawthorne Utilities
Jack Osburn	Nye County Contract Operator		

Workshop commenced at 9:00 a.m.

Elko Workshop, November 6, 2014

Meeting attendees

Name	Affiliation	Name	Affiliation
J. D. Fenenga	Barrick Goldstrike	Adeline Thibault	Barrick Mining
Carlos Esparza	City of Carlin	Byron Brice	Marigold Mine
Marcia Scott	Jiggs Bar	Dale Johnson	City of Elko
Jason Pengelly	City of Wells	Dennis Colton	City of Wells
Glen Shamblin	City of Wells	Brent Johnson	City of Elko

Jim Tharp
Ginger Peppard
Ryan Limberg

Newmont Mining
Marigold Mine
City of Elko

Michelle Cuellar
Lynn Forsberg

Marigold Mine
Elko County

Workshop commenced at 9:00 a.m.

Las Vegas Workshop, November 13, 2014

Meeting attendees

Name	Affiliation	Name	Affiliation
Tony Howerton	Nevada State Parks	Matt Elmer	Nevada State Parks
Stan Van Wagenen	SNWA	Rick Giltner	SNWA
Jacob Wavers	Hacienda Hotel & Casino	Todd Myers	Nevada Dept. of Corrections
Jim Colmey	Apex	Krista Nicotra	Utility Services
Leroy Daines	Utility Services	Corey Emus	SNWA/LVVWD
Anthony Ventura	Clark County School District	Doug Machinney	SNWA
Willie Fehner	SNWA	Justin Hanks	SNWA
Mike Didonata	SNWA	Shanon Daines	Water Utility Services
Rebecca Hogaboom	US Ecology Nevada	Jeremy Lustig	City of Henderson
Adrian Edwards	City of Henderson	Kevin Fisher	SNWA
Jerome Breland	City of North Las Vegas		

Workshop commenced at 9:34 a.m.

Carson City Workshop, November 18, 2014

Meeting attendees

Name	Affiliation	Name	Affiliation
Doyle Nicholson	Nevada State Parks	Randy Mark	Broadbent & Assoc.
Andy Turiczek	PUC Nevada	Brian Gibbs	Lyon County Utilities
Adam Roney	PUC Nevada	Eddy Quaglieri	PUC Nevada
Ryan Kolda	NVRWA	William Campbell	Washoe County School District
Mark Gonzalez	Gardnerville Water Company	Kelly McGlynn	TMWA
Bob Foerster	NVRWA	Chris Hoffert	Lyon Co. Utilities
Scott Fleckenstein	Lyon Co. Utilities	Bruce Scott	RCI
Tyler Viani	SOC Hawthorne Army Depot	David Musselman	SOC Hawthorne Army Depot

Workshop commenced at 10:05 a.m.

Introduction

Ms. Andrea Seifert opened all of the workshops with an overview of the topics that would be addressed, provided a framework for the workshop, including a background of the federal Safe Drinking Water Act, Lead-Free Act and the Total Coliform Rule (Code of Federal Regulations (CFR) 40), explaining the process of adopting a regulation by reference and updating technical references with the NAC 445A. Ms. Seifert solicited public comment before commencing the review of revisions. She then introduced Ms. Margie Evans to present the key points of the Revised Total Coliform Rule (RTCR) of the CFR Safe Drinking Water Act, which is proposed to be adopted by reference. Ms. Seifert stressed that it is not the state's plan or intention to make the regulation any more stringent than the federal regulation.

Proposed Regulation Revisions

Revised Total Coliform Rule

Ms. Evans began with a review of the current Total Coliform Rule (TCR) and how it is applied in the state and contrasted how the RTCR would apply. Components discussed:

- Monitoring
- Violations
- Treatment Techniques -- Level 1 and Level 2 Assessments
- Seasonal Water Systems Start-up Requirements
- Site Sampling Plans

Ms. Seifert completed the discussion on RTCR by discussing:

- Public Notice Requirements
- Tier 1, 2, 3 Notifications
- Monitoring and Reporting separate violations
- Consumer Confidence Reports

Ms. Seifert then went on to explain the Lead in Drinking Water Act and how the recent changes have affected Nevada regulations and Nevada public water systems.

