

**NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

**NEVADA ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVE**

**FOR THE HEARING OF September 22, 1993**

**HELD AT: Reno, NEVADA**

**TYPE OF HEARING:**

**YES            REGULATORY**

**APPEAL**

**FIELD TRIP**

**ENFORCEMENT**

**VARIANCE**

**RECORDS CONTAINED IN THIS FILE INCLUDE:**

**YES            AGENDA**

**YES            PUBLIC NOTICE**

**YES            MINUTES OF THE HEARING**

**LISTING OF EXHIBITS**

## AGENDA

### NEVADA STATE ENVIRONMENTAL COMMISSION PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing commencing at **9:30 a.m., on Wednesday September 22, 1993**, at the Department of Wildlife's Conference Room B located at 1100 Valley Road, Reno, Nevada.

This agenda has been posted at the Department of Wildlife office in Reno, and Division of Environmental Protection Office in Las Vegas, Nevada, the Washoe County Library in Reno, Nevada, the Nevada State Library and Division of Environmental Protection Office in Carson City, Nevada. The Public Notice for this set hearing was published on August 24, September 8, and September 16, 1993 in the Las Vegas Review Journal and Reno Gazette Journal Newspapers.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

- I. **Approval of minutes** from the May 27, 1993 and June 8, 1993 meetings. \* **ACTION**
- II. **Regulatory Petitions - \* ACTION (Note: All petitions other than 94001 have been previously adopted as temporary regulations. Temporary regulations being adopted as permanent regulations may be acted upon without further public comment or hearing as per NRS 233B.060 (2))**
  - A. **Petition 9300A** (R-042-93) permanently adopts changes in NAC 445 governing fees for general wastewater discharge permits.
  - B. **Petition 93005** (R-048-93) permanently amends NAC 445 to update the water quality standards for the Truckee River. Affected is NAC 445.124 and NAC 445.134625 to 445.13471.
  - C. **Petition 93002** (R-045-93) permanently amends chapter 444 of the NAC to add a section requiring generators of greater than 100 kilograms of hazardous waste per calendar month, who accumulate hazardous waste on site, to comply with provisions of 40 CFR.
  - D. **Petition 93003** (R-046-93) permanently amends chapter 444 of the NAC to correct possible conflicts, inconsistencies and exempts from adoption those federal regulations which are not delegated to the state for management of hazardous waste.
  - E. **Petition 93006** (R-049-93) permanently amends NAC 459.9718 to exempt public utilities from the requirements of the Consultant Certification program in instances where they are responding to incidents at the request of a public entity or in providing utility service to their customers.
  - F. **Petition 93007** (R-050-93) permanently amends NAC 445.240 to change the reporting requirements concerning the release of hazardous waste, pollutant, contaminant or petroleum. The changes relate to individuals other than owners/operators to report releases, update reporting phone numbers, clarify proper entities to report spills, and modify criteria for soil contaminated with petroleum compounds.

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- G. **Petition 9300B** (R-043-93) permanently repeals NAC 444.657 and 444.6575 for fees relating to disposal of out of state solid waste in Nevada.
- H. **Petition 93008** (R-051-93) permanently amends NAC 444 by adoption of the federal landfill criteria and language establishing a landfill permitting program for solid waste and other technical amendments. This petition implements the changes in the solid waste statutes as approved by Senate Bill 97 of the 1993 legislative session.
- I. **Petition 94001** permanently amends NAC 444, the states solid waste regulations regarding landfill criteria and language establishing a landfill permitting program. This petition extends the deadlines established pursuant to petition 93008. This new petition is based upon changes in federal regulations.
- J. **Petition 93010** (R-053-93) permanently amends NAC 445.988, the Environmental Commission's rules of practice, to reflect the statutory authority of the commission to conduct hearings and other technical corrections. The amendment also incorporates provisions defining commission procedures relating to NAC 278, 444A, 459, 486A, and 519A. In addition the regulation exempts the Commission from conducting hearings in those areas of the statutes or administrative code where the Division of Environmental Protection has been granted authority to conduct hearings.
- K. **Petition 93001** (R-044-93) makes permanent changes to the visible emission standard for coal fired steam generating facilities with a heat input of more than 7936 million BTU's per hour which existed prior to 1972. The regulation (NAC 445.724) modifies Southern California Edison's Mohave Generating Station air quality opacity requirements.
- L. **Petition 93004** (R-047-93) permanently amends Section 445.717 of the NAC to remove the list of criteria pollutants from the list of toxic or hazardous air contaminants. The amendment reflects the current title of the toxic publication.
- M. **Petition 93009** (R-052-93) permanently amends NAC 445.6605 of the air quality regulations to adopt by reference Title 40 CFR Part 60, New Source Performance Standards and Part 61, National Emission Standards. The amendment adds standards for small industrial-commercial-institutional steam generating units, municipal waste combustors, VOC emissions from polymer manufacturing, VOC emissions from synthetic organic chemical manufacturing, standards for calciners and dryers in the mineral industry, and benzene emissions from transfer and waste operations. The cost of related federal publications are made current by this amendment.

