



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

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

Agenda

SEC Meeting - October 14, 2015

The State Environmental Commission (SEC) will hold a meeting on Wednesday, October 14, 2015 at 9:00 am in Carson City. The meeting location in Carson City is the Nevada Legislative Building located at 401 South Carson Street, Room 2135. The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this agenda.

The following items may be taken out of order and/or items may be combined for consideration. Items may also be removed from the agenda or the SEC may delay discussion relating to an item on the agenda at any time. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the SEC may refuse to consider public comment. See NRS 233B.126

1) Call to Order, Roll Call, Establish Quorum (Discussion)

2) Public Comment: (Discussion)

Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson.

3) Approval of the Agenda: (For Possible Action)

4) Approval of Meeting Minutes: May 6, 2015 Meeting (For Possible Action)

5) Penalty Assessments for Air Quality Violations: (For Possible Action)

Recommendation: Approve the NDEP recommended penalties, as proposed, or take other action as appropriate.

- A. **Clean Dried Processing, Inc.** – Penalty Assessment, NOAVs No. 2524, 2526 and 2529 for alleged failure to comply with applicable conditions of an operating permit. The recommended penalty amount is \$14,075.00.
- B. **Florida Canyon Mining, Inc.** - Penalty Assessment, NOAV No. 2554 for alleged failure to comply with the requirements for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit. The recommended penalty amount is \$2,585.00.

6) Permanent Regulation R020-15 - Bureau of Safe Drinking Water - Subdivision Process Amendment (For Possible Action)

Recommendation: Approve and adopt permanent regulatory petition R020-15, as proposed, or take other action as appropriate.

The proposed amendment addresses NAC Chapter 278. Prior to adoption of the Temporary Amendments on May 6, 2015, the existing regulation prohibited any construction from occurring at a proposed Subdivision until a Final Map was approved. An alternative was requested by interested parties to consider allowing mass grading of a proposed Subdivision earlier in the review and approval process. The Temporary Amendments were crafted to ensure the protection of public health, and maintain a mechanism to ensure that land grading will not negatively impact the engineering design of water and wastewater infrastructure. The proposed Permanent Amendments will permit grading and construction to begin upon Agency review and approval of water and wastewater utility engineering design “plans for improvement” prior to Final Map approval.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees. The proposed regulation is essential to the functions and operations of NDEP.

7) RE: R027-15: Bureau of Air Quality Planning - Ambient Air Quality Standards (For Possible Action)

Recommendation: Approve and adopt permanent regulatory petition R027-15, as proposed, or take other action as appropriate.

The NDEP is proposing to amend NAC 445B.22097, "Standards of quality for ambient air," to further align it with the national ambient air quality standards (NAAQS) currently in effect. The proposed regulation revises the annual fine particulate matter (PM_{2.5}) standard in both the Nevada side and the federal side of the standards table from 15.0 to 12.0 micrograms per cubic meter and removes the annual PM₁₀ standard. New definitions for PM_{2.5} and PM₁₀ are also proposed to clarify that direct gaseous emissions from a source that condense to form particulate matter at ambient temperatures are included in those terms, as required by federal regulation.

The amendments are in response to a federal requirement. When the USEPA promulgates a new or revised NAAQS, states must submit a plan which provides for implementation, maintenance and enforcement of such standard, Clean Air Act § 110(a)(1). The proposed amendments address the implementation of the USEPA's December 14, 2012 PM_{2.5} NAAQS revision, as well as clarify and simplify the particulate matter regulations.

It is important to note that the proposed PM_{2.5} standard is already a federal standard with which industry must comply regardless of whether the USEPA or the NDEP implements it. If USEPA must implement the standard, it will do so remotely, in a unilateral manner, with little experience of Nevada's industry and without the NDEP's commitment to support economic development. In contrast, the NDEP has active working relationships with the regulated industry and is well positioned to develop Nevada-specific implementation strategies with industry that are effective and as unobtrusive as possible.

There will be an incremental cost to the agency of implementing the required federal regulation, but such cost is built in to the current fee structure of the Bureau of Air Pollution Control. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

**8) RE: R028-15: Bureau of Air Quality Planning - Adopt by Reference
(For Possible Action)**

Recommendation: Approve and adopt permanent regulatory petition R028-15, as proposed, or take other action as appropriate.

The NDEP is proposing to amend NAC 445B.221, Adoption by reference and applicability of certain provisions of federal law and regulations, to adopt applicable federal rules promulgated since the State regulation was last updated as of July 1, 2013. The update includes rulemakings under 40 CFR Part 51, "Requirements for preparation, adoption, and submittal of implementation plans", Part 60, "Standards of performance for new stationary sources" (NSPS), Part 61, "National emission standards for hazardous air pollutants" (NESHAP), and Part 63, "National emission standards for hazardous air pollutants for source categories" (NESHAP).

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

**9) RE: R054-15: Bureau of Air Quality Planning - Voluntary Emission
Reduction Credits Program (For Possible Action)**

Recommendation: Approve and adopt permanent regulatory petition R054-15, as proposed, or take other action as appropriate.

