

Permanent Regulation - Informational Statement

A Regulation Relating to Air Quality Standards

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC)
LCB File No: R027-15

Regulation R027-15:

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.

SPECIFIC CHANGES:

The regulation amends NAC 445B.22097, “*Standards of quality for ambient air.*” It revises the Nevada side of the ambient air quality standards table in NAC 445B.22097 to further align it with the national ambient air quality standards (NAAQS) currently in effect. The regulation revises the annual fine particulate matter (PM_{2.5}) standard in the Nevada 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 adopted 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.

1. Need for Regulation:

These amendments are in response to a federal requirement. When the U.S. Environmental Protection Agency (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 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.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

On June 10, 2015 NDEP conducted a public workshop on proposed regulation R027-15. The workshop was held in Carson City teleconferenced in Las Vegas. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Great Basin Conference Room) and teleconferenced to the NDEP office, located at 2030 East Flamingo Road, Suite 230.

Fifteen (15) members of the public attended the workshop.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: http://www.sec.nv.gov/main/hearing_1015.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 14, 2015 at the Nevada Legislative Building located at 401 South Carson Street, Room 2135. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Department of Wildlife, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R027-15 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Air Quality Planning electronic mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1015.htm .

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended October 8, 2014 hearing: 21 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through e-mail, a public workshop and at the October 14, 2015 SEC hearing as noted in number 2 above.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted without change because the public was satisfied with the proposed amendments.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry. The economic effect of this regulation can only be determined on a case-by-case basis for each affected business. If the environmental evaluation shows that the emissions from a business are expected to exceed the air quality standards, the business must revise its operating procedures or install controls to reduce emissions. The cost will range from no cost to the cost of installing emission controls appropriate to the individual situation.

It is important to note that the adopted 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.

The repeal of the PM₁₀ annual standard relieves the regulated industry from the burden of having to model for compliance with that standard in permit applications.

Public. The regulation will have beneficial effects in terms of improved health and welfare. In accordance with the Clean Air Act, the primary NAAQS are established to protect against adverse effects of polluted air on human health, including protection of "sensitive" populations such as asthmatics, children, and the elderly. The cleaner the emissions are the less health effects will be experienced by those persons downwind of the facility. In addition, the emissions reductions will also benefit public welfare. Public welfare protection includes protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

In California, for example, which is nonattainment for PM_{2.5}, the costs of installing controls and changing operating procedures is estimated to be between \$53 million and \$350 million, while the corresponding benefits (decreased mortality rates, fewer hospital admissions) are estimated to be \$3.6 billion to \$8.2 billion.¹ The USEPA was unable to determine direct health benefits, but it did analyze the co-benefits derived

¹ Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter, USEPA, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division (Feb. 28, 2013), available at <http://www.epa.gov/ttnecas1/regdata/RIAs/finalria.pdf>. (last viewed December 10, 2014).

from reducing NO₂ as a precursor to the formation of PM_{2.5}. The USEPA estimates that the benefit-per-ton removed ranges from \$5,200-\$13,000/ton based on a discount rate of three percent.²

7. The estimated cost to the agency for enforcement of the adopted regulation.

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.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulation does not overlap any other State regulations. They adopt a federal regulation into State regulation.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is no more stringent than what is established by federal law.

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not address fees.

² Final Regulatory Impact Analysis (RIA) for the NO₂ National Ambient Air Quality Standards (NAAQS), USEPA, Office of Air Quality Planning and Standards, Health and Environmental Impact Division, Air Benefit-Cost Group (January 2010) at 4-12, available at <http://www.epa.gov/ttnecas1/regdata/RIAs/FinalNO2RIAfulldocument.pdf>. (last viewed December 10, 2014).