REGION 9
SAN FRANCISCO, CA 94105

Jennifer Carr, P.E.
Administrator
Nevada Division of Environmental Protection
901 S. Stewart Street, Suite 4001
Carson City, Nevada 89701

Transmitted by Email Only

Subject: Approval of Nevada Algal Toxins Water Quality Criteria to support recreational uses and minor technical corrections

Dear Administrator Carr,

The U.S. Environmental Protection Agency (EPA) hereby approves the new water quality standards (WQS) in the subject amendments consistent with applicable provisions in Clean Water Act (CWA) section 303(c) and 40 C.F.R. §131. Supported by robust science and stakeholder engagement, the standards include algal toxins criteria to support human health uses of Nevada surface waters.

The approved standards take effect immediately for CWA purposes. Incorporated as part of this letter are Enclosure A (Summary of Approved Standards) and Enclosure B (EPA's Review of Nevada Human Health WQS for Algal Toxins and Minor Technical Corrections).

I look forward to our continued partnership to protect Nevada's water quality and advance human health. Please contact me at 415-972-3337 or torres.tomas@epa.gov if you would like to discuss further, or your staff may contact Melanie Alvarez at 415-947-3577 or alvarez.melanie@epa.gov with specific questions concerning this approval.

Sincerely,

Digitally signed by
TOMAS TORRES
Date: 2026.10.20
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Tomás Torres
Director, Water Division

Enclosures

A. Summary of Approved Standards
B. EPA Review of Nevada Human Health WQS for Algal Toxins and Minor Technical Corrections

cc: Jason Kuchnicki, NDEP Water Quality Planning Bureau

Enclosure A
Summary of Approved Standards

The following water quality standards (WQS), excerpted from the State of Nevada, State Environmental Commission, "Approved Regulation of the State Environmental Commission: LCB File No. R149-24", as submitted to EPA on April 21, 2026, are consistent with the requirements of Clean Water Act (CWA) section 303(c) and 40 C.F.R. §131 and are effective immediately for CWA purposes.

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Nevada Administrative Code (NAC) 445A.1236 is hereby amended as follows:

Chemical	**Recreation Involving Contact With the Water (µg/L)**
Cylindrospermopsin	15[j,k,(8)]
Microcystins	8[j,k,(8)]

Footnotes and References:

(8) The applicable criterion value must not be exceeded in more than three separate 10-day non-rolling periods in consecutive water years. As used in this footnote, "water year" means the 12-month period beginning on October 1 and ending on September 30 of the immediately following calendar year.

j. U.S. Environmental Protection Agency, Pub. No. EPA 823-R-21-002, Implementing the 2019 National Clean Water Act Section 304(a) Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin, July 2021.

k. U.S. Environmental Protection Agency, Pub. No. EPA 822-R-19-001, Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin, May 2019.

Revision of Language in NAC 445A.1236

Technical corrections to criteria table for toxic materials. Corrections include associating footnote 5 to the water quality standards for cyanide indicating that the standard is expressed as free cyanide and correcting the spelling of the term "Heptachlor Epoxide."

Enclosure B

EPA Review of Nevada Human Health WQS for Algal Toxins and Minor Technical Corrections

Background

Section 303 of the Clean Water Act (CWA), 33 U.S.C. §1313, requires states to establish water quality standards (WQS) and to submit any new or revised standards to EPA for review and approval or disapproval. See also 40 C.F.R. §131. Nevada's Division of Environmental Protection's (NDEP) adoption of revised WQS included a Notice of Proposed Rulemaking soliciting public comments on June 25, 2025. The public comment period ended on August 14, 2025. Written comments received were addressed by NDEP in its final rulemaking. NDEP held a public hearing before the State Environmental Commission (SEC) on September 9, 2025, where the amendments were approved. A certification from the Attorney General for Nevada dated April 20, 2026, stated that the revisions were duly adopted pursuant to Nevada law.[1] EPA received Nevada's submittal on April 21, 2026. EPA finds the public participation procedures followed by the State in development and adoption of the revisions to the statewide WQS consistent with the procedural requirements set forth in 40 C.F.R. §131.20(b).

Where EPA has determined that Nevada's rule revisions are new or revised WQS, EPA has reviewed and acted on these revisions pursuant to section 303(c) of the CWA.[2]

EPA Analysis of Submittal

EPA's implementing regulations at 40 C.F.R. §131.11 specify that states must adopt water quality criteria that contain sufficient parameters or constituents to protect the designated use[3] and demonstrate that the criteria are based on sound scientific rationale and support the most sensitive designated use of the waterbody. The state's rationale for new and revised criteria must be clearly documented in its submittal to EPA per 40 C.F.R. §131.6(b) and (c). EPA reviews the WQS to determine if they are consistent with the factors listed at 40 C.F.R. §131.5 and contain the minimum requirements listed at 40 C.F.R §131.6.

Nevada revised its Standards for Toxics Materials table (NAC 445A.1236) to include water quality criteria for two algal toxins, microcystins and cylindrospermopsin, to support Nevada's *Recreation Involving Contact with the Water* human health beneficial use.[4] Based on the analysis described below, EPA finds the WQS shown in Enclosure A are consistent with 40 C.F.R. §131 and are approved pursuant to section 303(c) of the CWA.

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[1] Armstrong, Katie S., Deputy Attorney General, State of Nevada. Letter, Re: 40 CFR 131.6(e) Certification of Regulation R149-24. April 20, 2026.

[2] EPA has provided FAQs on "What is a New or Revised Water Quality Standard Under CWA 303(c)(3)?" at https://www.epa.gov/sites/production/files/2014-11/documents/cwa303faq.pdf.