### III. Settlement Agreements on Air Quality Violations - \* ACTION

The Division of Environmental Protection and the companies listed below have negotiated settlement agreements for their respective Notices of Alleged Violations which require approval by the Commission.

- A. All-Lite Aggregate, Notice of Alleged Violation #1031, 1032, 1033, 1034
- B. Coastal Chem Inc., Notice of Alleged Violation #1028
- C. Continental Lime Inc., Pilot Peak Plant, Notice of Alleged Violation # 1025
- D. Granite Construction Co., Notice of Alleged Violation #1040
- E. Nye Regional Medical Center, Notice of Alleged Violation #1037
- F. Ramco Inc., Notice of Alleged Violation #1043, 1044
- G. West America Membranes Inc., Notice of Alleged Violation #1036
- H. Tibbals Construction, Notice of Alleged Violation #1048, 1049, 1050, 1054,1055, 1056

#### **IV. Discussion Items**

- A. Future Meetings of the Commission - Clean Air Act Changes
- B. Other Legislation Affecting the Commission - SB 127 Strategy
- C. Status of Division of Environmental Protection's Programs and Policies
- D. General Public Comment

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Executive Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89710, facsimile (702) 687-5856, or by calling (702) 687-4670 no later than 5:00 pm, Friday September 17, 1993.

## **NEVADA STATE ENVIRONMENTAL COMMISSION NOTICE OF PUBLIC HEARING**

The Nevada State Environmental Commission will hold a public hearing beginning **9:30 a.m. on Wednesday September 22, 1993**, at the Department of Wildlife's Conference Room B located at 1100 Valley Road, Reno, Nevada.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission. Items 1 through 12 have been previously adopted as temporary regulations by the Environmental Commission. The Commission will be acting on the proposed permanent version of the below listed regulations. Item 13 is a new proposed permanent regulation.

1. Petition 9300A (R-042-93) permanently adopts changes in NAC 445 governing fees for general wastewater discharge permits.
2. Petition 9300B (R-043-93) permanently repeals NAC 444.657 and 444.6575 for fees relating to disposal of out of state solid waste in Nevada.
3. Petition 93001 (R-044-93) makes permanent changes to the visible emission standard for coal fired steam generating facilities with a heat input of more than 7936 million BTU's per hour which existed prior to 1972. The regulation (NAC 445.724) modifies Southern California Edison's Mohave Generating Station air quality opacity requirements.
4. Petition 93002 (R-045-93) permanently amends chapter 444 of the NAC to add a section requiring generators of greater than 100 kilograms of hazardous waste per calendar month, who accumulate hazardous waste on site, to comply with provisions of 40 CFR.
5. Petition 93003 (R-046-93) permanently amends chapter 444 of the NAC to correct possible conflicts, inconsistencies and exempts from adoption those federal regulations which are not delegated to the state for management of hazardous waste.
6. Petition 93004 (R-047-93) permanently amends Section 445.717 of the NAC to remove the list of criteria pollutants from the list of toxic or hazardous air contaminants. The amendment reflects the current title of the toxic publication.
7. Petition 93005 (R-048-93) permanently amends NAC 445 to update the water quality standards for the Truckee River. Affected is NAC 445.124 and NAC 445.134625 to 445.13471.
8. Petition 93006 (R-049-93) permanently amends NAC 459.9718 to exempt public utilities from the requirements of the Consultant Certification program in instances where they are responding to incidents at the request of a public entity or in providing utility service to their customers.
9. Petition 93007 (R-050-93) permanently amends NAC 445.240 to change the reporting requirements concerning the release of hazardous waste, pollutant, contaminant or petroleum. The changes relate to individuals other than owners/operators to report releases, update reporting phone numbers, clarify proper entities to report spills, and modify criteria for soil contaminated with petroleum compounds.

