

**NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
State Environmental Commission
HEARING ARCHIVE**

FOR THE HEARING OF- December 04, 2007 -- Reno Nevada

TYPE OF HEARING:

Regulatory

RECORDS CONTAINED IN THIS FILE INCLUDE:

Meeting Web Page

Agenda

Public Notice

Minutes of the Hearing

REGULATIONS (4)



State Environmental Commission

Public Hearing -- December 04, 2007

Air Settlement Agreements, Arsenic Rule Exemptions
Nevada State Solid Waste Management Plan & Regulatory Petitions

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Rose Marie Reynolds
Deputy Attorney
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The State Environmental Commission (SEC) has scheduled a regulatory hearing for Tuesday, December 4th 2007 beginning at 9:30 am. The hearing will be held at the Nevada Department of Wildlife's Conference Room A, [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 the following regulatory petitions and related SEC business. If a person that may be directly affected by a proposed action does not appear and request time to make an oral presentation at the above referenced hearing, the SEC may proceed immediately to act upon any of the following regulatory petitions or other written submissions described in this notice.

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.

- ▶ [Public Notice](#)
- ▶ [Meeting Agenda](#)

1) Final SEC Meeting minutes for 09/07/07 — 154 Pages 1.6MB *

ACTION

1a) Verbatim Draft Minutes for this meeting [12/04/07] — [Audio File](#)

Listen

2) Settlement Agreements, Air Quality Violations ***ACTION By Consent Calendar**

The Division of Environmental Protection has negotiated several Settlement Agreements for Air Pollution Control violations. The SEC is being asked to approve, deny, or modify each agreement for the companies listed on down-loadable file below.

Read/Download — [List of Companies](#)

3) Arsenic Rule Exemptions * **ACTION by Consent Calendar**

Pursuant to the federal Safe Drinking Water Act and Nevada Revised Statute (NRS) 445A.935, the Commission may grant exemptions from the regulations of the Commission. Twelve (**10**) public water systems, which are listed below have submitted arsenic exemption applications. These applications have been reviewed and are being recommended for approval by staff from the Nevada Division of Environmental Protection's Bureau of Safe Drinking Water.

Water System ID and Name

1. NV0003068 CARSON RIVER ESTATES
2. NV0000047 DELUXE MHP
3. NV0000906 JETWAY CHEVROLET


STAFF

John B. Walker
Executive Secretary
Carson City

Robert Pearson
Recording Secretary
Carson City

4. NV0000060 WEST STAR MHP
5. NV0000058 WILDES MANOR
6. NV0000162 MC DERMITT WATER SYSTEM
7. NV0000897 SCHURZ ELEMENTARY SCHOOL
8. NV0000218 CARVERS SMOKEY VALLEY RV AND MHP
9. NV0005028 SHOSHONE ESTATES WATER COMPANY
10. NV0000878 MASTERFOODS USA

For more information read the Arsenic Exemptions Background Briefing noted below; the briefing document contains a "boiler plate" exemption approval document for consideration by the SEC.



Read/Download — Arsenic Exemptions Background Document (includes the list of water systems, and the SEC's arsenic exemption document - 4 pages) 

4) 2007 Solid Waste Management Plan — Final Draft *ACTION

Nevada's Solid Waste Management Plan (Plan) provides a description of the existing framework for solid waste management within the applicable laws, regulations and infrastructure within the State. The Plan describes governmental roles and responsibilities, statewide trends in solid waste management, the assessment of Nevada's municipal solid waste management systems, and solid waste management issues and future considerations.

Nevada Revised Statute [NRS 444.570](#) requires the State Environmental Commission (SEC), in cooperation with governing bodies of Nevada's municipalities, to develop a statewide solid waste management system plan. The plan is reviewed and revised every five years. This Plan is intended to fulfill this requirement and to provide guidance, and information to support:

1. Adoption of solid waste management regulations by the SEC;
2. Efforts undertaken by the Nevada Division of Environmental Protection (NDEP) before the Nevada Legislature regarding the allocation of solid waste program resources;
3. Development and implementation of solid waste management plans and ordinances administrated by Nevada's municipal governments; and
4. Activities by other stakeholders who provide solid waste services to the communities, businesses and residents of Nevada.

- [SEC Cover Memo](#) 
- [Print Document](#) 
- [Read Online HTML](#)

Regulatory Petitions

Bureau of Waste Management * ACTION ITEM

5) Regulation R179-05: Waste Landfill Cover Requirements: This regulation addresses "cover requirements" of compacted solid waste at certain landfills in Nevada. The regulation would amend [NAC 444.688](#). The requested change will reverse an existing requirement that allows certain landfills in Nevada to operate for up to six days without applying cover soil to exposed waste.

By way of background, Nevada has received approval from the Environmental Protection Agency (US EPA) to administer federal municipal solid waste landfill

(MSWLF) regulations contained in 40 CFR Part 258. Under the approved program, the [Clark](#) and [Washoe](#) County Health Districts administer the landfill regulation within their areas of jurisdiction, while the Nevada Division of Environmental Protection (Division) does so in all other areas of the State.

The federal MSWLF regulations require municipal landfills to cover disposed solid waste at the end of each operating day ([40 CFR § 258.21](#)). Certain MSWLFs in Nevada have claimed to operate "around the clock", suggesting that for them there is no "end of each operating day" that would trigger the daily cover requirement.

In recognition of the potential need to receive waste around the clock at landfills that serve the "24-hour" urban areas of Las Vegas and Reno, in 1998 the State Environmental Commission adopted revisions to NAC 444.688 that allowed such landfills to operate for up to 6 days prior to applying cover material. To make this allowance, the term "operating day" at such landfills was defined to include a period of time up to six days long. The US EPA has since notified the Division that this language is not consistent with the federal criteria.

This regulation would therefore restore conformance with the federal landfill criteria while retaining flexibility for landfills to operate continuously. This regulation would allow landfills to avoid the requirement of a daily cover if they have equipment continuously "working the face" of the landfill.

An immediate and long-term adverse financial effect would impact certain operators. Such costs could also increase disposal fees for the public. There would, however, be no additional cost to the Division for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation would also not increase fees levied by the Division (SEC reference # P2005-10).

Documents in Adobe PDF File Format

- [June 06, 2006](#) — SEC Form #1, adopt, amend or repeal regulations
- [June 06, 2006](#) — SEC Form #4, Small business impact disclosure process
- [August 30, 2006](#) — SEC Regulation Submittal Letter to LCB
- [September 17, 2007](#) — LCB Proposed Draft Regulation (3 Pages)
- [December 11, 2007](#) — Filing Statement Transmittal Letter
- [December 11, 2007](#) — Filing Statment
- [December 11, 2007](#) — Filing Form
- [April 01, 2008](#) — LCB Adopted Regulation

Bureau of Waste Management (continued) * ACTION ITEM

6) Regulation R137-07: Adoption by Reference, Hazardous Waste: This petition will amend regulations governing hazardous waste management found in [Chapter 444](#) of the Nevada Administrative Code (NAC). The proposed amendments will update Nevada's adoption of federal regulations by reference. This will include federal regulatory changes adopted by US EPA between July 1, 2005 and July 1, 2006. The proposed amendments will allow the State to implement the RCRA hazardous Waste program in lieu of the federal government.

The regulatory changes comprise the addition of mercury containing equipment to the list of universal wastes, revisions to the hazardous waste program to allow for a standardized permit, revisions of wastewater treatment exemptions for hazardous waste mixtures, the RCRA portions of national emissions standards for hazardous air pollutants from hazardous waste combustors, and changes to hazardous waste regulatory requirements to reduce the paperwork burden.

This regulation will not have an immediate or long-term adverse effect on business

or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees (SEC reference # P2007-04).

Documents in Adobe PDF File Format 

- **September 19, 2007** — Notes: Hazardous Waste Regulations Workshop
- **September 24, 2007** — Workshop Notice
- **September 24, 2007** — SEC Form #1, adopt, amend or repeal regulations
- **September 24, 2007** — SEC Form #4, Small business impact disclosure process
- **September 25, 2007** — NDEP Proposed Draft Regulation (6 Pages)
- **September 25, 2007** — SEC Regulation Submittal Letter to LCB
- **October 08, 2007** — LCB Proposed Draft Regulation
- **December 11, 2007** — Filing Statement Transmittal Letter
- **December 11, 2007** — Filing Statment
- **December 11, 2007** — Filing Form
- **January 30, 2008** — LCB Adopted Regulation

Bureau of Corrective Actions * ACTION ITEM

7) Regulation R125-07: Release Reporting Regulations of Hazardous Substances or Petroleum Products in Excess of Reportable Quantities: The proposed regulation would amend the Nevada Division of Environmental Protection's (NDEP) existing release reporting regulations that are contained in [Nevada Administrative Code 445A.345 to 445A.348](#). Release reporting regulations require facilities to notify NDEP after the release of hazardous substances or petroleum products in excess of reportable quantities. The proposed regulation makes the following changes and clarifications to the existing regulations:

The proposed regulation creates a category of releases that will be subject to more immediate notification requirements than what the existing regulations mandate. The existing regulations allow for notification of any incident, regardless of severity or impact, within one working day, which is not supportive of agency functions during significant events.

Reportable triggers based on environmental media have been added for "listed" hazardous substances taken from federal regulations. This brings hazardous substances in line with the handling of petroleum products and "unlisted" pollutants and contaminants, which all have media-specific reporting requirements.

- ▶ A "discovery event" trigger has been added for the reporting of hazardous substance contamination discovered in soil or groundwater as a result of historic or prior releases. The "discovery event" trigger will be based on the existing framework for petroleum product releases.
- ▶ A "discovery event" trigger has been added for the reporting of hazardous substance contamination discovered in soil or groundwater as a result of historic or prior releases. The "discovery event" trigger will be based on the existing framework for petroleum product releases.
- ▶ A clarifying definition has been added for "other surfaces of land," which was previously undefined.
- ▶ A minimum reportable quantity for "listed" hazardous substances has been adopted to be consistent with existing reportable quantities for petroleum products.
- ▶ A specific reportable trigger for releases from underground storage tanks

has been added in coordination with the State's UST program.

The changes and clarifications in the proposed regulation are intended to support the Division's functions as the State agency responsible for the implementation of the Nevada Water Pollution Control Law and those statutes and regulations adopted for the management of hazardous wastes, hazardous substances, and underground storage tanks. The changes and clarifications eliminate inconsistencies in the existing regulations and rely on standards of practice that already exist within most sections of the regulated community.

This regulation will not have an immediate or long-term adverse effect on business or the public, and there is no additional cost to the agency for enforcement of the proposed regulation. There are two other State agencies that have reporting provisions that may capture the same incidents as NDEP reporting requirements; they are the Nevada Department of Transportation, which is involved with hazardous material releases on the roadways, and the Nevada Department of Emergency Management, which is responsible for coordinating the State's response to any significant incident. These different release reporting requirements do not necessarily overlap each other because the State agencies may have different authorities and jurisdictions and the notification requirements may be built on entirely different reporting triggers.

The Federal government is also required to be notified after a release of a reportable quantity of hazardous substances. These reporting functions have been consolidated in the National Response Center operated by the US Coast Guard. The release of a reportable quantity of hazardous substances is felt to be a significant event that may require response under the National Contingency Plan, (SEC reference # P2007-05).

Documents in Adobe PDF File Format

- **August 28, 2007** — SEC Form #1, adopt, amend or repeal regulations
- **August 28, 2007** — SEC Form #4, Small business impact disclosure process
- **August 28, 2007** — SEC Regulation Submittal Letter to LCB
- **September 26, 2007** — Workshop Notice
- **November 05, 2007** — Workshop Questions & Response Document Q&A
- **November 02, 2007** — LCB Proposed Draft Regulation
- **December 12, 2007** — Filing Statement Transmittal Letter
- **December 12, 2007** — [Filing Statment](#)
- **December 12, 2007** — [Filing Form](#)
- **January 30, 2008** — [LCB Adopted Regulation](#)

Bureau of Air Pollution Control * ACTION ITEMS

Readers Note: This Regulation was pulled for the Agenda on the day of the meeting. The regulation will be considered at the next SEC meeting, which is tentatively scheduled on Tuesday, March 18, 2007

8) Regulation R142-07: Greenhouse Gas Reporting, Minor Violation Fine Increase and Permitting Corrections/Clarifications: This regulation will amend [NAC 445B.001 to 445B.3497](#) of the State "Air Pollution" regulations, by adding the following requirements:

The regulation will mandate the reporting of greenhouse gases (GHG) emitted by certain generators of electricity for inclusion in a registry of GHG emissions, and require the Nevada Division of Environmental Protection (NDEP) to issue, at least every 4 years, a statewide inventory of GHGs released in the State. The data

collection and reporting of GHG emissions is a requirement of [Senate Bill 422](#) enacted by the 2007 Nevada Legislature.

