

FORM #4

NEVADA STATE ENVIRONMENTAL COMMISSION
SMALL BUSINESS IMPACT DISCLOSURE PROCESS
PURSUANT TO 233B “Nevada Administrative Procedures Act”

RE: P2016-02. Amendments to NAC 445B.001 to 445B.3689 and related matters.

By: Nevada Division of Environmental Protection (NDEP), Bureaus of Air Pollution Control and Air Quality Planning

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 to determine whether a small business impact statement is required for submittal of a proposed regulation before the State Environmental Commission (SEC).

Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS 233B.0382).

PART 1

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 and simply referred to; and if yes reference the small business impact statement as attached)*

Answer: This regulation impacts holders of Class III and Class IV air quality operating permits, but it does not do so in a uniform manner. The vast majority of Class IV sources are small businesses, while Class III sources are mixed. The regulation will relieve many small businesses of the requirement to apply for and obtain an operating permit from the NDEP, thus providing a clear economic benefit. A small percentage of small businesses will shift from their current Class III or Class IV status to Class II, which entails increased fees for obtaining a permit.

To determine how the current universe of Class III and Class IV sources would be impacted by the regulation, the NDEP performed an analysis comparing potential emissions from each source to the emission thresholds in the proposed Class II source definition. Of the current 225 active Class III permits, approximately 160 are expected to need no permit under the new system. Of the approximate 65 sources that may transition to the Class II program, about 15 are expected to qualify for a general permit (discussed further in Part 2 question 3(a) below); while the remainder will likely require a regular Class II permit.

The current Class IV sources comprise 266 facilities classified into seven categories. Analysis of emissions from these sources indicates that four of the categories are expected to completely drop out of the program (more than 50-60 sources). An additional 181 of the 193 gasoline dispensing facilities currently holding Class IV permits are expected to drop out of the program. The two facilities in the Industrial/ Institutional/ Commercial Boilers category may require a Class II permit, and more information is needed to determine if any of the 11 facilities in the Nine Metal Fabrication category might require a Class II permit. Many of the Class IV sources that are

expected to remain in the permitting program may qualify for a general permit.

In summary, of the current 491 active permits, the NDEP anticipates that with adoption of these amendments more than 80 percent will no longer require a permit. This is obviously a beneficial economic impact for approximately four fifths of the currently regulated Class III and Class IV sources. The NDEP anticipates only about 13 percent of current Class III and Class IV permit holders will require a regular Class II permit, while the remainder will qualify for a general permit. A general permit is one prepared by the NDEP under which qualified sources may request authority to operate. Under the current fee structure, it costs \$300 to apply for a Class III permit and \$50 to apply for a Class IV permit. The fee to apply for a Class II permit is \$3,000; a request to operate under a Class II general permit costs \$500.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 and simply referred to; and if yes reference the small business impact statement as attached)*

Answer: No. Small businesses may continue to apply for and operate under an NDEP air quality operating permit. The cost of applying for a permit is commensurate with the amount of emissions of regulated air pollutants.

3. If Yes to either of questions 1 & 2, the following action must be taken:

A. Was a small business impact statement prepared and was it available at the public workshop? *(yes or no, attach a copy of the statement or if a statement was not completed please explain)*

Answer: Yes; please see the attached.

B. Attach the Small Business Impact Statement as part of Form #4 upon submission of the proposed regulation to the SEC when Form #1 (petition to the Commission) is submitted.

PART 2

SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets noting which are small businesses.)*

Answer: A first draft of the proposed amendments was sent to stakeholders via e-mail with a seven-week comment period. The draft was revised and e-mailed to stakeholders for a second review and comment opportunity prior to the public workshop. Affected industry was also engaged through meetings and telephone conversations. In addition, comment was solicited through a public workshop held in Carson City and video conferenced to Las Vegas on June 7, 2016. Notices of the workshop and an invitation for comments were posted in all county public libraries, the NDEP buildings in Carson City and Las Vegas, on the NDEP website, the Legislative Council Bureau's website, and the official State website. A summary of the workshop will be posted on the SEC web site at <http://sec.nv.gov/main/hear0000.htm> under the heading for the October 12, 2016 SEC Hearing.