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10. Petition 93008 (R-051-93) permanently amends NAC 444 by adoption of the federal landfill criteria and language establishing a landfill permitting program for solid waste and other technical amendments. This petition implements the changes in the solid waste statutes as approved by Senate Bill 97 of the 1993 legislative session.
11. Petition 93009 (R-052-93) permanently amends NAC 445.6605 of the air quality regulations to adopt by reference Title 40 CFR Part 60, New Source Performance Standards and Part 61, National Emission Standards. The amendment adds standards for small industrial-commercial-institutional steam generating units, municipal waste combustors, VOC emissions from polymer manufacturing, VOC emissions from synthetic organic chemical manufacturing, standards for calciners and dryers in the mineral industry, and benzene emissions from transfer and waste operations. The cost of related federal publications are made current by this amendment.
12. Petition 93010 (R-053-93) permanently amends NAC 445.988, the Environmental Commission's rules of practice, to reflect the statutory authority of the commission to conduct hearings and other technical corrections. The amendment also incorporates provisions defining commission procedures relating to NAC 278, 444A, 459, 486A, and 519A. In addition the regulation exempts the Commission from conducting hearings in those areas of the statutes or administrative code where the Division of Environmental Protection has been granted authority to conduct hearings.
13. Petition 94001 permanently amends NAC 444, the states solid waste regulations regarding landfill criteria and language establishing a landfill permitting program. This petition extends the deadlines established pursuant to petition 93008. This new petition is based upon changes in federal regulations.

Persons wishing to comment upon the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada. Written submissions must be received at least 5 days before the scheduled public hearing.

A copy of the regulations to be adopted and amended will be on file at the Office of the Secretary of State, Capitol Complex, State Library, 100 Stewart Street, Division of Environmental Protection, 333 West Nye Lane, Carson City, Nevada, Division of Environmental Protection, 1515 East Tropicana, Suite 395, Las Vegas, Nevada for inspection by members of the public during business hours.

Additional copies of the regulations to be adopted or amended will be available at the Division of Environmental Protection for inspection and copying by members of the public during business hours. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Recording Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89710, facsimile (702) 687-5856, or by calling (702) 687-4670 no later than **5:00 p.m., Friday September 17, 1993.**

This public notice has been posted at the Division of Environmental Protection, Clark County Public Library and Clark County Commission Chambers in Las Vegas, Nevada Department of Wildlife office in Reno and the Washoe County Library in Reno, Division of Environmental Protection, and State Library in Carson City, Nevada.

**STATE ENVIRONMENTAL COMMISSION**  
**Meeting of September 22, 1993**  
**Reno, Nevada**  
**Adopted Minutes**

**PRESENT:**

Chairman Melvin Close  
Fred Gifford  
Tom Ballow  
Fred Wright  
Roy Trenoweth  
Russell Fields  
Mike Turnipseed  
Marla Griswold  
Harold Ober  
William Bentley, M.D.

Jean Mischel - Deputy Attorney General  
David Cowperthwaite - Executive Secretary  
LuElla Rogers- Recording Secretary

Meeting convened at 9:30 a.m. at the Nevada Department of  
Wildlife, Conference Room B.

Chairman Close read the public noticing as defined in the agenda.

**Item I. Approval of Minutes**

Chairman Close opened the meeting with a request for a motion to approve the minutes of the May 27, 1993 and June 8, 1993 meetings as presented by staff. Commissioner Fields made a motion to approve the minutes, with Commissioner Wright seconding the motion. The motion unanimously passed.

Chairman Close reviewed the regulatory petitions proposed to be acted upon by the Commission. Chairman Close asked if the public had any comments regarding any specific petition. Ms. Michelle Nuttal of Southern California Edison arose and spoke regarding petition **93001**, the Mohave powerplant air opacity amendments. Ms. Nuttal stated that she had spoken with Mr. Tom Porta, an official with the Bureau of Air Quality, regarding the need to change language drafted by the Legislative Counsel Bureau. Ms. Nuttal then proceeded to propose language changes to various sections. Ms. Nuttal requested that the term "average" be

inserted in various sections. Other suggested changes by Ms. Nuttal included the effective date. Commissioner Wright asked for clarification. Ms. Nuttal stated that she had a copy of the proposed change. Chairman Close stated that the proposed changes should be made part of the record (exhibit 6). Ms. Nuttal proceeded to discuss her exhibit. Chairman Close asked Ms. Nuttal to review proposed language for section 2. Mr. Tom Fronapfel stated he had spoken to Mr. Porta and that he had concurred with general language changes.

