



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources

Steve Sisolak, *Governor*
Bradley Crowell, *Director*
Greg Lovato, *Administrator*

February 3, 2022

Dave Guiliano
Standards and TMDL Office, WTR-2 U.S. EPA Region 9
75 Hawthorne St.
San Francisco, CA 94105

**Subject: 2021 Triennial Review Public Hearing to solicit Comments on Nevada's Surface
Water Quality Standards**

Dear Mr. Giuliano

Section 303(c) of the federal Clean Water Act requires that states review applicable water quality standards (WQS) at least once every three years. The Nevada Division of Environmental Protection (NDEP) and the State Environmental Commission meet this requirement and adopt or revise water quality standards, as appropriate, into the Nevada Administrative Code (NAC) on a regular basis.

Every three years, the NDEP Bureau of Water Quality Planning (BWQP) opens a public comment period and conducts public **hearings** to solicit input from the public, regulated community, and EPA regarding what standards revisions or additions should be considered for the Triennial Review. NDEP then prioritizes the water quality standard actions and water quality planning issues that will be reviewed based on resources available and other programmatic commitments. Any regulatory revisions to the water quality standards must be adopted by the State Environmental Commission and State Legislative Committee, then approved by EPA. This regulatory adoption process includes additional opportunities for public comment.

The last Triennial Review was held in 2018 so in the fall of 2021 the BWQP initiated a Triennial Review of water quality standards for Nevada's surface waters. This review involved the public through a publicly noticed **hearing** to evaluate the need to update or

revise Nevada's water quality standards to remain consistent with State and Federal law and ensure that Nevada's water quality standards continue to reflect the best available science. The Triennial Review **hearing** was held virtually from our office in Carson City on November 16, 2021, in accordance with Nevada's open meeting laws and consisted of a brief presentation by NDEP staff, followed by a public comment and discussion period. The presentation identified issues and suggested revisions to water quality standards, along with describing the basis for the suggested revisions and supporting technical information.

A dedicated webpage on NDEP's website provides all information to the public on the Triennial Review. The webpage also provides information on the past Triennial Reviews for historical purposes. The webpage is available at <https://ndep.nv.gov/water/rivers-streams-lakes/water-quality-standards/triennial-review>. The water quality standards for Nevada surface waters are contained in the [Nevada Administrative Code, Chapter 445A.11704 - 445A.2234](#).

Comments were accepted at the **hearing** and during the public comment period which ended on December 31, 2021. The comments provided at the hearing and written comments submitted are attached, along with NDEP responses.

Considering comments received, NDEP plans to undertake work on the following water quality standards, water quality planning efforts, and water quality monitoring activities over the next three years:

1. Adopt regulations outlining a State antidegradation policy and implementation procedures and a process for nominating and classifying ecological or aesthetic waters (EAWs), which will provide a level of water quality protection similar to an Outstanding National Resource Water (ONRW) designation. Work on this proposed regulatory rulemaking began in 2020 and continues.
2. Revise the beryllium criterion for municipal or domestic supply beneficial use.
3. Review waters in the Northwest and Blackrock Regions for adoption as designated waters and update water quality standards on existing waters in these regions as necessary.
4. Continue focus monitoring efforts in the Central Basin and maintain annual monitoring at long-term sample sites on the major river systems.
5. Continue efforts to monitor harmful algal blooms (HABs) and place signage as necessary.
6. Expand capacity of BWQP's water quality database to contain bioassessment data and increase database functionality to develop metrics for use in future water quality assessments.
7. Monitor pending revisions to the Waters of the U.S. (WOTUS) rule for possible revision of the control-point water quality regulation (Tributary Rule).
8. Coordinate with other State agencies to consider appropriate thresholds for mercury in fish tissue.

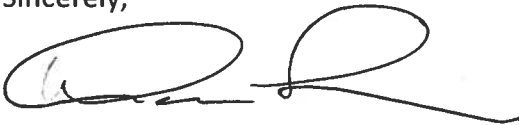
9. Continue work on updates to the Continuing Planning Process (CPP) document (waiting on adoption of the proposed antidegradation regulatory petition).
10. Evaluate EPA recommended new criterion for ammonia. Assess presence and distribution of unionid mussels and gill-breathing snails in Nevada waters which are the most sensitive species that criterion has been developed to protect. Review aquatic species toxicity data that were used to develop new ammonia criterion to determine whether criterion will be protective of sensitive aquatic species found in Nevada waters.
11. Evaluate EPA recommended new criterion for carbaryl and whether adoption is warranted for Nevada surface waters.
12. Research and review cyanotoxin criterion for recreation waters.

NDEP reviewed EPA's new ambient water quality criteria for aluminum in fresh water to protect aquatic life (2018). The attached rationale describes BWQP's reasoning for not adopting EPA's Final Aluminum (2018) criterion into state WQS. Primarily, NDEP believes that EPA erred in publishing the aluminum criteria document prior to developing and approving an appropriate analytical method for measuring bioavailable aluminum. Until such a method is approved by EPA and funding is available for this specialized analysis, NDEP cannot begin collecting the data needed to assess waters for aluminum.

NDEP also reviewed EPA's updated criterion for copper using the biotic ligand model (BLM). The attached rationale provides BWQP's reasoning for not adopting the copper criterion. The BLM is data intensive (12 input parameters) and the model will not run unless all parameters are input into the model. NDEP believes EPA should develop a model using the two or three input parameters that describe most of the variability in copper bioavailability (hence, toxicity). Should NDEP adopt the copper BLM, it would do so to make it available as a secondary method, as many other states have done. This would make the copper BLM available to any entity that wished to collect data for all the 12 input parameters.

If you have any questions, do not hesitate to contact me.

Sincerely,



Dave Simpson
Bureau of Water Quality Planning
Supervisor, Water Quality Standards & Monitoring

Attachments

cc: Tina Yin, Manager
Paul Comba, NDEP (without attachments)