

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Workshop for Proposed New Emission Reduction Credit Program
NAC 445B: Air Pollution

July 7, 2015
9:30 AM

Great Basin Conference Room
4th Floor
901 South Stewart Street
Carson City

Video Conference to
NDEP Red Rock Conference Room
2030 E. Flamingo Road, Ste. 230
Las Vegas

MEETING NOTES

ATTENDEES:

Workshop Chairs:

Adele Malone, Supervisor, Planning and Modeling Branch, Bureau of Air Quality Planning (BAQP)
Phillip Shoopman, Chief, Bureau of Air Quality Planning, BAQP

NDEP Staff:

Jeffrey Kinder, Chief, Bureau of Air Pollution Control
Brenda Harpring, Environmental Scientist, Planning and Modeling Branch, BAQP
Sig Jaunarajs, Supervisor, Mobile/Smoke/Area Sources Branch, BAQP

Public:

Carson City:

Allan Biaggi, representing the Nevada Mining Association
Joe Johnson, Lobby for the Sierra Club
Craig Chinery, Energy Efficiency Manager, Nevada Department of Corrections (NDOC)
Tanda Roberts, self
Daniel Inouye, Washoe County Health District – Air Quality Management District

Las Vegas:

Kent Lefevre, Chief Engineer, NDOC
Kimberly Williams, NV Energy
Lynn Davis, National Parks Conservation Association

CALL TO ORDER

Ms. Malone called the Workshop to order at 9:35 a.m. and explained that the workshop is being run by the Nevada Division of Environmental Protection (NDEP), Bureaus of Air Quality Planning and Air Pollution Control. Ms. Malone noted that handouts are available. She confirmed the video connection to Las Vegas, discussed the sign-in process and other

housekeeping items. Ms. Malone introduced herself and then asked each person in Carson City and Las Vegas to state their name and affiliation. Ms. Malone explained that this is a workshop for a proposed new air quality program for the NDEP, the Emission Reduction Credit Program, Petition 2015-03. Ms. Malone reviewed the workshop agenda, noting that she would present the slide program for P2015-03. There were no changes to the agenda.

Ms. Malone described the regulatory adoption timeline for the petition. After the petition has been presented at the workshop, the NDEP will make any appropriate revisions and submit it to the State Environmental Commission (SEC). The SEC then will forward the petition to the Legislative Counsel Bureau (LCB), which reviews petitions for clarity and conformity to other state regulations; substance will not be changed. The SEC will post the LCB legal draft of the petition on its web site for public comment at least 30 days prior to the next SEC hearing, which will be held at 10:00 a.m. on Wednesday, October 7, 2015 at the Carson City NDEP offices.

If the proposed regulation is adopted at the SEC hearing, it will then be submitted to the State Legislative Commission. If the State Legislative Commission approves the regulation, it will then be sent to the Secretary of State to be filed, whereupon it becomes effective. There is not yet a date for when the regulation may become effective because the Legislative Commission does not meet on a regular schedule. Ms. Malone stated the new program does not have to be submitted as a revision to the Nevada state implementation plan; it may or may not be submitted, but, it is not required by the U.S. Environmental Protection Agency (USEPA).

Ms. Malone reminded participants that questions are welcome throughout the presentation, but prior to the question the participant must state their name. She explained that it is a state requirement to record the workshop and be able to identify who asks a question or has a comment.

SLIDE PRESENTATION

Ms. Malone restated the purpose of the workshop is to present a proposed new Emission Reduction Credit (ERC) program for the State, answer questions and solicit comments from the attendees. This program is voluntary and applies to sources under the NDEP's jurisdiction that are located in, or wish to locate in, a nonattainment area. The objective is to provide a mechanism for creating and using emission offsets, allowing a new major stationary source to locate in a nonattainment area or an existing facility to make a major modification, while at the same time providing air quality benefits. The value of the program is twofold: (1) to provide a mechanism for facilities in Clark County that are regulated by the NDEP to bank and use the ERCs they currently hold in permits, and (2) be prepared for the possibility of future nonattainment areas in the NDEP's jurisdiction.