[3] The terms "beneficial use" and "designated use" are used interchangeably in this document.

[4] NAC 445A.122 (d) Standards applicable to beneficial uses.

I. Human Health Criteria for Algal Toxins to Support Contact Recreation Use

Nevada adopted criteria that are consistent with EPA's 2019 CWA section 304(a) human health recreational criteria for algal toxins microcystins and cylindrospermopsin.[5] EPA's CWA 304(a) recommended criteria are based on the latest scientific information on the relationship between algal toxin concentrations and human health, therefore EPA finds that Nevada's criteria are based on a sound scientific rationale consistent with 40 C.F.R. §131.11.

The frequency and duration components of a criterion describe how often and for how long a water body's conditions can exceed the criterion magnitude and be protective of the designated use. EPA's 304(a) criteria recommend algal toxins criterion not to be exceeded in more than three 10-day assessment periods over the course of a recreational season in more than one year. Nevada's adopted criteria specify that the applicable criterion must not be exceeded in more than three separate 10-day non-rolling periods in consecutive water years.[6]

While EPA recommends using a "recreational season" approach for impairment determination, Nevada opted to establish criteria that apply year-round because Nevada's warm and drought-prone climate experiences blooms that are known to persist or occur year-round.[7] EPA finds that year-round criteria is more stringent than EPA's recommended criteria and is based on a sound scientific rationale consistent with 40 C.F.R. §131.4 that allows states to adopt criteria more stringent than what EPA recommends.

EPA finds that Nevada's human health criteria for microcystins and cylindrospermopsin are consistent with 40 C.F.R. §131.11 to protect the contact recreation designated use.

Table 1. EPA Evaluation of Nevada Algal Toxins Criteria Approval

Parameter	CAS Number	NV adopted criteria (µg/L)	New or revised	EPA 304(a) criteria (µg/L)	EPA decision
Microcystins	101043-37-2	8	New	8	Approve
Cylindrospermopsin	143545-90-8	15	New	15	Approve

II. Revision of Language in NAC 445A.1236

[5] U.S. Environmental Protection Agency, "Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin." EPA Publication No. EPA 822-R-19-001. May 2019.

[6] State of Nevada, State Environmental Commission, "Proposed Regulation of the State Environmental Commission: LCB File No. R149-24, July 25, 2024." Submitted to U.S. Environmental Protection Agency on April 21, 2026.

[7] State of Nevada, Nevada Division of Environmental Protection, Bureau of Water Quality Planning, "Rationale for Proposed Revisions to NAC 445A.1236 and Water Quality Standards for Algal Toxins: R149-24." August 2025.

Nevada made minor technical corrections to its criteria table for toxic materials. Corrections include associating footnote 5 to the water quality standards for cyanide indicating that the standard is expressed as free cyanide and correcting the spelling of the term "Heptachlor Epoxide."

EPA finds these revisions to be non-substantive changes to WQS that do not change the underlying standards.[8] EPA hereby approves these non-substantive changes to previously approved WQS to ensure public transparency as to which provisions are applicable for purposes of the CWA in accordance with 40 C.F.R §131.21(c).

III. Consultation with Indian Tribes

In accordance with the "EPA Policy on Consultation with Indian Tribes" (https://www.epa.gov/system/files/documents/2025-04/epa-policy-on-consultation-with-indian-tribes.pdf), on November 24, 2025, EPA offered consultation by letter to the Inter-Tribal Council of Nevada and 23 Tribes in and around Nevada. No tribes requested consultation.

IV. Endangered Species Act (ESA) Consultation

Section 7(a)(2) of the ESA states that each federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened (listed) species or result in the destruction or adverse modification of critical habitat. For ESA section 7(a)(2) to apply, EPA must be taking an action in which it has sufficient discretionary federal involvement or control to protect listed species. EPA has no discretionary federal involvement or control to protect listed species when it approves or disapproves state water quality standards actions to protect human health.

Nevada's algal toxins criteria are human health water quality standards. EPA's discretion to act on a state submission concerning human health standards is limited to determining whether the submission protects human health. Therefore, consultation with the Services is not required on this action.

V. Conclusion

Based on EPA's review, Nevada's new and revised WQS are consistent with the requirements of the CWA and 40 C.F.R. §131. Therefore, EPA approves the WQS as shown in Enclosure A pursuant to section 303(c) of the Act.

VI. References

State of Nevada, State Environmental Commission, "Proposed Regulation of the State Environmental Commission: LCB File No. R149-24, July 25, 2024." Submitted to U.S. Environmental Protection Agency on April 21, 2026.

[8] EPA has provided FAQs on "What is a New or Revised Water Quality Standard Under CWA 303(c)(3)?" at https://www.epa.gov/sites/production/files/2014-11/documents/cwa303faq.pdf. The link provides detailed information of such analysis.

State of Nevada, Nevada Division of Environmental Protection, Bureau of Water Quality Planning, "Rationale for Proposed Revisions to NAC 445A.1236 and Water Quality Standards for Algal Toxins: R149-24." August 2025.

U.S. Environmental Protection Agency, "Implementing the 2019 National Clean Water Act Section 304(a) Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin.", EPA Publication No. 823-R-21-002. July 2021.

U.S. Environmental Protection Agency, "Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin." EPA Publication No. EPA 822-R-19-001. May 2019.

U.S. Environmental Protection Agency, "What Is a New or Revised Water Quality Standard Under CWA 303(c)(3)? Frequently Asked Questions." https://www.epa.gov/sites/production/files/2014-11/documents/cwa303faq.pdf. October 2012