The regulation will revise fines for minor violations. Of note, [Assembly Bill 67](#) was passed by the 2007 Legislature, increasing the maximum allowable fine for a minor violation to \$2000. The last increase in the maximum allowable fine was 20 years ago. With this new authority, NDEP proposes to change the fine structure for minor violations to make the amounts more commensurate with today's economy. The higher fine amounts will provide a greater deterrent to violating state regulations.

The regulation will also revise the operating permits regulations in response to the U.S. Environmental Protection Agency's review of NDEP's proposed update to the Nevada State Implementation Plan. The revisions are minor, including clarifications; aligning the state definition of "federally enforceable" with the federal definition, and adding public participation requirements for Class II general permits.

Finally the regulation will revise the definition of a "Class III source" to allow a stationary compression ignition internal combustion engine (CI-ICE) that is subject to [40 CFR 60 Subpart IIII](#) and does not exceed 750 horsepower to qualify as a Class III source. If the regulation is not adopted businesses with stand-alone emergency or backup generators must now obtain a Class II permit. The time and cost required in obtaining a Class II permit for stationary CI-ICEs that do not exceed 750 horsepower would impose undue hardship on business/industry. Hence, the proposed regulation alleviates this hardship.

Regulatory Effects: There will be added costs to electric power generating companies that operate electric generating units with a maximum design output capacity of 5 megawatts or more and emit GHGs. In carrying out the intent of new legislation, the regulation requires these companies to participate in a registry of GHGs and begin reporting emissions of six GHGs in 2009.

The regulatory changes will have a beneficial economic effect on businesses or industries that would otherwise have been required to obtain a Class II operating permit for operations of stationary compression ignition internal combustion engine.

There will be additional costs to the agency for administering the new GHG program, which will require one full-time employee. These additional costs will be covered by a settlement agreement; no new fees are required. The proposed regulations do not overlap or duplicate any regulations of other state or government agencies and they are no more stringent than what is established by federal law. The proposed amendments do not address fees, (SEC reference # P2007-06).

Documents in Adobe PDF File Format 

- **September 26, 2007** — SEC Form #1, adopt, amend or repeal regulations
- **September 26, 2007** — SEC Form #4, Small business impact disclosure process
- **September 25, 2007** — NDEP Proposed Draft Regulation (17 Pages)
- **September 26, 2007** — SEC Regulation Submittal Letter to LCB
- **October 02, 2007** — Workshop Notice
- **November 08, 2007** — Workshop Notice
- **December 04, 2007** — LCB Draft Proposed Reg. with BAQP proposed revisions

Bureau of Air Pollution Control * ACTION ITEM continued

9) Regulation R143-07: Nevada Clean Air Mercury Rule Program: This petition will amend [NAC 445B.3711 to 445B.3791](#) of the State "Air Pollution" regulations. The amendment is needed to address certain technical changes to the regulations governing Nevada's Clean Air Mercury Rule Program (CAMR) including public participation requirements defined in Assembly Bill 67; AB 67 was recently enacted by the 2007 session of the Nevada Legislature. Among other requirements, AB 67 calls for the adoption of regulations to address public participation in the determination of the amount of mercury allowances [air emissions] available for sale or auction by the Department, i.e., the Nevada Division of Environmental Protection. The amendment complies with this requirement.

Other changes to the regulation respond to US EPA's review of Nevada's CAMR State Plan, which was submitted to EPA November 15, 2006 in compliance with the Federal Clean Air Mercury Rule. The amendments are necessary to clarify Nevada's Plan, align it more closely with the Federal CAMR and, thereby, make Nevada's Plan more approvable by EPA.

This regulation will not have an immediate or long-term adverse economic effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees (SEC reference # P2007-07).

Documents in Adobe PDF File Format 

- **September 27, 2007** — SEC Form #1, adopt, amend or repeal regulations
- **September 27, 2007** — SEC Form #4, Small business impact disclosure process
- **September 27, 2007** — NDEP Proposed Draft Regulation (8 Pages)
- **September 27, 2007** — SEC Regulation Submittal Letter to LCB
- **October 02, 2007** — Workshop Notice
- **October 19, 2007** — LCB Proposed Draft Regulation
- **November 08, 2007** — Workshop Notice
- **Novembr 08, 2007** — Summary of workshop comments and questions
- **December 12, 2007** — Filing Statement Transmittal Letter
- **December 12, 2007** — Filing Statment
- **December 12, 2007** — Filing Form
- **January 30, 2008** — LCB Adopted Regulation

10) Public Comment * Non Action Items: (Public comment may be limited to ten minutes per person at the discretion of the chairperson; [See AG Reference @ Pages 58 & 81](#))

- NCARE - Nevada For Clean Affordable Reliable Energy: A representative from NCARE will discuss the "carbon sequestration" Memorandums of Agreements (MOU's) between NDEP and those power companies proposing coal fired electric generating facilities in Nevada.
- Other Public Comments:
- Administrator's Briefing to the Commission: NDEP's Administrator will provide the Commission an update about coal fired power plants permitting activities in Nevada. This will include the MOU's with three power companies proposing coal fired electric generating facilities in Nevada; these MOU's address certain commitments to deploy carbon sequestration technologies when such technologies become available. An update on the Divisions involvement in

local and regional climate change initiatives will also be provided.

Additional Information about the meeting process

Persons wishing to comment on the proposed actions of the State Environmental Commission (SEC) may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

In addition, copies of this public notice and the accompanying regulations have been deposited electronically at major library branches in each county in Nevada. All of the proposed regulations denoted in this notice, including previous drafts, are posted here as well as on Legislative Counsel Bureau's website at <http://www.leg.state.nv.us/Register/>.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on November 27, 2007.


As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this public notice has been posted at the following locations: The Nevada Department of Wildlife in Reno, Nevada, the Grant Sawyer Office Building in Las Vegas, and the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the SEC, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

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SEC Meeting Agenda December 04, 2007

The State Environmental Commission (SEC) has scheduled a regulatory hearing for Tuesday, December 4th, 2007 beginning at 9:30 am. The hearing will be held at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this meeting agenda has been posted at the following locations: the Department of Wildlife in Reno, the Grant Sawyer Office Building in Las Vegas, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas.

Copies of this agenda and the information noted below were made available to all public libraries throughout the state as well as individuals on the SEC electronic mailing lists. The Public Notice for this hearing was also published on three separate occasions during November 2007 in the Las Vegas Review Journal and the Reno Gazette Journal newspapers. Additional information in support of this agenda is located on the SEC website at sec.nv.gov

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

1) Approval of minutes from the September 07, 2007 SEC hearing *ACTION

**2) Approval of the following Settlement Agreements - Air Quality Violations
*ACTION by Consent Calendar:**

Company Name

1. Brady Power Partners
 2. Carson City Renewable Resources
 3. Wilkin Mining and Trucking, Inc
-

3) Approval of Arsenic Rule Exemptions for the following list of water systems *ACTION by Consent Calendar

<u>WATER SYSTEM ID #</u>	<u>SYSTEM NAME</u>
NV0003068	CARSON RIVER ESTATES
NV0000047	DELUXE MHP
NV0000906	JETWAY CHEVROLET
NV0000060	WEST STAR MHP
NV0000058	WILDES MANOR
NV0000162	MC DERMITT WATER SYSTEM
NV0000897	SCHURZ ELEMENTARY SCHOOL
NV0000218	CARVERS SMOKEY VALLEY RV AND MHP
NV0005028	SHOSHONE ESTATES WATER COMPANY
NV0000878	MASTERFOODS USA

4) Nevada State Solid Waste Management Plan *Action

Nevada's Solid Waste Management Plan (Plan) provides a description of the existing framework for solid waste management within the applicable laws, regulations and infrastructure within the State. The Plan describes governmental roles and responsibilities, statewide trends in solid waste management, the assessment of Nevada's municipal solid waste management systems, and solid waste management issues and future considerations.

Nevada Revised Statute NRS 444.570 requires the State Environmental Commission (SEC), in cooperation with governing bodies of Nevada's municipalities, to develop a statewide solid waste management plan. The plan is reviewed and revised every five years. This Plan is intended to fulfill this requirement and to provide guidance, and information to support:

1. Adoption of solid waste management regulations by the SEC;
2. Efforts undertaken by the Nevada Division of Environmental Protection (NDEP) before the Nevada Legislature regarding the allocation of solid waste program resources;
3. Development and implementation of solid waste management plans and ordinances administered by Nevada's municipal governments; and

4. Activities by other stakeholders who provide solid waste services to the communities, businesses and residents of Nevada. The Plan is available at: <http://ndep.nv.gov/bwm/swmp/swp01.htm>

Regulatory Petitions for Waste Management -- *Action Items

5) Regulation R179-05: Waste Landfill Cover Requirements: This regulation addresses “cover requirements” of compacted solid waste at certain landfills in Nevada. The regulation would amend NAC 444.688. The requested change will reverse an existing requirement that allows certain landfills in Nevada to operate for up to six days without applying cover soil to exposed waste.

By way of background, Nevada has received approval from the Environmental Protection Agency (US EPA) to administer federal municipal solid waste landfill (MSWLF) regulations contained in 40 CFR Part 258. Under the approved program, the Clark and Washoe County Health Districts (Las Vegas & Reno) administer the landfill regulations within their areas of jurisdiction, while the Nevada Division of Environmental Protection (Division) does so in all other areas of the state.

The federal MSWLF regulations require municipal landfills to cover disposed solid waste at the end of each operating day (40 CFR § 258.21). Certain MSWLFs in Nevada have claimed to operate “around the clock”, suggesting that for them there is no “end of each operating day” that would trigger the daily cover requirement.

In recognition of the potential need to receive waste around the clock at landfills that serve the “24-hour” urban areas of Las Vegas and Reno, in 1998 the State Environmental Commission adopted revisions to NAC 444.688 that allowed such landfills to operate for up to 6 days prior to applying cover material. To make this allowance, the term “operating day” at such landfills was defined to include a period of time up to six days long. The US EPA has since notified the Division that this language is not consistent with the federal criteria.

This regulation would therefore restore conformance with the federal landfill criteria while retaining flexibility for landfills to operate continuously. This regulation would allow landfills to avoid the requirement of a daily cover if they have equipment continuously “working the face” of the landfill.

An immediate and long-term adverse financial effect would impact certain operators. Such costs could also increase disposal fees for the public. There would, however, be no additional cost to the Division for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any

regulations of other state, federal, or local agencies. The regulation would also not increase fees levied by the Division (SEC reference # P2005-10).

6) Regulation R137-07: Adoption by Reference, Hazardous Waste: This petition will amend regulations governing hazardous waste management found in Chapter 444 of the Nevada Administrative Code (NAC). The proposed amendments will update Nevada's adoption of federal regulations by reference. This will include federal regulatory changes adopted by US EPA between July 1, 2005 and July 1, 2006. The proposed amendments will allow the State to implement the "RCRA" Hazardous Waste program in lieu of the federal government.

The regulatory changes comprise the addition of mercury containing equipment to the list of universal wastes, revisions to the hazardous waste program to allow for a standardized permit, revisions of wastewater treatment exemptions for hazardous waste mixtures, the RCRA portions of national emissions standards for hazardous air pollutants from hazardous waste combustors, and changes to hazardous waste regulatory requirements to reduce the paperwork burden.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees (SEC reference # P2007-04).