Additional regulation changes proposed include adoption of:

- Reduction of Lead in Drinking Water Act
- Community Fire Safety Act

Following that was a discussion of the proposed amendments, and the recommendation by the Legislative Council Bureau to update our regulations by adopting more recent versions of the reference manuals to maintain currency within the industry along with the location and price to attain. Finally, discussion occurred regarding the change in population cap by the 2011 Nevada State Legislature pertaining to Clark County and the associated need to update NAC 445A.450, Subparagraph 7.

Unique to the Carson City workshop was additional discussion on the November 14, 2014 “green-line” changes that were drafted in response to questions, answers, and research since the previous workshops. This included discussion on the following topics:

- Definition of “Determined to be compatible with drinking water” (NAC 445A.65825) and that the “standards” are established by the American National Standards Institute (ANSI) and the National Sanitation Foundation International (NSF International). The ANSI accredited testing laboratories have historically included testing laboratories other than NSF International, such as Underwriters Laboratory (UL).
- Sec. 8 (NAC 445A.66085) was modified to clarify Standard 372 by properly referencing ANSI and NSF International as it is referred to in Sec. 10 (NAC 445A.66685, Subparagraph 1 c).
- Sec. 8 (NAC 445A.66085) still required that gate valve, service saddle or fire hydrants not be composed of more than 8 percent lead and meet the requirements of ANSI and NSF International Standard 6.
- Sec. 12 (NAC 445A.67125, Subsection 2) regarding the choice of materials in the distribution system was modified to address comments about components of the distribution system that were only available in metal. Further exceptions would be reviewed under NAC 445A.6665 regarding special exceptions.

Questions, Comments and Responses

Tonopah Workshop

	Made by	Statement
Comment		The hardest part of having a coliform positive is remembering to take 5 samples the following month.
Question		Will we still have to do source water sampling?
Answer	Seifert/Evans	Absolutely. Changes to the RTCR do not alter the Groundwater Rule.
Question	Tom Carrigan	What is a treatment process? Addition of chlorine or what?
Answer	Evans	Treatment technique in this case is a process to clean the system. For the RTCR, Treatment techniques will include the Level 1 and Level 2 Assessments.
Comment ¹	Larry Grant	Is NvRWA going to be able to do that? Would like to see them do it because they are trusted and qualified across the state. It would make it a lot easier for all of us. I would like to see you give that some consideration.
Comment	Jack Osburn	If you can't find the (Total Coliform) problem right away, take a camera down the system.
Comment	Grant	Schurz stays pressurized throughout the year.
Question/ Comment	Osburn	They still have to flush tanks and system to remove stagnant water.

Question	Larry Koch	New wells?
Answer		Not part of the process. There is a procedure for you to follow when a new well is brought online. It is not changing under RTCR.
Comment ⁱⁱ	Osburn	The facility manager doesn't understand the flow of water as much as the operator. A tank or other location may be a better site than 5 up or down specified by EPA.
Comment	Grant	I like the Level 1 assessment. It is probably already being done in some format, although not formally.
Question	Koch	If the lab notifies the water system that they have an <i>E. coli</i> , and we ask if the lab has notified the state does that meet the requirement for the water system to notify the state?
Answer	Seifert	The lab notifies us that you have an <i>E. coli</i> . You still need to notify the state to let us know that you are posting a public notice. It is the water system's responsibility to know when they have triggered a public notice requirement or a treatment technique. You have 24 hours to post a public notice for that exceedance. So don't wait for the state to start preparing the public notice.
Question	Koch	Do you report the MCL for <i>E. coli</i> , or do you report every presence/absence?
Answer	Seifert	Systems need to report every sample that was present for <i>E. coli</i> . You also need to report (with different language) when you've exceeded the MCL.
Comment	Grant	With the Reduction of Lead in Drinking Water Act, everything is a higher cost.
Question	Grant	Are RP preventers in stores required to be lead-free also? They already have internal protection and utility backflow preventers at meters.
Answer	Seifert	Yes, they would be required to meet the Lead Free definition under the Lead Free Amendments. Depending on the Cross Connection Control Program, it may be enforceable under either the public water system regulations or the Uniform Plumbing Code.
Comment	Grant	Level 1 assessment should also check on laboratory error and aging infrastructure.
Answer	Seifert/Evans	Comment will be reviewed/incorporated into Level 1 Assessment

* Additional follow-up denoted by end-note reference.