Commissioner Bentley asked if the regulation was changed would it return to LCB to be re-written and then return back to the Commission. Deputy Attorney General Jean Mischel stated that LCB would not have to make a substantive change and that adequate notice has been already made for this petition. LCB could possibly, for purposes of codification, rewrite the language adopted in a ad hoc manner.

#### **Item II. A. Petition 9300A**

Chairman Close asked if there was any public comment regarding petition 9300A, a temporary petition regarding general wastewater discharge permit fees. This regulation is before the Commission to be adopted as a permanent regulation. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Wright made a motion, seconded by Commissioner Bentley, to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 9300A.

#### **Item II. B. Petition 93005**

Chairman Close asked if there was any public comment regarding petition 93005, a temporary petition regarding updates to the water quality standards for the Truckee River. This regulation is before the Commission to be adopted as a permanent regulation. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Fields



made a motion, and was seconded by Commissioner Griswold to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 93005.

**Item II. C. Petition 93002**

Chairman Close asked if there was any public comment regarding petition 93002, a temporary petition regarding the requirement for generators of greater than 100 kilograms of hazardous waste to comply with provisions of 40 CFR. This regulation is before the Commission to be adopted as a permanent regulation. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Bentley made a motion, and was seconded by Commissioner Trenoweth to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 93002.

**Item II. D. Petition 93003**

Chairman Close asked if there was any public comment regarding petition 93003, a temporary petition regarding the correction of conflicts and inconsistencies, and exempts from adoption federal regulations not delegated to the state for management of hazardous waste. This regulation is before the Commission to be adopted as a permanent regulation. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Bentley made a motion, and was seconded by Commissioner Wright to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 93003.

**Item II. E. Petition 93006**

Chairman Close asked if there was any public comment regarding petition 93006, a temporary petition regarding the exemption of public utilities from certain requirements of the consultant certification program. This regulation is before the Commission to be adopted as a permanent regulation. There being no public

comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Fields made a motion, and was seconded by Commissioner Griswold to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 93006.

**Item II. F. Petition 93007**

Chairman Close asked if there was any public comment regarding petition 93007, a temporary petition regarding the change in reporting requirements for hazardous waste. This regulation is before the Commission to be adopted as a permanent regulation. Deputy Administrator Verne Rosse spoke to Commissioner Wright's concern that the Director refers to the Director of the Department of Conservation and Natural Resources. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Wright made a motion, and was seconded by Commissioner Bentley to adopt the regulation as drafted by LCB. Commissioner Ballow asked what the penalty would be for the failure to comply with this regulation. DAG Mischel stated the provisions of enforcement are in NAC 445. The violation is \$ 5,000 per day. Commissioner Ballow stated that the fines were rather heavy. Deputy Administrator Dick Reavis replied that in NAC 445 the maximum fine is \$ 25,000 per day, and is required by U.S. EPA in order for the state to receive delegation of the federal water program. The penalties would apply only if the waters of the state were affected. The practice is not to duplicate fines in terms applying to various chapters. The more stringent penalty is usually used. The Commission then acted to adopt petition 93007.

**Item II. G. Petition 9300B**

Chairman Close asked if there was any public comment regarding petition 9300B, a temporary petition regarding the repeal of fees relating to disposal of out of state solid waste in Nevada. This regulation is before the Commission to be adopted as a permanent regulation. There being no public comment, Chairman Close asked

for a motion by the Commission to adopt the regulation. Commissioner Bentley made a motion, seconded by Commissioner Trenoweth, to adopt the regulation as drafted by LCB. The Commission then acted to adopt the petition 9300B.

#### **Item II. X. Petition 93008**

Mr. David Emme, the Solid Waste Branch supervisor for the Nevada Bureau of Waste Management, addressed the Commissioners regarding petition 93008. Mr. Emme presented a set of amendments (Exhibit 3) to the LCB drafted permanent regulations. The corrections were in response to LCB review. Mr. Emme reviewed each proposed change. The 180 time period was left out; in section 24 the public notice to the governing body was to be included; in section 34 the reference to NAC was corrected; in section 73 the term "estimate" was printed twice; in section 92 the definition for industrial waste was to narrow and needed to be broadened with construction and demolition waste to be added. Chairman Close asked how far the regulation is applied to the average person hauling household construction waste to a landfill and Mr. Emme replied that the regulation applies only to the landfill site, therefore the landfill operator is responsible to comply with the regulations. This issue applies only to a industrial landfill stated Mr. Emme. Commissioner Wright stated that there was a potential that manufacturing of steel waste could happen in Nevada. Section 94 was discussed and LCB had left out language in the federal definition. The type of landfill can receive waste other than household waste, and it can be publicly or privately owned. Section 117 was left out and it needs to be included so the effective date is clear.