2. The manner in which the analysis was conducted.

Answer: The NDEP performed an analysis to determine how the current universe of Class III and Class IV sources would be impacted by the regulation. See the response to Part 1 question 1, above.

3. The estimated economic effect of the proposed regulation on small businesses:

Answer: a. Adverse and beneficial effects.

Generally, this regulation will have a beneficial economic effect on small businesses. Approximately 90 percent of the businesses currently holding Class IV permits and more than 70 percent of the current Class III permit holders will no longer require a permit, eliminating all permit-related costs for them. Only about 18 to 19 percent of the current Class III and Class IV permit holders would be transitioning into the Class II permitting program. To ease the economic impact on these sources, the NDEP will develop Class II general permits to cover certain operations or activities that are substantially similar in nature and are performed by numerous stationary sources. Sources that fit the criteria of a general permit may apply for authority to operate under it. This will reduce both the cost and time required for such sources to obtain a permit. For a source that emits pollutants in amounts that exceed the thresholds defining a Class II source, the fee to apply for a Class II permit is \$3,000; a Class II general permit costs \$500.

b. Direct and indirect effects.

Any economic impacts will be directly associated with permitting fees or the removal of the

requirement for a permit as described in 3 (a), above.

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses. *(Include a discussion of any considerations of the methods listed below.)*

A. Simplification of the proposed regulation.

Answer: In revising the definition of a Class II source, the agency performed modeling analyses to establish permitting thresholds for each regulated air pollutant. The results of these analyses were used to arrive at the highest level of emissions permissible, while still protecting Nevada and federal ambient air quality standards. The development of general permits as described in 3(a) above will also reduce the impact of the proposed regulation on small businesses. The thresholds together with general permits will achieve the goal of aligning agency resources with benefits to air quality.

B. Establishment of different standards of compliance for a small business.

Answer: All permit actions are modeled for compliance with the national and state ambient air quality standards. Currently, a facility is not required to model if it has the potential to emit less than 25 tons per year for each pollutant standard, or in the case of the NO₂ and SO₂ 1-hour standards, less than 40 tons per year. In those cases, as a service to the industry, the NDEP performs the modeling for the facility. Additionally, regardless of the amount of its potential emissions, a facility may request that the NDEP perform the modeling free of charge.

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine.

Answer: Fees for permit applications are based on the level of pollutants emitted by the source.

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

Answer: There will be no change in the cost to the agency for enforcement of the proposed regulation. The cost of enforcement is factored into the fees charged for an application for and maintenance of an air quality operating permit.

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

Answer: Because about 80 percent of the currently permitted Class III and Class IV facilities will no longer need a permit when this regulation is implemented, the agency anticipates an initial decrease in revenue from loss of permit maintenance fees. Once a certain percent of the facilities that are expected to transition into the Class II program have obtained Class II permits, total annual revenue will rise slightly. The transition of applicable facilities into the Class II program is expected to take approximately five years. Once the transition to the new program

structure is complete, the average annual increase in revenue is estimated at about \$12,000. Any income gain from the regulation will be used to supplement the cost of outreach and education to assist sources subject to federal requirements, but no longer required to have an NDEP operating permit.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why the proposed regulation is duplicative or more stringent and why it is necessary.

Answer: The regulation does not duplicate nor is it more stringent than any existing federal, state or local regulations.

8. The reasons for the conclusions regarding the impact of a regulation on small businesses.

Answer: The conclusions regarding the impact of the regulation on small businesses are based on the analyses conducted by the agency (see Part 1, #1 and Part 2, #s 2, 3 and 4) and outreach to the regulated community (see Part 2, #1).

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and that the information contained in this statement is accurate.



David Emme
Administrator, NDEP



Date