Elko Workshop

	Made by	Statement
Question	Jim Tharp	Is this presentation available?
Answer	Seifert	It is on the website.
Question	Jason Pengelly	If the coliform is unconfirmed does it apply toward a 12-month trigger?
Answer	Evans	No. Only a “confirmed coliform” 2 TC or more is used as a trigger.
Comment	Pengelly	Checklists are helpful and simple
Question	Ryan Limberg	In the sample plan, do you want us to include upstream and downstream sites?
Answer	Evans	Yes
Question	Limberg	Will the CCR I-writer automatically include new language and new requirements?
Answer	Seifert	I will look into that, and we will be doing more targeted training next year on some of the nuances.
Question	Limberg	Can you tell us just briefly what the Community Fire Safety Act is?
Answer	Seifert	Provided synopsis of Act. It exempted fire hydrants from the requirement to meet the definition of being lead-free.
Comment ⁱⁱⁱ	Limberg	372 AND 61 “or as it pertains”
Answer	Seifert	Correct. For Lead-free, both pertain.
Question	Limberg	Regarding corrosivity, How could you install a part (valve, gate, etc) that has no metal in it? Will you accept an epoxy coating?
Answer ^{iv}		Answer unknown.

* Additional follow-up denoted by end-note reference.

Las Vegas Workshop

	Made by	Statement
Question	Rick Giltner	Will the regulations be more stringent?
Answer	Seifert	We do not intend for the state regulations to be more stringent than the federal.
Question		Can samples be Dual Purpose – Can a groundwater sample count as one of the three repeats required.
Answer ^v	Evans	I don’t believe so, although there may be some relief for VERY small systems.
Question	Corey Emus	What specific language will we have to put in CCRs?
Answer	Seifert	There are very specific requirements in the 40 CFR. We will be doing training; different triggers require different language. The health effects language is not pretty, nor is it meant to be. Sometimes systems want to change it to make it less severe, but that isn’t allowed.
Comment	Emus	Does not believe they are currently reporting every

		<i>E. coli</i> , only confirmed.
Answer ^{vi}	Seifert	Will check with the CCR Rule manager, Ross Cooper.

* Additional follow-up denoted by end-note reference.

Carson City Workshop

	Made by	Statement
Question	Doyle Nicholson	To verify: <i>E. coli</i> doesn't cause a boil-water order?
Answer	Evans	One positive sample with no positive repeats is not a confirmation of anything. In the follow-up sampling any of the following would have caused a Tier 1 public notice boil water order, and under RTCR a Level 2 assessment: an <i>E. coli</i> +, a total coliform + or not taking repeats.
Answer	Seifert	The state and health districts have at times issued a precautionary boil water under certain circumstances. We will continue to issue a precautionary BWO if the circumstances warrant. Occasionally samples can't be taken over the weekend, the system knows something is possibly wrong with the system, and in those cases we will issue a precautionary boil water order using specific language and elevating to a BWO if warranted.
Question	Nicholson	If 1 building is shut off but the distribution line is not depressurized, would a seasonal start-up procedure be required?
Answer ^{vii}	Seifert	There would need to be an understanding of how shutting down a portion of the system could impact the rest of the distribution. Shutting off a service connection? But pressurized up to the building? In that scenario, probably not. But it would likely cause extra coliform sampling before you bring it back online.
Question		Following a loss of pressure, does the coliform sampling need to be done 24 hours apart?
Answer	Evans	The regulation requires sampling on consecutive days. That allows you to take a sample one afternoon late, then one early the next morning, and turn them in to the lab at the same time if that works better for you.
Question	Randy Mark	Regarding site sampling plans: You will tell us if we're missing anything on our sampling plans?
Answer	Seifert	Current regulations require the water system to have those on file for us to review. So it is ultimately the