Mr. Jim Smith, a deputy attorney general with the Department of Insurance, introduced himself to the Commission, and he introduced Mr. Charles Knaus, a Actuary from the Department. Mr. Smith stated that they were at the hearing at the invitation of Executive Secretary David Cowperthwaite to address the financial assurance provisions of the regulations. Mr. Smith explained that the Department has had experience with financial guarantees.

He listed underground storage tanks as an example. The issue is longer term liabilities, and making sure the requirements are consistent with the known long-term costs. Every state has this problem, with other states having to deal today with the long-term issues.

Mr. Charles Knaus spoke to the Commission regarding his letter to the Commission (Exhibit 8). His major concern was that the insurer is eligible in Nevada, since his department will have oversight of surplus line insurers. He suggested that the existing wording allows any insurer in the country to issue coverage. This affects section 80, subsection 7.

Other comments he wrote in the letter were now moot since the issues were covered by the LCB draft. Mr. Knaus gave an example of the need for a clearly defined means for the insurance company to be triggered to take action on a claim. Mr. Knaus gave other examples of insurance issues. Mr. Knaus proposed new ideas, as addressed in his letter. Mr. Knaus proposed a solid waste insurance trust fund as a means to deal with potential defaults due to insurance firm insolvency. This could be under the control of the Commission. Mr. Knaus recommended looking at the financial statements of those firms involved in financial assurance.

Commissioner Ober asked about the licensing in Nevada and whether, since we are a small state, a rating system could be used. Mr. Knaus stated that a company is eligible and could not be refused under the existing language. Commissioner Ober expressed concern about the potential restraint of trade. Mr. Smith stated that existing state law requires insurance companies to be licensed in Nevada. He further expressed that the existence of a company doesn't mean that fraud will not occur. The companies, when regulated in Nevada, can be monitored. Mr. Knaus explained that they issue Certificates of Authority, but other levels exist. The bottom line is that their financial statements are reviewed, thus a level of protection exists. AB 569, when passed, requires state licensure. Commissioner

Turnipseed asked for instances of our collecting claims for companies that were insolvent. Mr. Smith explained that strong regulatory action is necessary, and that unauthorized carriers will likely not pay claims. The issue of insurance carrier notification was raised. Mr. Knaus stated that having the company respond to a claim within a certain period of time. Notification allows the policy to be invoked, explained Mr. Smith. The issue is to avoid contested claims by allowing early notice. Mr. Smith stated that trust funds were the preferred long-term means to managing financial assurance. Commissioner Gifford asked for clarification regarding subsection 7. Chairman Close expressed concern whether the insurance companies should be involved in making determinations regarding landfill closure. Mr. Knaus stated that the SEC should be able to make the final decision. Mr. Smith stated a corrective action order would trigger a claim process. Mr. Emme stated that he had briefly reviewed the Insurance Department comments. The regulatory language is derived from federal requirements. The financial assurance requirements don't take effect until April 1994. The petition 94001 will extend it even further, until 1995. Mr. Emme recommended that the Commission adopt the language as presented and that the Division would return to the Commission to clarify and focus on financial assurance mechanisms that will work. The state has substantial latitude. Local government guarantees and a financial test is needed. Chairman Close expressed concern that some of the proposed changes were substantive and DAG Jean Mischel agreed that the Commission's latitude in changing the regulations at this time was somewhat constrained. Commissioner Bentley asked whether the Commission had similar regulations regarding perpetual care and postulated that an overall picture on the Commission's regulations should also be completed. Commissioner Wright asked about the effective date of certain sections. Mr. Emme stated that petition 94001 deals with these issues. Commissioner Wright focused on cleanup of provision Section 80, subsection 7. DAG Jean Mischel stated that landfill operators were likely already looking at insurance as financial assurance. Chairman Close asked DAG Jean Mischel about the latitude of change allowed. DAG Mischel responded that the

petition has been duly noticed, that LCB looks for consistency with the statute and that the Commission has broad authority to change the regulations, if done within the statutory authority. Commissioner Turnipseed recommended that language "or any other state" be deleted from section 80 (7).