Regulatory Petitions for Corrective Actions -- *Action Item

7) Regulation R125-07: Release Reporting Regulations of Hazardous Substances or Petroleum Products in Excess of Reportable Quantities: The proposed regulation would amend the Nevada Division of Environmental Protection's (NDEP) existing release reporting regulations that are contained in Nevada Administrative Code 445A.345 to 445A.348. Release reporting regulations require facilities to notify NDEP after the release of hazardous substances or petroleum products in excess of reportable quantities. The proposed regulation makes the following changes and clarifications to the existing regulations:

- The proposed regulation creates a category of releases that will be subject to more immediate notification requirements than what the existing regulations mandate. The existing regulations allow for notification of any incident, regardless of severity or impact, within one

working day, which is not supportive of agency functions during significant events.

- Reportable triggers based on environmental media have been added for “listed” hazardous substances taken from federal regulations. This brings hazardous substances in line with the handling of petroleum products and “unlisted” pollutants and contaminants, which all have media-specific reporting requirements.
- A “discovery event” trigger has been added for the reporting of hazardous substance contamination discovered in soil or groundwater as a result of historic or prior releases. The “discovery event” trigger will be based on the existing framework for petroleum product releases.
- A clarifying definition has been added for “other surfaces of land,” which was previously undefined.
- A minimum reportable quantity for “listed” hazardous substances has been adopted to be consistent with existing reportable quantities for petroleum products.
- A specific reportable trigger for releases from underground storage tanks has been added in coordination with the State’s UST program.

The changes and clarifications in the proposed regulation are intended to support the Division’s function as the State agency responsible for the implementation of the Nevada Water Pollution Control Law and those statutes and regulations adopted for the management of hazardous wastes, hazardous substances, and underground storage tanks. The changes and clarifications eliminate inconsistencies in the existing regulations and rely on standards of practice that already exist within most sections of the regulated community.

This regulation will not have an immediate or long-term adverse effect on business or the public, and there is no additional cost to the agency for enforcement of the proposed regulation. There are two other State agencies that have reporting provisions that may capture the same incidents as NDEP reporting requirements; they are the Nevada Department of Transportation, which is involved with hazardous material releases on the roadways, and the Nevada Department of Emergency Management, which is responsible for coordinating the State’s response to any significant incident. These different release reporting requirements do not necessarily overlap each other because the State agencies may have different authorities and jurisdictions and the notification requirements may be built on entirely different reporting triggers.

The Federal government is also required to be notified after a release of a reportable quantity of hazardous substances. These reporting functions have been consolidated in the National Response Center operated by the US Coast

Guard. The release of a reportable quantity of hazardous substances is felt to be a significant event that may require response under the National Contingency Plan, (SEC reference # P2007-05).

Regulatory Petitions for Air Quality Planning / Air Pollution Control *Action Items

8) Regulation R142-07: Greenhouse Gas Reporting, Minor Violation Fine Increase and Permitting Corrections/Clarifications: This regulation will amend NAC 445B.001 to 445B.3497 of the State "Air Pollution" regulations, by adding the following requirements:

The regulation will mandate the reporting of greenhouse gases (GHG) emitted by certain generators of electricity for inclusion in a registry of GHG emissions, and require the Nevada Division of Environmental Protection (NDEP) to issue, at least every 4 years, a statewide inventory of GHGs released in the State. The data collection and reporting of GHG emissions is a requirement of Senate Bill 422 enacted by the 2007 Nevada Legislature (see: http://www.leg.state.nv.us/74th/Bills/SB/SB422_EN.pdf).

The regulation will revise fines for minor violations. Of note, Assembly Bill 67 was passed by the 2007 Legislature, increasing the maximum allowable fine for a minor violation to \$2000 (http://www.leg.state.nv.us/74th/Bills/AB/AB67_EN.pdf). The last increase in the maximum allowable fine was 20 years ago. With this new authority, NDEP proposes to change the fine structure for minor violations to make the amounts more commensurate with today's economy. The higher fine amounts will provide a greater deterrent to violating state regulations.

The regulation will also revise the operating permits regulations in response to the U.S. Environmental Protection Agency's review of NDEP's proposed update to the Nevada State Implementation Plan. The revisions are minor, including clarifications; aligning the state definition of "federally enforceable" with the federal definition, and adding public participation requirements for Class II general permits.

Finally the regulation will revise the definition of a "Class III source" to allow a stationary compression ignition internal combustion engine (CI-ICE) that is subject to 40 CFR 60 Subpart IIII and does not exceed 750 horsepower to qualify as a Class III source. If the regulation is not adopted businesses with stand-alone emergency or backup generators must now obtain a Class II permit. The time and cost required in obtaining a Class II permit for stationary CI-ICEs that do not exceed 750 horsepower would impose undue hardship on business/industry. Hence, the proposed regulation alleviates this hardship.

Regulatory Effects: There will be added costs to electric power generating companies that operate electric generating units with a maximum design output capacity of 5 megawatts or more and emit GHGs. In carrying out the intent of new legislation, the regulation requires these companies to participate in a registry of GHGs and begin reporting emissions of six GHGs in 2009.

The regulatory changes will have a beneficial economic effect on businesses or industries that would otherwise have been required to obtain a Class II operating permit for operations of stationary compression ignition internal combustion engine.

There will be additional costs to the agency for administering the new GHG program, which will require one full-time employee. These additional costs will be covered by a settlement agreement; no new fees are required. The proposed regulations do not overlap or duplicate any regulations of other state or government agencies and they are no more stringent than what is established by federal law. The proposed amendments do not address fees, (SEC reference # P2007-06).

9) Regulation R143-07: Nevada Clean Air Mercury Rule Program: This petition will amend NAC 445B.3711 to 445B.3791 of the State "Air Pollution" regulations. The amendment is needed to address certain technical changes to the regulations governing Nevada's Clean Air Mercury Rule Program (CAMR) including public participation requirements defined in Assembly Bill 67; AB 67 was recently enacted by the 2007 session of the Nevada Legislature (See, http://www.leg.state.nv.us/74th/Bills/AB/AB67_EN.pdf). Among other requirements, AB 67 calls for the adoption of regulations to address public participation in the determination of the amount of mercury allowances [air emissions] available for sale or auction by the Department, i.e., the Nevada Division of Environmental Protection. The amendment complies with this requirement.

Other changes to the regulation respond to US EPA's review of Nevada's CAMR State Plan, which was submitted to EPA November 15, 2006 in compliance with the Federal Clean Air Mercury Rule. The amendments are necessary to clarify Nevada's Plan, align it more closely with the Federal CAMR and, thereby, make Nevada's Plan more approvable by EPA.

This regulation will not have an immediate or long-term adverse economic effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees (SEC reference # P2007-07).

10) Public Comment * Non Action Items: (Public comment may be limited to ten minutes per person at the discretion of the chairperson.

Reference Nevada Open Meeting Law Manual, pages 58 & Page 81)

<http://ag.state.nv.us/publications/manuals/omlmanual.pdf>

- NCARE - Nevada For Clean Affordable Reliable Energy: A representative from NCARE will discuss the “carbon sequestration” Memorandums of Agreements (MOU’s) between NDEP and those power companies proposing coal fired electric generating facilities in Nevada.
- Other Public Comments:
- Administrator's Briefing to the Commission: NDEP’s Administrator will provide the Commission an update about coal fired power plants permitting activities in Nevada. This will include the MOU’s with three power companies proposing coal fired electric generating facilities in Nevada; these MOU’s address certain commitments to deploy carbon sequestration technologies when such technologies become available. An update on the Divisions involvement in local and regional climate change initiatives will also be provided.

Additional Information: Copies of materials referenced in this agenda may be obtained by calling the Executive Secretary, John Walker at (775) 687-9308. The public notice and the text of materials for the meeting are also available on the State Environmental Commission website at:

<http://www.sec.nv.gov/index.htm>

Persons wishing to comment on the proposed actions on this agenda may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

The SEC must receive written submissions at least five days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Upon adoption of any regulation, the SEC, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on November 27, 2007.



State of Nevada

Dept. of Conservation & Natural Resources
State Environmental Commission

901 South Stewart Street, Suite 4001 -- Carson City, Nevada 89701-5249



Public Notice

Hearing for the Adoption of Regulations and Other Matters Before the State Environmental Commission

The State Environmental Commission (SEC) has scheduled a regulatory hearing for Tuesday, December 4th, 2007 beginning at 9:30 am. The hearing will be held at the Nevada Department of Wildlife's Conference Room A, 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 the following regulatory petitions and related SEC business. If a person that may be directly affected by a proposed action does not appear and request time to make an oral presentation at the above referenced hearing, the SEC may proceed immediately to act upon any of the following regulatory petitions or other written submissions described in this notice.

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.

- 1) **Approval of minutes 09/07/07 SEC hearing** * Action Item
http://www.sec.nv.gov/main/hearing_120407.htm
- 2) **Settlement Agreements, Air Quality Violations** *Action, Consent Calendar
http://www.sec.nv.gov/main/hearing_120407.htm
- 3) **Arsenic Rule Exemptions** * ACTION by Consent Calendar
http://www.sec.nv.gov/main/hearing_120407.htm
- 4) **Nevada State Solid Waste Management Plan** *Action
<http://ndep.nv.gov/bwm/swmp/index.htm>

Regulatory Petitions -- *Action Items

Waste Management

5) **Regulation R179-05: Waste Landfill Cover Requirements:** This regulation addresses "cover requirements" of compacted solid waste at certain landfills in Nevada. The regulation would amend NAC 444.688. The requested change will

reverse an existing requirement that allows certain landfills in Nevada to operate for up to six days without applying cover soil to exposed waste.

By way of background, Nevada has received approval from the Environmental Protection Agency (US EPA) to administer federal municipal solid waste landfill (MSWLF) regulations contained in 40 CFR Part 258. Under the approved program, the Clark and Washoe County Health Districts (Las Vegas & Reno) administer the landfill regulations within their areas of jurisdiction, while the Nevada Division of Environmental Protection (Division) does so in all other areas of the state.

The federal MSWLF regulations require municipal landfills to cover disposed solid waste at the end of each operating day (40 CFR § 258.21). Certain MSWLFs in Nevada have claimed to operate “around the clock”, suggesting that for them there is no “end of each operating day” that would trigger the daily cover requirement.

In recognition of the potential need to receive waste around the clock at landfills that serve the “24-hour” urban areas of Las Vegas and Reno, in 1998 the State Environmental Commission adopted revisions to NAC 444.688 that allowed such landfills to operate for up to 6 days prior to applying cover material. To make this allowance, the term “operating day” at such landfills was defined to include a period of time up to six days long. The US EPA has since notified the Division that this language is not consistent with the federal criteria.

This regulation would therefore restore conformance with the federal landfill criteria while retaining flexibility for landfills to operate continuously. This regulation would allow landfills to avoid the requirement of a daily cover if they have equipment continuously “working the face” of the landfill.

An immediate and long-term adverse financial effect would impact certain operators. Such costs could also increase disposal fees for the public. There would, however, be no additional cost to the Division for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation would also not increase fees levied by the Division (SEC reference # P2005-10).

Waste Management (continued)

6) Regulation R137-07: Adoption by Reference, Hazardous Waste: This petition will amend regulations governing hazardous waste management found in Chapter 444 of the Nevada Administrative Code (NAC). The proposed amendments will update Nevada’s adoption of federal regulations by reference. This will include federal regulatory changes adopted by US EPA between July 1, 2005 and July 1, 2006. The proposed amendments will allow the State to implement the “RCRA” Hazardous Waste program in lieu of the federal government.

The regulatory changes comprise the addition of mercury containing equipment to the list of universal wastes, revisions to the hazardous waste program to allow for a standardized permit, revisions of wastewater treatment exemptions for hazardous waste mixtures, the RCRA portions of national emissions standards for hazardous air pollutants from hazardous waste combustors, and changes to hazardous waste regulatory requirements to reduce the paperwork burden.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees (SEC reference # P2007-04).

Corrective Actions

7) Regulation R125-07: Release Reporting Regulations of Hazardous Substances or Petroleum Products in Excess of Reportable Quantities: The proposed regulation would amend the Nevada Division of Environmental Protection's (NDEP) existing release reporting regulations that are contained in Nevada Administrative Code 445A.345 to 445A.348. Release reporting regulations require facilities to notify NDEP after the release of hazardous substances or petroleum products in excess of reportable quantities. The proposed regulation makes the following changes and clarifications to the existing regulations:

- The proposed regulation creates a category of releases that will be subject to more immediate notification requirements than what the existing regulations mandate. The existing regulations allow for notification of any incident, regardless of severity or impact, within one working day, which is not supportive of agency functions during significant events.
- Reportable triggers based on environmental media have been added for "listed" hazardous substances taken from federal regulations. This brings hazardous substances in line with the handling of petroleum products and "unlisted" pollutants and contaminants, which all have media-specific reporting requirements.
- A "discovery event" trigger has been added for the reporting of hazardous substance contamination discovered in soil or groundwater as a result of historic or prior releases. The "discovery event" trigger will be based on the existing framework for petroleum product releases.
- A clarifying definition has been added for "other surfaces of land," which was previously undefined.