		water system's responsibility. We will be reviewing plans as time allows so we can get everything up to date.
Question		What if you have no upstream and downstream?
Answer ^{viii}	Evans	You will certainly be accommodated and not penalized for having less than five connections.
Question	R. Mark	Regarding a Level 2 Assessment: Is there minimum mandatory penalties or fines associated because you have to bring someone out?
Answer	Evans	There is no violation specifically when a Level 2 assessment is triggered.
Answer	Seifert	At this time we are not anticipating levying any fines or recoupment of costs in association with doing a Level 2 assessment. In short there is no change in fees. It is important to remember that you have 30 days to identify the problem and get it fixed. The system needs to be flexible to work with us; we try to work with systems but need to get in to get the assessment done so you have time to correct the defects that are found.
Question	Mark Gonzalez	So come 2016, do we get a clean slate?
Answer	Seifert	From my understanding of the regulation a problem in March won't carry across into April 1, 2016, so essentially you do get a clean slate.
Comment ^{ix}	Kelly McGlynn	Regarding proposed NAC 445A.66085, subparagraph 3, how are we going to know if the industry backslides on the standard (8% lead content). For instance if they aren't held to any standard, how can we be sure that our suppliers are holding to a standard? And who will certify that standard? It's the hydrants I worry about the most because they have so many components in them. They are the hardest ones to find manufacturers for that say they are certified to standards.
Question	Seifert	What are the major manufacturers that supply hydrants?
Answer	Various Participants	Mueller, AVK
Comment	McGlynn	Fire hydrants could contaminate in a backflow condition, although they don't commonly come into contact with drinking water.
Comment	Seifert	There is no mention of fire hydrants in the current regulation with reference to meeting the 8% lead-free requirement.
Questions	Seifert	Are there other types of hydrants?

Answer	Various Participants	Yard hydrants, flushing hydrants.
Comment	McGlynn	Up in Reno and Sparks and portions of Washoe County, we have adopted the Truckee Meadows Water Authority Construction and Design Standards, which are more stringent and comprehensive than the Orange Book. We would like to see that added as one of the references. Our Standard has a lot more detail than the Orange Book.
Answer	Seifert	I will take that comment back to the Division. There are plans for a comprehensive review of our Design and Construction regulations, and this could be addressed when the Design and Construction regulations are opened up for general review/revision.

* Additional follow-up denoted by end-note reference.

Videoconference Water Workshop hosted by Nevada Rural Water Association – Not an official Workshop, but it was a training that included discussion on the proposed amendments and resulted in comments. November 14, 2014

	Made by	Statement
Question	Attendee	Can we post handouts, workshop documents, draft forms to website?
Answer	Seifert/Evans	We will try to have them up in a few days.
Question	Attendee	Does certification have to be NSF?
Answer ^x		As long as the product is certified to ANSI/NSF standards, the product is okay. The product does not have to be made by NSF.
Comment ^{xi}	Attendee	Please clarify the definition of Lead-free.
Comment ^{xii}	Kelly McGlynn	Is industry itself going to backslide on the lead content in items exempted by the Community Fire Safety Act?
Question ^{xiii}	Attendee	NSF standard vs. ANSI standard – which standard is utilized by more industry manufacturers?

Additional follow-up denoted by end-note reference.

i Clarification: We are considering who will be approved as we move forward with our primacy package to EPA. We will continue to consider how to include organizations like NvRWA.

ii Clarification: Under RTCR, locations such as tanks will be viable options for a public water system to propose for repeat monitoring.

iii Clarification: Both Standard 372 and 61 apply to distribution system materials, unless exempted (Gate valves larger than 2 inches, service saddles, and fire

hydrants). Standard 372 pertains to the lead content of the material, and Standard 61 pertains to the leaching of compounds, including lead, from the materials. Exempted materials would still need to comply with Standard 61, as has been required since February 20, 1997, under NAC 445A.66685.