Jason Robinson, of Nevada Power Company, stated that the change of language should require a re-noticing of the petition. DAG Mischel replied that the definition was not self limiting and that the new additions (section 92) were not limiting. Chairman Close stated that the temporary regulations have been adopted and that the Division's proposed amendments to the permanent regulations is to bring them into to conformity with temporary regulations. Mr. Emme pointed out that this was true except for the addition of construction waste (item P). Commissioner Wright asked whether staff should work with the Department of Insurance. Mr. Smith stated that agencies should work together, and that the division should contract for services to evaluate financial statements.

Commissioner Wright moved that petition 93008 be adopted, with inclusion of staff amendments, and change to section 80, subpart 3 "any other state". Commissioner Fields seconded the motion. The Commission then acted to adopt petition 93008.

#### **Item II. J. Petition 93010**

Chairman Close asked if there was any public comment regarding petition 93010, a temporary petition regarding the Commission's Rules of Practice. This regulation is before the Commission to be adopted as a permanent regulation. Commissioner Wright asked staff whether the extensive changes made by LCB on the permanent version as compared to the temporary regulation would strengthen the rules of practice. Executive Secretary David Cowperthwaite replied that the approach taken by LCB, to incorporate the Commission's role in the appeal process within each NAC chapter and to weave the regulations together by changes in the definition of appellant, would result in a more durable

regulation. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Fields made a motion, seconded by Commissioner Turnipseed, to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 93010.

**Item II. L. Petition 93004**

Chairman Close asked if there was any public comment regarding petition 93004, a temporary petition regarding the removal of criteria air pollutants from the list of toxic or hazardous air contaminants. This regulation is before the Commission to be adopted as a permanent regulation. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Turnipseed made a motion, seconded by Commissioner Gifford to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 93004.

**Item II. M. Petition 93009**

Chairman Close asked if there was any public comment regarding petition 93009, a temporary petition regarding the addition of air quality new source performance standards. This regulation is before the Commission to be adopted as a permanent regulation. There being no public comment, Chairman Close asked for a motion by the Commission to adopted the regulation. Commissioner Bentley made a motion, seconded by Commissioner Ober, to adopt the regulation as drafted by LCB. The Commission then acted to adopt petition 93009.

**Item II. K. Petition 93001**

Mr. Tom Porta, enforcement branch supervisor for the Bureau of Air Quality, spoke to the Commission regarding petition 93001. This temporary regulation was substantially modified, in regards to the drafting as a permanent regulation, by the LCB - Legal Division. The petition deals with the opacity requirements for

the Mohave powerplant. Mr. Porta reviewed the sections. The changes of Southern California Edison, with the term "average" and reference to subsection 3, were reviewed. Mr. Porta stated that it was his opinion the changes do not substantively affect the regulation. Commissioner Ballow asked how the "average" was derived and Mr. Porta replied that each 6 minute increment is averaged, it is read every minute and after six minutes it is averaged. Commissioner Wright suggested other technical changes. Commissioner Gifford, asked for a re-reading. The average of each six minute period was discussed, and Mr. Porta agreed it was confusing. It is the average of the six minutes, not the hour. It begins on the hour, with 10 averages per hour. Commissioner Trenoweth pointed out a spelling error. Commissioner Wright asked if the opacity average language was similar to what was adopted and Mr. Porta agreed it was. Mr. Porta stated that LCB wants the public to understand the regulation. Commissioner Gifford stated the regulation was difficult to understand. Each six minute period starts on the top of the hour, and there are 10 six minute periods within an hour. Commissioner Wright stated that since it is the Commission's discretion, would the Chairman entertain changes. Chairman Close requested that staff sit down with the Southern California Edison and develop some language. DAG Jean Mischel gave advice to Mr. Porta about construction of the amendments. Commissioner Wright stated that the SEC is not there to rubber stamp LCB's actions. They have limitations, and the Commission is obligated to act in it's own interests in terms of regulatory development.