- A minimum reportable quantity for “listed” hazardous substances has been adopted to be consistent with existing reportable quantities for petroleum products.
- A specific reportable trigger for releases from underground storage tanks has been added in coordination with the State’s UST program.

The changes and clarifications in the proposed regulation are intended to support the Division’s function as the State agency responsible for the implementation of the Nevada Water Pollution Control Law and those statutes and regulations adopted for the management of hazardous wastes, hazardous substances, and underground storage tanks. The changes and clarifications eliminate inconsistencies in the existing regulations and rely on standards of practice that already exist within most sections of the regulated community.

This regulation will not have an immediate or long-term adverse effect on business or the public, and there is no additional cost to the agency for enforcement of the proposed regulation. There are two other State agencies that have reporting provisions that may capture the same incidents as NDEP reporting requirements; they are the Nevada Department of Transportation, which is involved with hazardous material releases on the roadways, and the Nevada Department of Emergency Management, which is responsible for coordinating the State’s response to any significant incident. These different release reporting requirements do not necessarily overlap each other because the State agencies may have different authorities and jurisdictions and the notification requirements may be built on entirely different reporting triggers.

The Federal government is also required to be notified after a release of a reportable quantity of hazardous substances. These reporting functions have been consolidated in the National Response Center operated by the US Coast Guard. The release of a reportable quantity of hazardous substances is felt to be a significant event that may require response under the National Contingency Plan, (SEC reference # P2007-05).

Air Pollution Control / Air Quality Planning

8) Regulation R142-07: Greenhouse Gas Reporting, Minor Violation Fine Increase and Permitting Corrections/Clarifications: This regulation will amend NAC 445B.001 to 445B.3497 of the State “Air Pollution” regulations, by adding the following requirements:

The regulation will mandate the reporting of greenhouse gases (GHG) emitted by certain generators of electricity for inclusion in a registry of GHG emissions, and require the Nevada Division of Environmental Protection (NDEP) to issue, at least every 4 years, a statewide inventory of GHGs released in the State. The data collection and reporting of GHG emissions is a requirement of Senate Bill 422 enacted by the 2007 Nevada Legislature (see: http://www.leg.state.nv.us/74th/Bills/SB/SB422_EN.pdf)

The regulation will revise fines for minor violations. Of note, Assembly Bill 67 was passed by the 2007 Legislature, increasing the maximum allowable fine for a minor violation to \$2000 (http://www.leg.state.nv.us/74th/Bills/AB/AB67_EN.pdf). The last increase in the maximum allowable fine was 20 years ago. With this new authority, NDEP proposes to change the fine structure for minor violations to make the amounts more commensurate with today's economy. The higher fine amounts will provide a greater deterrent to violating state regulations.

The regulation will also revise the operating permits regulations in response to the U.S. Environmental Protection Agency's review of NDEP's proposed update to the Nevada State Implementation Plan. The revisions are minor, including clarifications; aligning the state definition of "federally enforceable" with the federal definition, and adding public participation requirements for Class II general permits.

Finally the regulation will revise the definition of a "Class III source" to allow a stationary compression ignition internal combustion engine (CI-ICE) that is subject to 40 CFR 60 Subpart IIII and does not exceed 750 horsepower to qualify as a Class III source. If the regulation is not adopted businesses with stand-alone emergency or backup generators must now obtain a Class II permit. The time and cost required in obtaining a Class II permit for stationary CI-ICEs that do not exceed 750 horsepower would impose undue hardship on business/industry. Hence, the proposed regulation alleviates this hardship.

Regulatory Effects: There will be added costs to electric power generating companies that operate electric generating units with a maximum design output capacity of 5 megawatts or more and emit GHGs. In carrying out the intent of new legislation, the regulation requires these companies to participate in a registry of GHGs and begin reporting emissions of six GHGs in 2009.

The regulatory changes will have a beneficial economic effect on businesses or industries that would otherwise have been required to obtain a Class II operating permit for operations of stationary compression ignition internal combustion engine.

There will be additional costs to the agency for administering the new GHG program, which will require one full-time employee. These additional costs will be covered by a settlement agreement; no new fees are required. The proposed regulations do not overlap or duplicate any regulations of other state or government agencies and they are no more stringent than what is established by federal law. The proposed amendments do not address fees, (SEC reference # P2007-06).

Air Pollution Control / Air Quality Planning (continued)

9) **Regulation R143-07: Nevada Clean Air Mercury Rule Program:** This petition will amend NAC 445B.3711 to 445B.3791 of the State "Air Pollution" regulations. The amendment is needed to address certain technical changes to the regulations governing Nevada's Clean Air Mercury Rule Program (CAMR) including public participation requirements defined in Assembly Bill 67; AB 67 was recently enacted by the 2007 session of the Nevada Legislature (See, http://www.leg.state.nv.us/74th/Bills/AB/AB67_EN.pdf). Among other requirements, AB 67 calls for the adoption of regulations to address public participation in the determination of the amount of mercury allowances [air emissions] available for sale or auction by the Department, i.e., the Nevada Division of Environmental Protection. The amendment complies with this requirement.

Other changes to the regulation respond to US EPA's review of Nevada's CAMR State Plan, which was submitted to EPA November 15, 2006 in compliance with the Federal Clean Air Mercury Rule. The amendments are necessary to clarify Nevada's Plan, align it more closely with the Federal CAMR and, thereby, make Nevada's Plan more approvable by EPA.

This regulation will not have an immediate or long-term adverse economic effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not alter fees (SEC reference # P2007-07).

10) **Administrator's Briefing to the Commission** *Non Action Item

11) **Public Comment** *Non Action Item

Additional Information:

Persons wishing to comment on the proposed actions of the State Environmental Commission (SEC) may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

In addition, copies of this public notice and the accompanying regulations have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are available on the State Environmental Commission's website at <http://www.sec.nv.gov/index.htm> All of the proposed regulations denoted in this notice, including previous drafts, are posted on the Legislative Counsel Bureau's website at <http://www.leg.state.nv.us/Register/>

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on November 27, 2007.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this public notice has been posted at the following locations: The Nevada Department of Wildlife in Reno, Nevada, the Grant Sawyer Office Building in Las Vegas, and the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the SEC, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

Summary Minutes of the
STATE ENVIRONMENTAL COMMISSION (SEC)

Meeting of December 4, 2007

Nevada Department of Wildlife, Conference Room A,
1100 Valley Road, Reno, Nevada

Members Present:

Lewis Dodgion, Chairman
Alan Coyner, Vice Chairman
Pete Anderson
Donna Rise
Harry Shull
Kenneth Mayer
Ira Rackley
M. Frances Barron

Members Absent:

Tracy Taylor
Stephanne Zimmerman

SEC Staff Present:

Rose Marie Reynolds, Dep. A.G.
John Walker, Executive Secretary
Robert Pearson, Recording Sectry.

BEGIN SUMMARY MINUTES

Chairman Dodgion called the meeting to order at 9:30 am and stated that it was the noticed time for the meeting to start. He asked Mr. Walker if there were any agenda changes that the Commission should be aware of; it was noted that Agenda Item 8, Regulation R142-07 was being pulled from the agenda at the request of the Nevada Division of Environmental Protection (NDEP) and would be taken up at the next SEC meeting.

1) Approval of minutes from the September 7, 2007 SEC hearing *ACTION

Chairman Dodgion asked if there were any questions, additions or deletions from the Commissioners on the summary minutes of the September 7, 2007 SEC meeting. He noted that he had one; Commissioner Gans was present at the meeting but was not so listed.

Motion: When there were no additional comments or corrections Commissioner Sponer moved that the minutes be approved as presented, Commissioner Rackley seconded, and the vote was unanimous in favor.

Chairman Dodgion now moved down the agenda to Item 2:

**2) Approval of the following Settlement Agreements - Air Quality Violations
*ACTION by Consent Calendar**

Larry Kennedy, Supervisor of the Compliance and Enforcement Branch of the Nevada Division of Environmental Protection's (NDEP) Bureau of Air Pollution Control, presented the settlement agreements to the Commission.

Mr. Kennedy now gave the following presentation:

(BEGIN PREPARED REMARKS BY LARRY KENNEDY)

Mr. Chairman, members of the Commission, good morning. For the record, my name is Larry Kennedy. I Supervise the Compliance & Enforcement Branch in NDEP's Bureau of Air Pollution Control.

This morning I will present three Settlement Agreements negotiated by the Bureau's Compliance & Enforcement Branch for approval by the State Environmental Commission. The Commission is authorized under the Nevada Revised Statutes to levy administrative penalties for Major violations of state rules and regulations that protect air quality. Based on a long-standing agreement, the Bureau's Compliance & Enforcement Branch negotiates penalties for Major air quality violations on the behalf of the Commission.

For the settlements presented today, the Penalty Table was used to assess penalties for non-emissions violations. In one Settlement - that for Carson City Renewable Resources - the Penalty *Matrix* was used to assess additional penalties for recurring violations.

We have informed all of the companies or individuals listed on today's agenda that the Branch acts as the Commission's agent in assessing penalties and negotiating settlements, and that the Commission may see fit to adjust a penalty that we have assessed. All of the companies on the agenda have been notified that their settlements would be considered by the Commission at this meeting.

What I would like to do today is briefly describe the alleged violations and each of the related settlement agreements, and then, answer any questions you may have.

(See Appendix 1 for the table of settlements and comments)

(Mr. Kennedy now began his description of the first violation on the list, Brady Power Partners; Commissioner Coyner noted that Dixie Power Plant did not seem correct as it was owned by another company. Randy Peterson, General Manager for Ormat Power Partners, came forward to state that he represented Brady Power Partners and clarified that the plant in question was the Brady Power Plant. Chairman Dodgion then asked if Brady was in agreement with all other aspects of the settlement and Mr. Peterson said they were. Mr. Kennedy

said that in the settlement agreement it was correct, the error was in the table in the Commission packets.)

(Mr. Kennedy now proceeded through the rest of his remarks contained in Appendix 1.)

(END PREPARED REMARKS BY LARRY KENNEDY)

Motion: When there were no further questions of Mr. Kennedy, and no public comment, Commissioner Gans moved that the settlements be approved with the correction on the Dixie Valley plant as noted, and the vote was unanimous in favor.

Chairman Dodgion now moved down the agenda to:

3) Approval of Arsenic Rule Exemptions for the following list of water systems *ACTION by Consent Calendar

WATER SYSTEM ID	# SYSTEM NAME
NV0003068	CARSON RIVER ESTATES
NV0000047	DELUXE MHP
NV0000906	JETWAY CHEVROLET
NV0000060	WEST STAR MHP
NV0000058	WILDES MANOR
NV0000162	MC DERMITT WATER SYSTEM
NV0000897	SCHURZ ELEMENTARY SCHOOL
NV0000218	CARVERS SMOKEY VALLEY RV AND MHP
NV0005028	SHOSHONE ESTATES WATER COMPANY
NV0000878	MASTERFOODS USA

Mr. Doug Zimmerman of NDEP presented the exemptions. Before he began, Chairman Dodgion noted that Mr. Zimmerman would be retiring soon from the Division.

(BEGIN PREPARED REMARKS BY DOUG ZIMMERMAN)

Mr. Chairman, members of the Commission Doug Zimmerman, NDEP - Jennifer Carr, Chief of the Bureau of Safe Drinking water had some previous commitments for today and is unable to attend so I will be presenting to you the final group of public water systems that NDEP is recommending for approval of arsenic exemptions. Additionally, as has been requested by the SEC at previous meetings I would also like to cover future actions - where do we go from here - what options do we have to address systems that are not in compliance, what are going to be our priorities, how our efforts are coordinated with EPA Region 9, what technical and financial assistance are available to these PWS (public water systems) and how these factors will enter

into our recommendations for time extensions to the exemptions that have been approved by the SEC and the alternatives and consequences for systems that do not receive extensions or did not receive an initial exemption.