The NDEP is proposing a new, voluntary program intended to assist in growth and economic development in areas designated nonattainment for a national ambient air quality standard(s) (NAAQS). The program will provide offsets for a new major stationary source wishing to locate in a nonattainment area or for an existing facility to make a major modification, while at the same time providing air quality benefits. This program will provide for the creation, banking, transfer and use of Emission Reduction Credits (ERCs). In a nonattainment area, if a facility reduces emissions through an operational

change, a reconfiguration or a shutdown, the program will allow the facility to request credit for the reductions and bank a reduced portion of the credit for future use or sale. The emission reductions used to generate an ERC must be surplus, permanent, quantifiable and federally enforceable.

A fee is proposed for the ERC program commensurate with the level of effort currently required by the NDEP in its review of operating permit applications from the regulated community. It is important to note that this proposed regulation is a voluntary program and industry may participate only if it chooses to. The proposed regulation will have beneficial effects in terms of improved health and welfare. Due to the automatic reduction in the allowable emissions from the ERC program, the public will benefit from cleaner air.

There will be an incremental cost to the agency of implementing this regulation. The proposed changes to the BAPC fee structure (NAC 445B.327) will accommodate these costs. The proposed amendments do not overlap any other State regulations and are not more stringent than what is established by federal law. The proposed regulatory petition does address fees. All fees collected will be used to support the ERC program.

10) RE: R052-15: Bureau of Mining Regulation and Reclamation - Reclamation (For Possible Action)

Recommendation: Approve and adopt permanent regulatory petition R052-15, as proposed, or take other action as appropriate.

The NDEP is proposing to amend Chapter 519A of the NAC to include a new section which defines “mine impacted waters.” NAC 519A.270 and NAC 519A.345 are revised to require a reclamation plan that describes the measures which may be required to stabilize, manage, control, or treat mine impacted waters from waste and development rock piles, open pit mines and underground mines. NAC 519A.360 is amended to require the costs for stabilization, management, control and treatment of mine impacted waters to be included in the reclamation project bond. It also provides authority for the NDEP to bond for long-term fluid management costs such as perpetual treatment of mine impacted waters. Clarification is provided in NAC 519A.350 to include cash deposits as an acceptable reclamation surety.

This regulation may result in operators of mining operations having to submit a higher reclamation project bond to cover costs associated with

stabilization, management, control or treatment of mine impacted waters. This would currently only apply to projects located on private land as the Bureau of Land Management (BLM) has the bonding authority for projects on public lands. This regulation will not have an immediate or long-term adverse economic impact on the public. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not impose a fee change. The proposed regulation is essential to the functions and operations of NDEP.

**11) RE: R063-15: Bureau of Corrective Actions - Spill Reporting Hotline
(For Possible Action)**

Recommendation: Approve and adopt permanent regulatory petition R063-15, as proposed, or take other action as appropriate.

The NDEP is proposing to amend Chapter 445A of the NAC to allow for online reporting of non-significant releases to the environment. Currently, all releases must be reported verbally. Online reporting of non-significant incidents and releases will provide a more streamlined, efficient, and effective reporting system for the Division and for Users. The Division identified less than 10% of the 514 reported incidents or releases of regulated substances as significant in 2014. Online submission is extremely efficient: once the User completes and submits the online report form, it is automatically emailed directly to the Duty Officer and Program Manager who will be able to route it to the appropriate agency and directly upload the information into the current database. This system of first person reporting will result in more accurate spill reports.

Online reporting will also fulfill the online reporting requirement set forth in Senate Bill No. 236:

AN ACT relating to governmental administration; requiring a state agency to make available on an Internet website maintained by the state agency certain forms of the state agency in a format which allows the form to be completed, downloaded and saved electronically and submitted securely to the state agency via the Internet; authorizing a state agency to provide a

copy of certain records to any other state agency upon request; and providing other matters properly relating thereto.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

12) Administrator's Briefing to the Commission: (For Discussion)

NDEP Administrator, Dave Emme, will brief the SEC on recent NDEP activities and staff changes.

13) Public Comment (Discussion) Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson. (See Nevada Open Meeting Law Manual - Page 58 and 81)

14) Adjournment

Additional Information:

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this agenda was posted no later than three working days prior to the hearing at the following locations:

- Nevada State Library & Archives, 100 N. Stewart St., Carson City, NV;
 - Dept. of Conservation & Natural Resources, 901 South Stewart Street, Carson City, NV;
 - Nevada Division of Minerals, 400 W. King Street, Carson City, NV;
 - Nevada Dept. of Wildlife, 1100 Valley Road, Reno, NV
 - Nevada Division of Environmental Protection, 2030 E. Flamingo Rd, Las Vegas;
- Members of the public can inspect copies of the regulation 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.

This agenda and the text of the proposed regulation, including previous drafts, are or will be posted on the on the Legislative Counsel Bureau's website at: <http://www.leg.state.nv.us/Register/> .

This agenda and supporting material for the above referenced meeting are posted on the State Environmental Commission's website at: http://sec.nv.gov/main/hearing_1015.htm. Supporting material is also available at the office of the State Environmental Commission, 901 South Stewart St., Suite 4001, Carson City, NV. Anyone desiring supporting material or additional information is invited to contact Valerie King at (775) 687-9374.

Persons wishing to comment on the proposed actions of the 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 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 Valerie King, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9374, no later than 5:00 p.m. on October 5, 2015.