#### **Item II. I. Petition 94001**

David Emme, Solid Waste Branch supervisor in the Nevada Bureau of Waste Management, spoke to the Commission about the purpose of this new permanent petition relating to changing the deadlines defined in petition 93008, the solid waste landfill regulations. Mr. Emme passed out to the Commissioners a set of proposed amendments to petition 94001 (Exhibit 5) and a chart (Exhibit 4) showing the impact of changing the deadlines in petition 93008. The municipal governments have been lobbying the changes. Most



states programs will be approved within six months. The small community exemption, by court decree, was eroded (groundwater monitoring requirements) and an additional two years is provided to allow for regional decisions. The proposal is tentative, and should be published before October 9, 1993. This petition is acting in anticipation of the U.S. EPA landfill extensions. Another area is the applicable financial assurance provisions, an extension of 1 year.

Mr. Emme reviewed his chart (exhibit 4) and discussed the communities impacted by the proposed petition. The existing large landfills would not be affected by the revised deadlines defined in this regulation. Class III sites (industrial) would also not be affected by the changes outlined in the petition. LCB has also tied other changes back to the existing petition of 93008.

Section 85, stated Mr. Emme, is to be corrected and the language is to be shifted to allow effective dates to apply to entire sections. Section 86 was discussed, and section 87 was proposed to be repealed. Section 87 applies standards to industrial sites. They need to be done by permit, which is not the intent of the section, which automatically requires the change to be made. Section 135 lists the effective dates of the various sections of petition 93008. Commissioner Ober made a motion to adopt petition 94001 as amended, and he was seconded by Commissioner Griswold. Petition 94001 was adopted as amended.

### **Item III. Settlement Agreements on Air Quality Regulations**

Commissioner Ballow suggested that the Commission adopt all the items as a whole. DAG Mischel stated that this could be done, however the settlements must be reviewed.

**A.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for All-Lite Aggregate, Notice of Alleged Violations #1031, 1032, 1033, and 1034. A motion was made by Commissioner Ballow, seconded by

Commissioner Wright, to ratify the settlement and fine of \$ 12,500. Mr. Porta spoke about the environmental assessment requirement. The motion was adopted.

**B.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for Coastal Chem Inc., Notice of Alleged Violation #1028. A motion was made by Commissioner Turnipseed, seconded by Commissioner Wright, to ratify the settlement and fine of \$ 1,500. The motion was adopted.

**C.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for Continental Lime Inc., Pilot Peak Plant, Notice of Alleged Violation # 1025. A motion was made by Commissioner Ballow, seconded by Commissioner Griswold, to ratify the settlement and a fine of \$ 500. The motion was adopted.

**D.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for Granite Construction Co., Notice of Alleged Violation #1040. A motion was made by Commissioner Ballow, seconded by Commissioner Wright, to ratify the settlement and a fine of \$ 3,500. The motion was adopted.

**E.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for Nye Regional Medical Center, Notice of Alleged Violation #1037. A motion was made by Commissioner Ballow, seconded by Commissioner Griswold, to ratify the settlement and a fine of \$ 1,500. The motion was adopted.

**F.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for Ramco Inc., Notice of Alleged Violations #1043 and 1044. A motion was made by Commissioner Fields, seconded by Commissioner Bentley, to ratify the settlement and a fine of \$ 875. The motion was adopted.

**G.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for West America Membranes Inc., Notice of Alleged Violation #1036. A motion was made by Commissioner Ballow, seconded by Commissioner Wright, to ratify the settlement and a fine of \$ 1,000. Commissioner Wright asked if they were operating without a permit. Mr. Porta replied, that this was a purchased facility, and they still do not have permits to construct. The motion was adopted.

**H.** Mr. Tom Porta, Enforcement Branch supervisor in the Nevada Bureau of Air Quality discussed the settlement agreement for Tibbal's Construction, Notice of Alleged Violations #1048, 1049, 1050, 1054, 1055 and 1056. A motion was made by Commissioner Ballow, seconded by Commissioner Griswold, to ratify the settlement and a fine of \$ 6,125. The motion was adopted.

#### **Item II. K. Petition 93001**

Mr. Porta reviewed the proposed amendments to petition 93001 as prepared by Executive Secretary Mr. Cowperthwaite. Commissioner Wright reviewed the averages issue and Mr. Porta explained that it takes a reading every ten seconds, averaging 10 samples each minute. Chairman Close asked about word "during" or the word "for" relating to each six minute period. Commissioner Fields made a motion to adopt the amended petition 93001. Commissioner Griswold seconded the motion. Amended petition 93001 was adopted.