I will start by briefly covering the systems on today's agenda. I think if I go through these items prior to the commission acting on today's exemptions it may answer some or most of the questions you have on these exemptions. The 1/23/09 deadline for compliance is rapidly approaching and these and the other systems have just a little over a year from now to come into compliance.

Very briefly and to refresh your memories, exemptions are an administrative tool provided for in the Safe Drinking Water Act and our State statute and regulations. Exemptions provide for an extension of time for systems to achieve compliance with new standards but are only available for the group of contaminants we refer to as chronic contaminants as opposed to acute contaminants. We show 10 systems on today's agenda (SEE LIST ABOVE)- only one system out of the ten failed to provide the required public notice to their customers - that is Carvers Smokey Valley RV and MHP- so we are recommending for approval a total of 9 exemptions - which surprised me that we had that many since only two were on your last agenda - but after the last SEC meeting we did additional outreach to these systems informing them of this final opportunity to be covered by an exemption and also provided them technical assistance in completing their applications. The technical assistance was the key to these systems completing the application process and in all cases the applications were deficient in addressing the financial approach the systems would take.

Our technical assistance contractor assisted these systems in completing applications for financial assistance from the DWSRF, USDA rural development and our AB 198 grant program.

The exemptions if approved require the systems to achieve compliance by 1/23/09 - just a little over a year from now the same as all previously approved exemptions. From my knowledge of these systems I expect some of them to meet that goal - for example Jet Way Chevrolet a NT system will be connecting to the new Churchill County System and is just a matter of the installation of water mains so they can connect - others I would be pleasantly surprised if they were in compliance - again for most of these systems it comes down to financial resources to meet the standard. Approval of these exemptions will give us the option to revisit these systems in less than one year, see what progress they have made and at that point considering all factors that affect their ability to achieve compliance make the decision of either recommending an extension or moving into a different process.

The issue of 2-yr extensions is applicable not just to the 10 being considered today but applies to all of the systems that have received an exemption but will not achieve compliance by 1/23/09.

A review of those numbers would be helpful and I have a handout to assist in the discussion (See Appendix 2). As you can see on the handout NDEP received 87 exemption applications - if 9 are approved today that gives us a total of 64 approved exemptions (55 approved at previous meeting) LEVEL 2 HANDOUT (see Appendix 3)- of the remaining 23 that applied 14 achieved compliance by installing treatment, 2 consolidated with compliant systems, 5 achieved compliance by alternative monitoring plan and/or blending and 1 system that initially was identified as needing an exemption but upon collecting their most recent compliance sample came in below 10 - they may be back at some point or may not based on future sampling this system is typical of a group that hover just near the standard that dependent on their sample results may or may not need to deal with arsenic at some future point.

The town of Minden is a recent example that goes the other way - earlier samples below 10 latest sample was 12 = EXCEEDANCE - start quarterly monitoring to determine IF THEY ARE IN VIOLATION based on an annual average

Only 1 - Carvers did not complete the public notice process and so is not eligible for an exemption at today's meeting and we will pursue compliance through our standard enforcement processes which initially will be an effort to negotiate some form of a consent agreement. Carvers and the systems that have received an exemption but do not achieve compliance by 1/23/09 and do not receive an extension will fall into what I will refer to as our future violation group.

Are their systems out there that have been overlooked that we need to pursue and to the best of our knowledge the answer is NO - positive reflection on the staff and the program and the arsenic effort which started long before it moved to NDEP -- extensive outreach efforts and review of historical arsenic levels.

Before I leave this topic I would like to comment on some success stories - of those 55 exemptions that have been granted we have systems that have come into compliance - notable amongst those are some systems in Churchill County (Country Club Estates and Pine Grove Utilities that are now served by the new Churchill County water system.

By January 23, 2009 - what will we have is 3 groups of systems - out of the 64 systems that have exemptions a certain number, hopefully high, will achieve compliance; 15 already have; (see bottom of handout). The remaining will either qualify for and be recommended for an exemption extension which means they continue in exemption status - and the third group is = did not

achieve compliance and did not qualify for an extension which puts them in the violation group.

PRIORITIES FOR COMPLIANCE - REMAINING SYSTEMS

The basis of our priority setting is straightforward; we are going to consider the arsenic concentration and the type of system (community or NTNC) HANDOUT - BOTTOM GROUP. As you may recall the arsenic concentrations that exceed the standard have a wide range - some just barely over the new standard of 10 at 11, 12 and some much higher in the mid to upper 40's very near the old standard of 50.

Our highest priority group will be community systems and those are systems that supply water to residential users -to homes- with arsenic concentrations above 30ppb. The 30ppb is a threshold that we established in conjunction with EPA Region IX - it does not have a hard scientific basis to it, its really more of a consistency issue throughout the region but it captures the systems with the highest concentrations and as we have discussed at previous meetings the higher the concentration the higher the risk.

This number of 30 also has some important aspects with respect to recommendations for extension that I will touch on in a moment but tell you now that again in conjunction with R9 we will not be recommending exemption extensions for any system above 30. So #1 priority = community above 30ppb. Continuing with priorities our next group will be community systems that fall in the 20 to 29 range based and the NT systems above 30 -again the highest concentration highest risk and then our final priority group will capture community systems in the 11 to 19 and NT in the 11 to 29. The vast majority of systems are community and not NTNC

#1 COMMUNITY systems 30 and above

#2 community 20 to 29 and NT above 30

#3 community 11 to 19 and NT 11 to 29

While all systems are required to be making progress, this priority system will be used as a general guide with the emphasis on assuring that we are addressing the highest risk systems - In all these groups we are and will be looking at assuring systems are moving forward and if there is a reasonable interim measure that can be taken, particularly say at NT systems which are typically businesses providing water to just their own employees why can't they supply bottled water or install a low cost RO unit on the main location for drinking water. So we will be looking for those types of opportunities at all systems.

1/23/09 COMPLIANCE/Exemption Extensions/ and Violations

I would like to talk about these two groups EXEMPTION EXTENSION AND VIOLATION together because there are many similarities in terms of what these systems have to do - they both have to achieve compliance with the standard whether it's under the terms of a compliance schedule in an exemption or a compliance schedule in an enforcement document.

The actual time frames for achieving compliance may not be significantly different between the groups. To contrast the two groups the biggest difference is the frequency of public notification that must occur - exemption = annual through the CCR - Violation = ¼ notification to users of system + CCR. The last comparison is with respect to potential penalties that could be assessed and penalties are something we would only consider for the systems that are truly recalcitrant - penalties are similar for both groups - in the violation group you are subject to penalties for the violation itself and failure to comply with a schedule of compliance in the enforcement agreement but in the exemption group you can also be subject to penalties for failure to comply with a schedule of compliance item in an exemption

- overall there are not major difference between these two groups with the exception of the frequency of public notification.

Extensions - significant progress language in the exemption:

As I mentioned earlier we intend to link the concept of significant progress with the arsenic concentration of the system. Above 30 and you have not achieved compliance by 1/23/09 we will not recommend an extension - these will be our priority systems, we will look for interim measures and try to get as high compliance rate in this group as we can.

This will be a consistent approach with EPA and the R9 states of CA, AZ, HA. One of the things to keep in mind for all these systems is the timeframes they have been working under. The new standard of 10 ppb was adopted by EPA on 1/23/01 but as set forth under the SDWA the standard does not become effective or enforceable for 5 years = 1/23/06 date and then systems qualified for 3 year exemption out to 1/23/09 so from when systems clearly new they had to meet this new standard to 1/23/09 they have had 8 years from the original adoption date.

If these high priority systems +30ppb have not achieved compliance by 09 we feel it is reasonable to change their status from exemption to violation ultimately resulting in more frequent public notice to their customers who may very well put additional pressure on the systems to achieve compliance.

Probably the next most important and common issue with respect to systems achieving compliance and demonstrating significant progress is the availability of financial resources and their ability to qualify and obtain those resources.

Many of these systems - primarily privately owned ones, without the assistance of grants and low or zero interest loans they will not be able to achieve compliance. The principal source of grant funds for publicly owned systems is our state AB 198 program - overall the picture isn't too bad but AB 198 does have a limited amount of funds and is already experiencing some financial challenges in these difficult budget times.

The state does have a debit limit after which further bonds can not be sold and that could become a factor for the AB 198 program and so if we see that and systems are below 30 but can't get those funds by 1/23/09 we are likely to recommend extensions to you. So we will look at the financial challenges systems have faced, their efforts to obtain funding and if things were truly beyond their control we would be recommending an extension for that type of system. I have been talking primarily about publicly owned systems, the financial picture for privately owned systems is more challenging - they don't qualify for AB 198, loans are available but they may not be financially capable of getting these loans, some grant money is available through USDA for non-profit (home owners) bottom line more difficult and they may not be able to show significant progress and it will move them into the violation group.

We anticipate presenting extension request to the SEC at the November 12, 2008 SEC meeting.

I hope that gives you a sense of where we are and where we are headed, some of the challenges that the systems will be facing and our thoughts with respect to considering and recommending extensions.

At this point I would be happy to answer any questions and would request you consider our recommendation for approval of the 9 exemptions on today's agenda.

(END PREPARED REMARKS BY DOUG ZIMMERMAN)

Commission Coyner asked if the 14 systems using treatment were mostly "R/O" (reverse osmosis), and how much do these cost? Mr. Zimmerman said that public systems starting out in the process were looking at approximately \$25 million. He asked Bert Bellows of Bureau of Safe Drinking Water to amplify— Mr. Bellows said that some the 14 were "non-transient/non-community" systems (industrial), but that he did not have exact cost data because of variables involved. Mr. Zimmerman said that contractor Farr West Engineering was currently gathering data. Chairman Dodgion noted that reverse osmosis

was not the only method, and Mr. Zimmerman agreed, noting the Churchill County system was “some green sand filter media” type.

Commissioner Coyner was most interested in treatment options for small systems, trailer parks, etc. and Mr. Zimmerman noted the availability of “under the sink” R/O units for about \$250; the problem is ensuring continuing compliance. Actual in-home samples and verification will be required. Even with those challenges, that may be the only viable method for the small systems.

Chairman Dodgion asked for clarification of what might be presented to the Commission in November 2008, and Mr. Zimmerman stated that these would be the first round of extensions—there will be three groups at that time, extensions, systems in violation and hopefully a large group in compliance. Commissioner Anderson asked about the long-term costs. Mr. Zimmerman noted that many systems may have put off the effort to solve the problem thinking that “2015 was a long way off” but said that outreach to systems would make clear that the extension were not automatic and depended on meeting standards of effort and financing.

Commissioner Barron asked about Tribal water systems and if they were covered in any way by this process, and Mr. Zimmerman noted that they were strictly under federal control, and the State didn’t really have much data about them.

Commissioner Barron had an improvement or addition to the extension agreement paperwork that she said she would like to see included about notifying customers that the system is operating under an arsenic exemption. Mr. Zimmerman said that it would be added in to the language in the agreements. He also noted that the initial compliance date in the current package is March 23, 2008.

Motion: When there was no further discussion and no public comment, Commissioner Coyner moved that the exemptions for nine systems (excluding Carver’s Smoky Valley) be approved. Commissioner Gans seconded and the vote was unanimous in favor.

Chairman Dodgion asked Mr. Zimmerman to remain at the podium and presented to him a certificate of appreciation for his long and meritorious service to the State of Nevada. Mr. Zimmerman thanked the Commission, and Chairman Dodgion moved down the agenda to:

4) 2007 Solid Waste Management Plan – Final Draft * Action

Eric Noack, Chief of the Bureau of Waste Management for NDEP presented the plan to the Commission.

(BEGIN PREPARED REMARKS BY ERIC NOACK)

Good morning, Mr. Chairman, members of the commission, I am Eric Noack, Chief of the Bureau of Waste Management of the Nevada Division of Environmental Protection and I will presenting the next two items on your agenda.

First I will present an overview of the 2007 Solid Waste Management Plan.

Nevada Revised Statute NRS 444.570 requires the State Environmental Commission to: in cooperation with governing bodies of Nevada's municipalities, develop a statewide solid waste management plan, and review and revise the plan every five years. Staff has written this plan for your consideration to fulfill this requirement.

