

FORM # 1

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

1. Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249
(775) 687-4670
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Phillip Shoopman, P.E. Chief
Bureau of Air Quality Planning
(775) 687-9495

Nevada
Environmental Protection

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BAPC/BAQP

2. The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is an environmental regulatory agency.
3. Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.300 establishes specific authority of the SEC regarding operating permit requirements for sources of air contaminants.

SPECIFIC CHANGES:

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.

4. NEED FOR AND PURPOSE:

The U.S. Environmental Protection Agency (USEPA) continues to establish lower NAAQS. Some NDEP-regulated facilities in Clark County currently hold ERCs that were granted in an operating permit; however, there is no mechanism for those ERCs to be used. To provide this mechanism and in preparation of possible future nonattainment area designations in Nevada, there is a clear need for this type of program.

In order for a new major stationary source or major modification to an existing source to locate in a nonattainment area, the USEPA requires emission offsets, or reductions, from the new proposed source or modification, such that there will be reasonable progress toward attainment of the applicable NAAQS. The emissions offsets generated as a result of the ERC program will provide a positive net air quality benefit in the affected area (40 CFR 51, Appendix S, IV.A). The ERC program will enable the NDEP to implement USEPA's emissions offset rule for those facilities in Clark County that are regulated by the NDEP and in any possible future nonattainment areas in the NDEP's jurisdiction.

5. ECONOMIC EFFECTS:

- (a) Regulated Business/Industry. The NDEP is proposing fees 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 also important to note that this proposed regulation is a voluntary program and industry can choose whether or not to participate.
- (b) Public. 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.
- (c) Enforcing Agency. 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.

- 6. The proposed amendments do not overlap any other State regulations.
- 7. The proposed amendments are no more stringent than what is established by federal law.
- 8. The proposed regulations do address fees; see 5(a) above. Any fees collected will be used to support the ERC program.