#### **IV. Discussion Items**

##### **A. Future Meetings of the Commission**

Executive Secretary David Cowperthwaite stated that the focus of the next meeting would be the air quality operating permit program. Mr. Fronapfel, Chief of the Bureau of Air Quality, stated that they had submitted two petitions to the Commission for drafting. Mr. Fronapfel spoke from prepared text (exhibit 7)

about the vehicle I/M program and the Operating permit program.

Commissioner Ballow asked whether this would be a centralized program. Mr. Fronapfel stated it would be decentralized and the cost is

\$200,000 per lane. Testing and repair will be separated.

Commissioner Ballow stated this will be a major change. Commissioner

Turnipseed asked about the cost to the consumer. Mr. Fronapfel

stated the cost would likely go up. Commissioner Bentley asked

about the track record for these types of facilities. Mr.

Fronapfel stated that U.S. EPA had done some studies. Chairman

Close asked how many lanes were needed. Mr. Fronapfel stated

that there would be 18 lanes needed. Chairman Close stated he

was concerned about consumers having to wait and the number of

lanes necessary to service the public in a timely fashion. Mr.

Fronapfel replied that a minimum of 15 lanes would be needed and

if they could not be capitalized, then the state would possibly

have to initiate a centralized program. The new program requires

a dynamometer. Chairman Close asked whether the equipment to run

the program was provided by more than one vendor. Mr. Fronapfel

stated there were multiple equipment vendors in the marketplace.

Commissioner Turnipseed asked about the test and repair process.

Mr. Fronapfel stated that the failure rate is expected to be 20%.

Mr. Fronapfel stated that this is a combination decision with

DMV&PS, and the Environmental Commission. The plan is to go with

a private operator program.

Andy Goodrich, Air Quality specialist with the Washoe County

District Health Department, spoke to the Commission about Washoe

county's intention to possibly ask the Commission to implement a

enhanced I/M program in the Truckee Meadows. This is a

contingency measure to secure the necessary emission credits.

Commissioner Ballow asked why this was necessary. Mr. Goodrich

stated that the measure must be significant to reduce CO levels

and increasing the oxygenated fuels level to 3.5 percent. MBTE is

at its maximum level and ethanol fuels would have to be used.

Washoe County is non-attainment for CO, PM10 and Ozone. Carbon

Monoxide is currently moderate, experienced in the winter time

with the last exceedance being 1½ years ago.

## **B. Legislation Affecting the Commission**

Verne Rosse, Bureau's of Chemical Hazards, Waste Management, and Federal Facilities, discussed the strategy to implement Senate Bill 127. The strategy focuses on underground storage tanks. The objective is to coordinate regulatory and fee data-gathering activities. The Nevada Manufacturer's Association and the Nevada Taxpayer's Association were sponsors of the bill. Mr. Rosse also spoke about AB 117 and AB 153. This is a draft strategy. Chairman Close stated that this is a worth-while task and that other areas need to be reviewed and integrated. Chairman Close indicated the need to consolidate other areas and Mr. Rosse concurred. Chairman Close wants to see the Commission be proactive in streamlining. Commissioner Fields stated that the work program is logical and do-able. Chairman Close requested that there be periodic reports on this issue.

## **C. Status of Division Policies**

Administrator Dodgion discussed the issue of air fees. He stated that during the last legislative session the bill setting up the air quality fund did not allow for access to the general fund. Subsequently, the division has been collecting fees and placing them in the general fund, thereby shorting the budget account for the bureau of air quality. Mr. Dodgion stated going to the Legislative Interim Finance Committee would be futile because there is no general fund appropriation for the account. This issue jeopardizes the states ability to match federal grant funds. Administrator Dodgion stated he will have to be creative and possibly come back to the Commission for emergency regulations to correct this situation. The fees, approximately \$130,000, need to be backed out of the general fund.

DAG Jean Mischel reported that the US Ecology lawsuit is in the process of being settled and that a document should be available

soon. Mr. Dodgion reported that the concepts have been agreed to and that the document is now in the stage of being re-written.

Mr. Dodgion presented the new recording secretary, LuElla Rogers, and the new deputy attorney general, David Hornbeck.

Executive Secretary David Cowperthwaite discussed SB 370, the bill vetoed by the governor, and that stated that the SEC in its day to day activities, complies with that bill. AB 153 was discussed.

Chairman Melvin Close adjourned the meeting at 12:30 p.m.

As prepared by David R. Cowperthwaite, Executive Secretary