Municipalities and the public were extensively involved in the development of this plan. In an effort to coordinate with the other Solid Waste Management Authorities in the State, The Washoe County District Health Department and the Southern Nevada Health District reviewed and commented on the plan during June of this year prior to going to public notice.

Comment from municipalities and the public was solicited through public workshops in Elko, Carson City and Las Vegas in August of this year. A public notice was also posted on our website and a link to an electronic version was distributed through our Solid Waste Electronic Email List, followed by a 30-day comment period.

For background purposes, in 2004 the first draft of this plan was developed and went through a similar workshop and review process. We received numerous comments on that plan and decided to take a step back and rewrite the plan in consideration of everyone's comments. The plan being considered today captures the concerns expressed in 2004 and in 2007.

I will now briefly go through the sections of the plan and highlight sections as appropriate.

Section 1 covers the scope and purpose of the plan and the governmental roles and responsibilities.

Nevada has three Solid Waste Management Authorities that have regulatory authority over solid waste management: the Washoe County District Health Department in Washoe County, the Southern Nevada Health District in Clark County, and the NDEP in the remaining Counties with the exception of the Lockwood Landfill in Storey County which operates under the jurisdiction of the

Washoe County District Health Department through an inter-local agreement. Tribal lands within the State fall under the authority of EPA Region IX.

Section 2 of the plan provides the infrastructure and data trends of the solid waste management system in Nevada. Nevada's infrastructure includes landfills, transfer stations and waste bin facilities. In general, Nevada's infrastructure has disposal capacity well into the future.

The data shows recycling steadily increasing statewide and, in fact, Washoe County and Carson City have consistently exceeded the 25% recycling goal. Clark County has also steadily increased however remains below the 25% goal.

Nevada's average per capita municipal solid waste generation rate is over 10 pounds per person per day, significantly higher than the EPA's published National rate of 4.5 pounds/person/day. This is most-likely a result of large volumes of tourism waste.

Solid waste importation into Nevada remains a topic of interest. Currently, the Lockwood Landfill in Storey County receives nearly all of the imported waste into Nevada. There is a potential for importation to increase with large landfills already located or being proposed adjacent to rail lines.

Section 3 of the plan provides an assessment of Nevada's municipal solid waste management systems and Appendix 3 contains a Solid Waste Profile and Map showing the solid waste infrastructure for each county. The profiles in Appendix 3 provide specific information on the solid waste infrastructure and data trends for each County from 1993-2005.

Section 4 is the heart of the plan identifying solid waste management issues and discusses items to consider in the future helping resolve potential issues.

Some highlights from this section are:

Landfill liner requirements - rather than advocating mandatory synthetic liners, the plan recognizes that site-specific conditions should be considered and taken into account when developing liner requirements. With close attention to detail and careful oversight of proposed designs, approved landfill designs can be protective of the environment.

Electronic waste or E-Waste is an issue that is currently receiving national attention. E-Waste includes such items as computers, televisions, cell phones and other consumer electronics. The electronic waste issue is not unique to Nevada and several States have developed programs. Nationally, there appears to be a movement toward manufacturers "take back" programs with many large programs already in place. In Nevada, more avenues for recycling are becoming available and we have experienced success through large E-Waste

collection events. NDEP will continue to do everything we can to promote E-Waste recycling and support collection events.

Another issue concerning landfills is that Nevada has not adopted the U.S. EPA's Research Development and Demonstration or the RD&D rule. This rule would enable permits to be issued allowing variances from the standard landfill operation and design criteria. The RD&D rule would need to be adopted to allow bioreactor landfills for example. These landfills introduce liquids into the waste to promote decomposition and increase gas generation. However, this drastically increases leachate production, which is then re-circulated back into the landfill.

The standard approach to landfill design in Nevada is commonly referred to as a "dry tomb" due to the exclusion of liquids in order to minimize leachate production and therefore maximize the protection of Nevada's groundwater. The climatic and hydrogeologic conditions in Nevada appear to favor the indefinite containment of solid waste in a "dry tomb."

Rural Nevada continues to struggle, however they are meeting the challenge of providing an adequate solid waste management system. Difficulties include the lack of funding, long haul distances, and maintaining the staff and equipment to properly manage their landfills.

Maintaining sufficient funding for solid waste management and regulation within Nevada is a challenge. As you know, revenue for NDEP's Solid Waste Branch is provided through a portion of the \$1 per tire fee. In the past, monies remaining after funding our program were made available in the form of grants or contracts. For State fiscal Year 2007 revenue barely covered our program costs and we were therefore unable to issue grants. We are watching things closely and hope to resume the Grant Program as soon as possible.

The 2005 Legislature passed SB396 creating NRS 444.560, which included a provision to allow the SEC to establish a schedule of NDEP fees for disposal of solid waste or for the issuance of permits or other approvals. These fees, if established, would only apply in the counties under NDEP's jurisdiction. In the future NDEP may be required to petition the SEC for authority to collect fees pursuant to NRS 444.560.

To sum up -- Ensuring safe handling of solid waste continues to be a central part of NDEP's mission.

Toward that end, this solid waste management plan reviews the status of collection and disposal systems within each County. This Plan also attempts to identify methods that will encourage the reduction of waste generation and increase recycling and reuse of resources from the solid waste stream.

In general Nevada's infrastructure for solid waste collection and disposal has improved dramatically over the past ten years, especially in rural areas of the State. Most of Nevada's landfills have disposal capacity well into the future and curbside recycling services are now widely available in major urban areas.

With that, staff or I would now be glad to answer any questions you may have.

(END PREPARED REMARKS BY ERIC NOACK)

Chairman Dodgion asked for clarification on exactly what the SEC would be approving and the answer was that approval would be for the draft to become final—it will then be the Commission's plan.

Commissioner Gans asked about plastic bottles and if they were a problem in Nevada; Mr. Noack noted that they should certainly be recycled, but due to the state's large capacity it was not a problem in terms of space. Commissioner Gans also asked about the 25 percent recycling goal and why it wasn't higher; the answer was that that was a federal mandate, and that it had been raised to 35 percent so that would be reflected in the future. Chairman Dodgion asked if the Bureau might be coming to the Commission in the future about fees, especially at rural landfills since Clark and Washoe County were under their own jurisdiction; Mr. Noack replied that fees had been flat with the Tire Fund revenues for this year at the same level as 2004; the Bureau is holding on, and understands that rural counties have limited financial capacity for any increases.

Commissioner Barron asked about coordination with Clark County, and Mr. Noack replied that they do meet periodically. Chairman Dodgion asked when Clark County Health District had changed to "Southern Nevada" and whether there was anything outside of Clark County covered by it, and Mr. Noack replied no, but the change was to clearly to separate the Board from Clark County Government.

Commissioner Gans complimented the plan document as very readable and informative and Mr. Noack noted that Dave Simpson of his Bureau had been instrumental in drafting it.

Motion: When there was no further discussion, and no public comment, Commissioner Barron moved that the Plan be approved, Commissioner Rackley seconded and the vote was unanimous in favor.

Chairman Dodgion now moved down the agenda to:

Bureau of Waste Management * ACTION ITEMS

5) Regulation R179-05: Waste Landfill Cover Requirements

Mr. Eric Noack of NDEP' Bureau of Waste Management remained at the podium to present the regulation.

(BEGIN PREPARED REMARKS BY ERIC NOACK)

Good morning. Again, I'm Eric Noack, Chief of the Bureau of Waste Management of the Nevada Division of Environmental Protection.

The purpose of this petition is to address the "cover requirements" of compacted solid waste at certain landfills in Nevada. This regulation would amend section 444.688 of the Nevada Administrative Code (NAC) and reverse a 1998 provision that allows certain landfills in Nevada to operate for up to six days without applying cover soil to exposed waste.

The federal Municipal Solid Waste Landfill regulations require municipal landfills to cover disposed solid waste at the end of each operating day. Certain landfills in Nevada have claimed to operate "around the clock", suggesting that for them there is no "end of each operating day" that would trigger the daily cover requirement.

To accommodate the need to receive waste around the clock at landfills, in 1998 the State Environmental Commission adopted revisions to NAC 444.688 that allowed such landfills to operate for up to 6 days prior to applying cover material. To make this allowance, the term "operating day" at such landfills was defined to include a period of time up to six days long. EPA has since notified the Division that this language is not consistent with the federal criteria.

This petition would revise NAC 444.688 to restore conformance with the federal landfill criteria while retaining the flexibility for landfills to operate continuously. This regulation would allow landfills to avoid the requirement of a daily soil cover or alternative cover if they have equipment "working the face" of the landfill 24 hours a day.

This regulation will have an economic impact on one landfill in Nevada: the Lockwood Landfill east of Reno owned and operated by Waste Management. We have correspondence from them stating that they are not in opposition to this petition, in fact, they have already purchased a removable tarp cover system for the Lockwood Landfill. They estimate it will increase their operating costs by approximately \$300,000 per year. However the exact amount will not be known until they implement the system. They also note

that if the tarping system does not work it could cost up to one million dollars per year if they are forced to apply a daily soil cover.

Public workshops were first held in Las Vegas and Carson City on November 16 & 17, 2005. Comments received during these workshops and from the EPA resulted in significant revisions to the 2005 petition. A second petition was drafted and workshops were held again in Las Vegas and Carson City on August 9 and 10, 2006. A total of 43 people attended the four workshops.

The only comment received during the second set of public workshops was from Waste Management, the owner and operator of the Lockwood Landfill. They requested the revised regulation become effective on April 1, 2008 so they would have time to evaluate their tarping system through the winter months.

I will now briefly go through the petition and describe the main provisions of each section.

NAC 444.688 is titled "Cover of Compacted Solid Waste."

This petition is made up of two sections: Section 1 is the revised regulation and Section 2 contains the date the revised regulation would become effective.

You can see that the regulation was restructured from eight subsections to three subsections.

The new subsection 1 essentially incorporates the first six subsections of the existing regulation as (a) through (f) and sections 7 and 8 were deleted and replaced with the new subsections 2 and 3.

The new subsection 2 establishes that the Solid Waste Management Authority can approve the continuous operation of a Class I site as a form of alternative daily cover.

The new subsection 3 (a) provides the definition of "Continuous Operation" and subsection 3 (b) the definition of an "operating day" that is consistent with the federal language.

Continuous Operation means that at all times throughout each 24-hour period: Waste is being received, placed, spread, or compacted on the working surface of the site and at least one piece of heavy equipment is operating on the working surface of the site to spread or compact the waste.

To sum up, this revised regulation allows the Solid Waste Management Authority to approve the continuous operation of a Class I landfill as an alternative daily cover. It also provides the definition of "Continuous

Operation” and defines “Operating Day” as the portion of a day during which a site is accepting or managing solid waste.

I would now be glad to answer any questions concerning this petition.

(END PREPARED REMARKS BY ERIC NOACK)

In response to several questions on the details of the Lockwood Landfill operation Mr. Noack noted that this operation sometimes goes for several days continuously, but when they do stop work they will use the tarping system, and if that doesn't work as anticipated they will use soil cover in spite of the additional expense.

Motion: When there were no further questions, and after no public comment was received, Commissioner Rackley moved that regulation R179-05 be approved as presented, Commissioner Anderson seconded and the vote was unanimous in favor.

Commissioner Coyner asked Mr. Noack about two landfills in Southern Nevada that have had problems in the past, the hazardous waste disposal site (Beatty) run by U.S. Ecology, and the Western Elite Landfill. He requested a short briefing at the next SEC meeting; Mr. Noack said that Western Elite had probably already transferred all the “legacy waste” but that he would have the update on both at the next meeting.

Chairman Dodgion now moved down the agenda to:

6) Regulation R137-07: Adoption by Reference, Hazardous Waste

Jim Trent of the Bureau of Waste Management presented the petition.

(BEGIN PREPARED REMARKS BY JIM TRENT)

With this petition, the Bureau of Waste Management is proposing to update our adoption by reference of federal hazardous waste regulations. A workshop to solicit public comment on the proposed regulations was held on September 19, 2007, in Carson City with a video link to Las Vegas. Nine people attended the workshop.

