

SUPPLEMENTAL FORM #1 (R113-22)

FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS

1. Name, address, telephone number, and signature:

Nevada Department of Conservation and Natural Resources
Division of Environmental Protection
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5. A statement of the:

(a) Estimated economic effect of the regulation on the business which it is to regulate:

The proposed regulation may have an indirect economic impact on a new discharger applying for a point source discharge permit and an existing permittee who proposes a major modification during renewal of their discharge permit, however, only a generalized and qualitative impact on these businesses can be predicted. The antidegradation review of a permit application may require a discharger to meet an effluent permit limit which would require a higher level of treatment and if not possible, would require a discharger to prepare an alternative analysis and social and economic justification to demonstrate why treating to a lower limit is not feasible.

Classification of a water as an EAW may have an economic effect to local governments, citizens, and businesses. The economic benefit and impact of classifying a surface water as an EAW would be a criterion that would be evaluated in determining whether to classify the water.

(1) Both adverse and beneficial effects:

Adverse economic effects may include a discharger having to consider additional pollution controls to maintain the high-quality conditions in the receiving water, but the additional costs will depend on local conditions. If the additional pollution controls will have a negative economic impact on the proposed project, then the discharger will be burdened with the additional time and cost to develop a socio-economic impact analysis to justify lowering of water quality in high quality waters is necessary to accommodate important economic or social development in the area in the which the water is located.

An EAW classification could influence future development and management activities in the watershed which could impact the local government and community by affecting future water and land-use planning decisions. To avoid such unintended consequences, NDEP has outlined in the proposed regulation, supporting information and data that the individual or group making the nomination would be required to compile and submit allowing such adverse effects to be identified during evaluation of a nominated water and to assess whether the classification outweighs these potential adverse effects.

Beneficial effects include a structured antidegradation program that provides a framework for weighing the pros and cons of a proposed activity with an associated point source discharge that could degrade water quality and for involving the public in the decision-making process. Protection of in-stream water quality and preservation of the unique water quality attributes or conditions, that may be impossible to fully restore if high quality waters are degraded, would be the environmental benefit achieved.

Establishment of a process for nominating and classifying surface waters as EAWs will allow the exceptional water quality or ecological, aesthetic, or recreational value of eligible Nevada water resources to be maintained and protected for future generations. The EAW designation process would also provide an opportunity for proactive public participation in the regulatory rule-making process to provide a higher level of protection to surface waters most important to them.

(2) Both immediate and long-term effects:

An antidegradation program would provide NDEP with a tool to ensure water quality in Nevada surface waters is maintained and protected. The procedural steps and framework outlined in the proposed regulation would provide a level of certainty to permit applicants of the intent of the antidegradation review analysis and the agency decision-making criteria that would be used to set permit effluent limits to authorize the proposed discharge.

Nevada's higher-quality surface waters would be protected, and the unique attributes and special water quality characteristics of certain waters would be preserved.

The EAW classification for certain Nevada waters that have an outstanding value as a surface water resource, which may derive from pristine water quality conditions or from the presence of exceptional ecological, aesthetic, or recreational attributes will provide long-term protection and maintenance of the water quality conditions in the EAW. The EAW nomination and classification process will be successful when the water in question is located in a watershed where there is currently little or no development-related impacts. An EAW status could create varied outdoor recreational opportunities and resultant economic benefits for a given watershed.

(5c) Estimated cost by the agency for enforcement of the proposed regulation:

There may be some additional effort required with some expected increase in overhead costs to NDEP. The SEC hearing may need to be convened between scheduled hearing dates to decide on a proposal for less restrictive permit limits that would result in lowering of water quality conditions pursuant to NRS 445A.565. Although it is expected that EAW nomination petitions would be heard at a regularly scheduled SEC hearing, situations could arise where a special hearing would need to be scheduled to act on an EAW nomination petition.

An extra step would be included in the permit application review process. NDEP staff would conduct an antidegradation review analysis when a permit application was submitted which would require additional staff time to compete and discuss with the permit applicant before developing a draft permit to authorize the proposed discharge.