Ms. Malone summarized each section of the proposed ERC regulation using the attached slide presentation, which describes the program and associated fees.

QUESTIONS

During the discussion of program applicability, the following questions arose.

Mr. Biaggi asked if the proposed regulation did not apply directly to ozone, but rather addressed ozone through its precursors VOC and NO_x.

Ms. Malone said that was correct.

Mr. Biaggi further questioned why the NDEP did not include include ozone specifically in the program, given the new ozone requirements that are coming forward in the near future.

Mr. Shoopman answered that ozone is not directly emitted from a source, but rather the precursors are emitted, which subsequently form ozone depending on atmospheric conditions. We regulate and manage the precursors, NO_x and VOC, because reductions of ozone per se cannot be calculated.

In reviewing the applicability of ERCs, Ms. Malone noted that to comply with federal emission offset requirements, the offsets (or ERCs) must be obtained from emission reductions created in the same nonattainment area where they will be used, with one exception. An ERC from another nonattainment area is applicable if (1) the other area had an equal or higher nonattainment classification than the area in which the source is located, and (2) emissions from the other area contribute to a violation of the national ambient air quality standard (NAAQS) in the area in which the source is located.

Ms. Williams asked who would establish that the other nonattainment area is contributing to the nonattainment area where a source wants to use the ERCs.

Ms. Malone answered that it would be either the State air quality agency or USEPA.

Mr. Shoopman added that through the designation process USEPA determines what areas are contributing to nonattainment.

Ms. Malone remarked that, during the Director's review of an ERC application, if ERCs are granted, they are discounted by 10 percent before they are recorded in the State registry, to ensure that there will be reasonable further progress toward attainment of the NAAQS in the nonattainment area.

Mr. Biaggi asked if the 10 percent discount was a federal requirement, and if not, where did it come from.

Ms. Malone replied that the discount was not a federal requirement. The NDEP conducted a survey of other states with ERC programs and determined that 10 percent was the most common value for the discount. The discount is taken to benefit the air quality in a nonattainment area.

Ms. Williams asked if existing ERCs that are currently held in permits will be subject to the 10 percent discount when they are banked into the State registry.

Ms. Malone noted that the NDEP had not considered that question and would have to review the proposed regulation to determine the answer. The proposed regulation will be revised to clarify this point.

Ms. Williams commented that NV Energy was in favor of not discounting ERCs that already exist.

In explaining the reciprocity provisions of the ERC program, Ms. Malone noted that requests for transferring another agency's banked ERCs into the State registry would have to undergo a thorough review to ensure the other agency's criteria for granting the ERCs were as stringent as the NDEP's.

Ms. Williams asked if it had been determined whether the criteria in Clark County's regulations are as stringent as the NDEP's.

Ms. Malone said that reciprocity requests would have to be reviewed on a case-by-case basis, but generally, it appeared that Clark County's regulations were as stringent as the NDEP's.

Fees for the ERC program are proposed in revisions to NAC 445B.327.

Ms. Williams asked if the application fee for requesting the issuance of an ERC was on a per application basis as opposed to a per ton basis.

Ms. Malone and Mr. Kinder responded that the fee was on a per application basis. This will be clarified in the regulation.

Finally, **Mr. Johnson** inquired whether the slide presentation would be made available.

Ms. Malone replied that it was already posted on the NDEP Public Notices page under BAQP notices (http://ndep.nv.gov/admin/public.htm#air_qp) and would also be available shortly on the SEC October 7, 2015 hearing page.

There being no more questions, Ms. Malone adjourned the workshop.

ADJOURNMENT

The Workshop was adjourned at 10:12 a.m.

Respectfully submitted,

Brenda R. Harpring, Recording Secretary