The proposed regulations and notes from the workshop were posted on the SEC website and available for review and comment via the internet. As you are aware, Nevada adopts by reference federal hazardous waste regulations. Since changes are continually made at the federal level it is necessary to periodically update our reference to federal regulations in the NAC so as to remain consistent with these federal regulations and able to enforce them in Nevada in

lieu of USEPA. This petition incorporates the federal rules published from July 1, 2005, to July 1, 2006.

Let me briefly describe the proposed federal amendments. There are only five new rules and revisions.

As its name implies, the Mercury Containing Equipment Rule adds mercury containing equipment (e.g., thermostats, barometers, manometers) to the federal list of Universal Wastes. Universal Wastes are widely generated, commonly recycled wastes subject to less stringent, but still protective standards, for storage, transportation and collection. Regulating spent mercury-containing equipment as a Universal Waste should lead to better management of this equipment and facilitate increased compliance with hazardous waste requirements.

The Standardized Permit Rule applies to hazardous waste transfer, storage and disposal facilities otherwise subject to permitting that generate and then store or non-thermally treat hazardous waste on-site. The standardized permit will also be available to facilities which receive hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and which then store or non-thermally treat the hazardous waste. The standardized permit will streamline the permitting process by allowing facilities to obtain and modify permits more easily, while still achieving the same level of environmental protection as individual permits.

The Headworks Exemption rule is a provision of the federal hazardous waste regulations which exempts large volume, non-hazardous wastewaters mixed with very small quantities of listed hazardous waste managed in a Clean Water Act treatment system from being regulated as hazardous waste. The proposed revisions include adding two new solvents and other listed hazardous wastes to the exemption and extending it to non-manufacturing facilities.

The National Emission Standards for Hazardous Air Pollutants Rule finalizes national emission standards for hazardous air pollutants for hazardous waste combustors. These standards implement the Clean Air Act by requiring hazardous waste combustors to meet the hazardous air pollutant emission standards reflecting the performance of maximum achievable control technology. The majority of these revisions are in CFR Part 63 and have already been adopted by reference by NDEP's Bureau of Air Quality Planning at NAC 445B.221. The proposed revisions to federal hazardous waste regulations are under consideration here. The amendments are intended to eliminate overlap so that units can be more appropriately regulated under the Clean Air Act instead of federal hazardous waste regulations once certain conditions are met.

Burden Reduction Initiative will reduce the paperwork that federal hazardous waste requirements impose on states, EPA and the regulated community. This rulemaking will streamline information collection requirements, ensuring that only the information that is actually needed and used to implement the federal hazardous program is collected and the goals of protection of health and the environment are retained.

(END PREPARED REMARKS BY JIM TRENT)

Commissioner Rackley asked about specific dollar amounts included in the regulations, and whether these could be changed just by reference to the federal regulations; Mr. Trent answered that at each adoption by reference the amounts had to be specifically changed, along with dates. Mr. Trent noted that the number of specific references was able to be trimmed a few years ago after consultation with the Attorney General's Office.

Commissioner Gans asked about the large variety of different areas of regulation included and Mr. Trent explained that because of the way the regulations had evolved the various dates all had to be changed simultaneously and it was most convenient to consolidate in the type of regulation package before the Commission.

Motion: When there were no further questions, and after no public comment was received, Commissioner Gans moved that regulation R137-07 be approved as presented, Commissioner Rackley seconded and the vote was unanimous in favor.

Chairman Dodgion now moved down the agenda to:

Bureau of Corrective Actions * ACTION ITEM

7) Regulation R125-07: Release Reporting Regulations of Hazardous Substances or Petroleum Products in Excess of Reportable Quantities

Scott Smale of the Bureau of Corrective Actions (BCA) presented the regulations to the Commission.

He noted that the BCA is the clearinghouse in NDEP for notification of these reports of releases of hazardous substances. Reports are routed to other bureaus and at times, to outside agencies. Air quality releases are separate and not covered under these regulations.

These are self-reporting release regulations; BCA also collects reports from third parties, but that is also outside of these regulations. The BCA is requesting these changes for two main reasons; because when these regulations were adopted the Bureau did not have off hours (outside of 8-5

Monday through Friday) capability to accept reports, and the reporting time frame was set accordingly. Now, staff are on call 24 hours, but if a significant release occurs staff are not required to be notified except during business hours. And since NDEP plays a significant support function (not *response* agency) during these events it is important that it be notified sooner than in one working day. So the proposed regulations create a category of release that will be subject to more immediate notification requirements.

The regulation will also bring "listed" hazardous substances taken from federal regulations in line with the handling of petroleum products and "unlisted" pollutants and contaminants, which all have media-specific reporting requirements. Formerly, for example, a large release of sulphuric acid was not treated as stringently as a small release of petroleum product.

What isn't changing? Section 17 states what incidents aren't covered—they're under OSHA, covered by other agencies, and in subsection 6, permitted (state or federal) releases.

The reportable triggers themselves are the same; what is changing is a move away from different categories or tiers subject to different requirements. All of the reportable substances are now termed "hazardous substances," defined as "contaminants" (anything that degrades the water quality of the state), "hazardous materials" defined in RCRA as substances that are hazardous when transported, and hazardous substances defined in 40 CFR part 302, a pretty extensive list. "Pollutants" are defined, again, as anything that degrades the water quality of the state. "Regulated substance" in state regulation basically means petroleum products. All of these are now "hazardous substances," which previously was separate from petroleum.

Telephone notification will now be required. In Section 12 the reporting trigger time frame is defined, but "immediate" notification is not specified using that word because NDEP is not the lead or response agency and doesn't want to be positioned in that role. The language used is "as soon as practical" after notification of emergency responders and containment or emergency remediation efforts have begun.

The three "triggers" are appropriate for immediate notification are 1) release that is defined as a "significant event" in 40 CFR 302, depending on the quantity of the particular substance, and requiring emergency response; 2) any release to surface water; 3) a release that threatens a "vulnerable resource" as defined in section 11 of these regulations. The facility owner and responders will have some discretion in what "threatened" means. Subsection 2 says there is a single notification for one event.

The one-working-day triggers are still included in the regulations as previously.

There is now a 25 gallon or 200 pound trigger quantity depending on whether the substance is in liquid or solid form. Two substances that had previously had higher triggers will now be at this level. It seemed appropriate for other hazardous substances to have the same quantity as petroleum products.

A "discovery event" trigger has been added for the reporting of hazardous substance contamination discovered in soil or groundwater as a result of historic or prior releases. The "discovery event" trigger will be based on the existing framework for petroleum product releases. It is based on the existing regulation quantity of three cubic yards, which screens out routine maintenance situations.

A "discovery event" trigger has also been added for the reporting of hazardous substance contamination discovered in soil or groundwater as a result of historic or prior releases. The "discovery event" trigger will be based on the existing framework for petroleum product releases, instead of extrapolation from historical estimates as previously.

A specific reportable trigger for releases from underground storage tanks has been added in coordination with the State's UST program. The reportable trigger is now in conformance with 40 CFR 280 (failed tightness test or other check). Once you know you have a leak it must be reported. The 25 gallon trigger for filling spills is still in effect. A clarifying definition has been added for "other surfaces of land," which was previously undefined—any surface not designed for secondary containment.

Commissioner Rackley asked about definition of "storm drain" and Mr. Smale said that he defines it as something that leads directly to surface water, but there is not a precise definition in the regulations or elsewhere. He added that a storm drain was a vulnerable resource because it eventually leads to surface water, and once something hits a municipal storm drain it's almost impossible to stop. Commissioner Rackley followed up by emphasizing that vulnerability, and there was further discussion about what the definition of "threaten" a storm drain being a reportable incident meant. Mr. Smale said originally the language was "the interior" of a storm drain, as finally written it was a bit "flexible" in allowing someone to figure out whether immediate reporting was required or reporting within one working day.

Commissioner Anderson inquired about the responsibilities of local first responders and NDEP in the reporting process. Mr. Smale replied that NDEP can provide technical assistance in the case of chemical spills, etc. The state has the authority to send out hazmat teams (contractors) and also has some specialized equipment. Commissioner Anderson noted that the reporting responsibilities of the first responders were somewhat cloudy. Mr. Smale said that the reporting responsibility was on the owner/operators, but responders might tell the operator they need to do so or notify NDEP themselves based on

the need for technical assistance. NDEP is coordinating and support for hazardous materials.

Commissioner Anderson commented that the responsibilities and reporting needed to be made clearer, that the system needed to be fixed; Mr. Smale noted that this particular regulation only touched on notification to NDEP. Chairman Dodgion said that the overall system had needed to be improved for at least 15 years, since he served on the Emergency Response Commission. There are still gaps and problems. Mr. Smale agreed that these regulations did not resolve that. He said this provided a foundation for NDEP to play a role in coordination by learning of situations earlier than under the old regulations.

Chairman Dodgion now asked for public comment.

Katie Slade, a private safety and environmental consultant commented that she wanted clarification of the discovery event trigger and whether the part per million action level was changing under these regulations. Mr. Smale said that during a property assessment, the finding of historic releases is covered in Sec. 18, discovered in at least three cubic yards of soil. The word "discovered" is by the most conservative interpretation the same as "detect." The state doesn't get involved at low levels, but only at the threshold "action levels" but the report of events that don't require cleanups is difficult to precisely define; these reporting requirements would make detect essentially equivalent to discovery.

Ms. Slade said she wanted "numbers" but Mr. Smale said that they had heard this in the comment period from others; he said they were "moving towards" numbers but they were not going to put all those numbers in the regulations (for every substance), the appropriate way is to go through "guidance."

Motion: When there was no further comment Commissioner Gans moved regulation R125-07 be approved as presented, and Commissioner Rise seconded. Commissioners Dodgion, Coyner, Rise, Shull, Mayer, Rackley and Barron voted "aye." Commissioner Anderson voted "no." And so the motion carried.

NOTE: Commissioner Coyner had to depart the meeting at this point and was not present for subsequent votes.

As previously announced, Item 8, **Regulation R142-07: Greenhouse Gas Reporting, Minor Violation Fine Increase and Permitting Corrections/Clarifications** was pulled from the agenda and was tentatively to be considered at the March 2008 SEC meeting.

Chairman Dodgion moved down the agenda to:

9) Regulation R143-07: Nevada Clean Air Mercury Rule Program

Mr. Mike Elges, Chief of the Bureau of Air Quality Planning for NDEP, presented the regulation.

His overview of the amendments included: The CAMR mercury emissions cap allocated to each state was set to ensure that national standards were not exceeded. In September 2006 the state plan for Nevada was submitted to the U.S. Environmental Protection Agency (EPA) for comments and comments were received in March 2007 regarding the state plan and regulations needed for the plan to be fully approvable. Mr. Elges said that NDEP believes the regulation before the SEC today will meet these federal requirements. He added that during the 2007 state legislative session NDEP heard concerns from various groups about the proposed process used to distribute (sell or otherwise auction) the state's allocation; the Division agreed that a public process would be appropriate and this was ultimately included in a bill, AB 67, the requirements of which are included in section 7 of these regulations.

Workshops were held on October 16 and November 8, 2007 and no adverse comments were received. Mr. Elges recommended that the Commission adopt the petition as presented.

Commissioner Gans asked about the process of setting the amount of emissions for the state allowance. Mr. Elges summarized: Nevada was provided a generous allowance compared to actual expected emissions, so the EPA model of just rolling over all of the allowances to the electric utilities didn't make a lot of sense. A lot of emissions would probably just been sold or traded out of state. NDEP saw opportunities here to actually reduce emissions, and the utilities also supported this concept—and NDEP has offered them opportunities to take actions to reduce emissions further and receive more credits. He summed up by saying that there is subset of provisions unique to our state situation that make sense and aim to reduce actual emissions.

He added that EPA is concerned about how "solvent" the program may be on the national level, whether the trading mechanism will work. More solid data on actual emissions will be available early next year.

In response to a question from Commissioner Barron, Mr. Elges clarified that this program only applies to coal-fired electric power plants, and has nothing to do with mines or the Hawthorne Army Depot storage of mercury. In response to her follow-up he stated that these regulations do not apply to federal Tribal Lands, but that any plants on Tribal Lands would have to comply with federal standards.