iv Clarification: Based on the comment, proposed modification have been made to Section 12, that can be reviewed as part of the November 14, 2014, green-lined version and further explained as follows:

- In Section 12, Subsection 2(a) we propose to revert back to the original language. We agree with a commenter that changing to “metal” from specifically “metallic pipe” made the restriction too broad. The language in the first sentence of Subsection 2 should cover concerns regarding construction materials other than metallic pipe.
- In Section 12, Subsection 2(b) we would like to add a qualifying statement that would allow the Division to make a determination when plastics or gaskets could be used based on our Special Exception authority in NAC 445A.6665 (as now referenced). Since we proposed these amendments to LCB, a project was reviewed that constitutes an advance in gasket materials that could be considered safe in the situation addressed by this regulation.

v. Clarification: 40 CFR 141.853 (a)(5)(ii) A groundwater system serving 1,000 or fewer, with a single well may take one of its repeat samples at the source to meet both the requirements of the Groundwater Rule and the RTCR.

vi. Clarification: CCR requirement – every *E. coli* and Total Coliform is required to be reported in the CCR under the current requirements and under RTCR.

vii. Clarification: Depressurizing a building might not fit in the definition of seasonal start-up under RTCR. However a loss of pressure does require additional coliform sampling on consecutive days before returning it to public service.

viii. Clarification: The water system is allowed to take multiple samples from one tap or take a larger volume at the single tap. The state’s position is currently that multiple samples from a single tap must be taken at least 3 minutes apart.

ix. Clarification: The intent of the language in the November 14, 2014 proposed amendments was to prevent backsliding of the existing definition of lead-free (8 % lead content) in the 3 devices exempted from the new federal definition of lead-free (0.25% lead). Upon consideration of various comments received, the December 2, 2014 green-lined version will be brought to the State Environmental Commission on December 3, 2014, for adoption consideration.

The portions being struck are in response to significant public comment and question regarding how NDEP would track compliance and enforce the old 8% lead level in the

three items exempted in the SDWA Amendments in 2011 and 2013 (gate valves >2", service saddles and hydrants). NDEP has since done further research and learned that as the Safe Drinking Water Act changed, so did ANSI/NSF Standard 61 (which used to address the 8% lead free definition), and the NDEP would have no way of confirming that a public water system purchased a new hydrant (for example) that met the old standard; nor could a public water system even seek such assurances from suppliers when procuring equipment.

Proposed revisions are outlined as follows:

- Propose striking Section 8, Subsection 3 and the corresponding language in Section 12, Subsection 3.
- Propose adding the federally exempted components into Section 12, Subsection 3.

x. Clarification: ANSI refers to American National Standards Institute, and NSF refers to National Sanitation Foundation International. ANSI/NSF International develops industry standards to be used in certification by independent third party laboratories. Certification to ANSI/NSF International standards can be performed by accredited laboratories other than NSF International, such as Underwriters Laboratory (UL).

xi. Clarification: It is proposed that the definition of "Lead-free" in NAC 445A.66805 (Section 8) be modified to incorporate the new Amendments to the Safe Drinking Water Act. Whenever the term "Lead-free" is used in the other portions of NAC 445A.65505 thru NAC 445A.6731, it would have to meet the definition of "Lead-free". The other section of the mentioned regulation range where "Lead-free" is used is in 445A.67125 (Section 12), which is also proposed for amendment. Under the proposed amendments, materials will need to meet the 0.25%, except those portions exempted from the Federal Lead Free Amendments to the Safe Drinking Water Act.

xii. Clarification: This question was the source of some of the information used for consideration of the December 2, 2014 proposed amendments and discussed in more detail in endnote ix.

xiii. Clarification: Please refer to endnote x. The standards that are used for certification have been developed by ANSI and NSF International jointly. ANSI then accredits laboratories for certification to the ANSI/NSF International standards. NSF International has a laboratory which is accredited by ANSI. Other organizations also have laboratories that are accredited by ANSI for certification to the ANSI/NSF International standards mentioned in NAC 445A.65825, 445A.6663 and 445A.66685.