Commissioner Dodgion noted that if the SEC put limits on CO2 emissions they wouldn't apply to power plants on tribal lands; he asked about the selling

process for the emissions, bidding, etc. Mr. Elges talked briefly about the funding for air quality, its ups and downs, and noted that AB 67 contemplated the diversification of funding for air quality through this type of program. A balance is being struck between emissions reductions and funding—in addition, as Chairman Dodgion noted, groups could buy the credits and retire them. Mr. Elges added some comments to the effect that process used by EPA to allocate was cryptic, and again, Nevada’s allowance seemed generous compared to some states, especially in the Eastern U.S.

Commissioner Shull asked about potential revenues, and Mr. Elges replied that depending on prices it could be in the millions of dollars annually at this point, but gradually the allocations are reduced over time and after about 2017 the amounts are reduced significantly.

Commissioner Gans asked if the plan submitted to EPA had been approved; Mr. Elges said the plan was not approved yet, and that there were differences of opinion with EPA over the plan, a “philosophical debate.” The regulations before the SEC today will be sent to EPA, and NDEP essentially says that with these steps the plan should be approved—it will be up to EPA to take action.

Leo Drozdoff, Administrator of NDEP, noted to the Commission that EPA could still want other changes, in which case there may be further discussion or even possible litigation. Mr. Drozdoff added that they believe their program is excellent and that after these regulations are submitted, EPA would be on very thin ground trying to deny approval. Mr. Elges added that the dialogue has been through letters with (basically) suggestions from EPA—the next action will be formal approval or disapproval.

Motion: When there was no further Commission discussion, and no public comment, Commissioner Rackley moved to approve R143-07 as presented, the motion was seconded by Commissioner Shull, and the vote was unanimous in favor.

Chairman Dodgion now moved down the agenda to:

10) Public Comment * Non Action Items

It was noted that the representative for NCARE (Nevadans For Clean Affordable Reliable Energy) had withdrawn his request to comment to the commission.

Mr. Drozdoff, NDEP Administrator, came forward to give his briefing as noted on the agenda. He stated that he would update the Commission on mercury and power plants, budget, and what NDEP is doing with tribal relations since Commissioner Barron is very interested in that area.

Mr. Drozdoff referred to the previous SEC meeting and that a representative from Great Basin Mine Watch (GBMW) had commented that the organization had not been contacted or given notice in a couple of cases. Mr. Drozdoff stated that NDEP had looked into the matters and that in one case a different member of GBMW had been the one coordinating, but that member had not communicated with the other person, and in the second it was a mistake, the GBMW representative confused two different cases. Mr. Drozdoff just wanted to clarify that, and emphasize the NDEP is taking workshops and public comment very seriously.

He continued by going over the various programs involving mercury, saying that there were three parts or things they were doing—the CAMR program whose regulations were approved today, the Maximum Achievable Control Technology (MACT) program dealing with mines, and the Hawthorne Army Depot and movement of the national mercury stockpile there.

In the last session of the Legislature, Hawthorne was specifically targeted with legislation that paralleled regulations already approved by the SEC bringing Hawthorne under the CAP (Air) program; NDEP continues to work and talk with the Defense Logistics Agency (DLA) about the transfer and storage of the mercury. The NDEP has identified some possible problems and questions they would like answered; the mercury could be at Hawthorne for 40 years or more, and NDEP wants information and agreements memorialized in writing so that it will not be lost over that period. Until NDEP concurs with a plan they will not support shipments. DLA has been working through the issues with NDEP and progress is being made.

Regarding the CAMR rule Mr. Drozdoff thought Mr. Elges had done a good presentation; he believed NDEP's program was very good, better than the basic federal plan, and that it was supported by industry, environmental groups and had been approved by the legislature. EPA is concerned about taking credits off the market in the context of national program viability. However, Nevada will allocate a portion to be sold, he felt that the plan was good public policy, but EPA would basically like to see the state do exactly as envisioned by EPA. Approval of the regulations today would strengthen the hand of Nevada in working with EPA.

The update on the MACT, the mining program—it is making excellent progress, more information is coming in and good decisions are being made with that information. His perception is that the number of critics and the level of concern have dropped dramatically. There is still plenty of work to do, but the program is working as envisioned.

An offshoot of this is that to facilitate communication and cooperation with other states and the federal government, a Memorandum of Understanding (MOU) regarding communication, research and media relations has been

drafted and now signed by Nevada, Utah and Federal Regions VIII and IX. The Governor of Idaho liked it so much he also is working with Washington (state), Oregon and Region X to have all sign the MOU as well.

There will be a conference in January 2008 in Reno to bring together many of these parties to discuss research and other issues. Mr. Drozdoff thanked Deputy Administrators Cripps and Porta, and Mr. Elges, for all their hard work on the issue.

Commissioner Rackley asked about monitored levels of mercury that had been mentioned at the SEC hearing where the MACT had been approved. Are they dropping? Mr. Drozdoff said that he sees a lot of positive impacts, but noted that the question was complicated by the claims about various types of emission—on the fugitive side, (heaps and impoundments) research supported by NDEP is being done. Better information than previously available will come out of that. In regard to discrete sources, better controls are going onto emissions sources as envisioned by MACT, and Mr. Drozdoff concluded that he would consider that meant it's working.

Mr. Elges said his office is working to track the installation of each control device and that all the available data is up on the NDEP web site.

Commissioner Barron asked about the shipment of mercury to the Hawthorne site, possible routes and timetables. Mr. Drozdoff said that the DLA no doubt wanted to ship it as soon as possible, originally wanted it complete by the end of 2007; he added that due to the nature of government and the chain of command he doubted there would be any shipments before the March 2008 SEC meeting, but believed the shipments would at least begin to take place in 2008. Commissioner Barron asked about information on routes being provided to state authorities to plan for possible spills and public health. Mr. Drozdoff said that they asked about this, but likely due to security concerns there would not be announcements of exact routes and times.

Chairman Dodgion asked, if it came to that, would NDEP have the ability to stop the shipments? Mr. Drozdoff said he didn't know, but certainly hoped it didn't come to that. He believed that DLA had said the state does not, but they want to work out any issues.

Regarding power plant emission MOUs (for greenhouse gases as discussed at the September SEC meeting), Nevada is now one of the few states with these requirements, he envisioned that the LS Power permit would be issued by the end of the month, the Ely Energy Center Permit was out for public comment now, and Toquop-Sithe would probably be going out for public comment in the next week or two. He noted that the Ely Center was apparently delayed in the timing of construction, but nothing has changed in the intent of the company to eventually build it.

Regarding climate change in general, Mr. Drozdoff said that he and Ms. Cripps are the main representatives for the state at the Western Climate Initiative meetings, they are observers but their involvement is significant. Mr. Biaggi, Director of the Department of Conservation and Natural Resources is a member of the Governor's Climate Change Advisory Committee, and Mr. Drozdoff and Ms. Cripps are also participating there, and he was optimistic that the committee would put forth sensible recommendations for Nevada by April or May. The packet that was pulled (Agenda Item 8) was withdrawn today because a couple of facilities had not been contacted to make their views known, and also a workshop is scheduled with the Climate Registry, a group of states, Canadian provinces, Mexican states and Indian facilities that seek to coordinate and standardize the gathering of information. In early January they will give a workshop that facilities and government entities can attend, so NDEP decided to wait until after that to put the regulations before the SEC.

Mr. Drozdoff considered that the federal government would probably not enact greenhouse gas legislation for at least 18 months.

Regarding Tribal relations, NDEP has a Tribal Liaison and had a meeting last week with all the Bureaus making presentations. He noted that relations with tribes in general had improved dramatically, and that they had a good ongoing dialog.

Regarding the (state) budget, impacts are being felt in the Division, however since only about one percent of funding is from general funds the impacts will not be as severe as the possibly could be in other agencies.

Chairman Dodgion brought up a proposal from the previous SEC meeting about a resolution of support to the EPA on behalf of NDEP regarding unfunded mandates and declining EPA budget support. Mr. Drozdoff said they would draft it and it could be presented at the next meeting.

When there were no further comments from the public, the SEC Executive Secretary Mr. Walker note that the next meeting was scheduled for March 18, 2008, and Chairman Dodgion declared the meeting was adjourned.

Appendix 1: Table of Air Settlements Agreements

NDEP-BAPC SETTLEMENT AGREEMENTS – December 4, 2007

TAB NO.	COMPANY NAME	VIOLATION	NOAV NUMBER(S)	PROPOSED SETTLEMENT AMOUNT
1	Brady Power Partners – Dixie Valley plant, Churchill County	NAC445B.275 “Violations: Acts Constituting; notice.” For operating without an air quality operating permit: the company failed to apply for and obtain a renewal of its active permit before the permit expired.	2128	\$3,000
2	Carson City Renewable Resources, Carson City	NAC445B.275 “Violations: Acts Constituting; notice.” For constructing and operating equipment without first applying for and obtaining a modification to its air quality operating permit; and for failing to use wet dust suppression while operating, as required by its operating permit. The violation for constructing and operating equipment without first obtaining a permit modification is the company’s second such violation within the last two years. Because of the recurring violation, the base penalty of \$1,800 is increased by \$380.	2213, 2124	\$2,180
3	Wilkin Mining and Trucking, Inc., Lincoln County	NAC445B.275 “Violations: Acts Constituting; notice.” For failure to conduct emissions compliance testing of a perlite processing plant within the required timeframe, and for excess emissions resulting from failure to maintain process equipment to ensure complete capture of fugitive emissions.	2105, 2106	\$6,000

Appendix 2 & 3

Status of Public Water Systems
That Applied For an Arsenic Exemption

And

**Public Water Systems Recommended for Arsenic Exemptions -
December 04, 2007**

STATUS OF PUBLIC WATER SYSTEMS (PWS) THAT APPLIED FOR AN
ARSENIC EXEMPTION

NUMBER OF APPLICATIONS RECEIVED	87
TOTAL APPROVED EXEMPTIONS (includes 12/4/07)	<u>64</u>
NUMBER OF PWS THAT DID NOT RECEIVE EXEMPTION	23

STATUS OF THE 23 PWS THAT DID NOT RECEIVE AN ARSENIC EXEMPTION

TREATMENT INSTALLED	14
CONSOLIDATION	2
ALTERNATIVE MONITORING PLAN a/o BLENDING	5
COMPLIANCE SAMPLING 10 ppb or BELOW	1
INCOMPLETE APPLICATION	<u>1</u>
	23

87 SYSTEMS (INCLUDING 12/4/07) ARSENIC CONCENTRATIONS

SYSTEMS WITH ARSENIC BETWEEN 30 ppb TO 50 ppb	24
SYSTEMS WITH ARSENIC BETWEEN 20 ppb TO 29 ppb	16
SYSTEMS WITH ARSENIC BETWEEN 11 ppb TO 19 ppb	47

SYSTEMS GRANTED EXEMPTIONS AND ALREADY COMPLIANT

PUBLIC WATER SYSTEMS RECOMMENDED FOR ARSENIC EXEMPTIONS

December 4, 2007

WATER SYSTEM ID #	SYSTEM TYPE	SYSTEM_NAME	ARSENIC CONCENTRATION PPB	POPULATION
NV0003068	C	CARSON RIVER ESTATES	28	90
NV0000047	C	DELUXE MHP	24	37
NV0000906	NT	JETWAY CHEVROLET	41	40
NV0000060	C	WEST STAR MHP	42	35
NV0000058	C	WILDES MANOR	20	70
NV0000162	C	MC DERMITT WATER SYSTEM	19	200
NV0000897	NT	SCHURZ ELEMENTARY SCHOOL	17	320
NV0000218	C	CARVERS SMOKEY VALLEY RV AND MHP	30	180
NV0005028	C	SHOSHONE ESTATES WATER COMPANY	29	240
NV0000878	NT	MASTERFOODS USA	13	140

SEC Regulations Adopted on 12/04/07

Regulation R179-05: Waste Landfill Cover Requirements:

<http://www.sec.nv.gov/archives/regdoc/r179-05.pdf>

Regulation R137-07: Adoption by Reference, Hazardous Waste:

<http://www.sec.nv.gov/archives/regdoc/r137-07.pdf>

Regulation R125-07: Release Reporting Regulations of Hazardous Substances or Petroleum Products in Excess of Reportable Quantities

<http://www.sec.nv.gov/archives/regdoc/r125-07.pdf>

Regulation R143-07: Nevada Clean Air Mercury Rule Program:

<http://www.sec.nv.gov/archives/regdoc/r143-07.pdf>