

# Permanent Regulation - Informational Statement

A Regulation Relating to Air Quality

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

## State Environmental Commission (SEC) LCB File No: R085-16

### Regulation R085-16:

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:

In an effort to streamline the NDEP's air quality operating permit programs and align the resources spent on permit applications with the benefit to air quality, this regulation reforms the Class II, Class III and Class IV provisions in NAC 445B.001 to 445B.3689, inclusive.

### The amendments:

- Eliminate the permit requirement for Class III and Class IV sources and redefine a Class II source. Existing Class III and Class IV sources will either not require a permit or will become a Class II source.
- Amend the public notice requirements for Class II permits to (1) add a requirement for public notice if the source is/will locate near a sensitive population, (2) add a threshold for PM<sub>2.5</sub> emissions, and (3) develop a timeline for acting on an application for a Class II permit that requires public notice.
- Housekeeping: Combine the current definitions for "Class I-A application" and "Class I-B application" into "Class I application."

The NDEP will develop additional Class II general permits for appropriate categories of sources/activities. Additionally, the NDEP will work with area sources through outreach and education programs to assist them in compliance with federal requirements.

### 1. Need for Regulation:

These amendments streamline the NDEP air quality permitting process to enhance the timely processing of permit applications and better align the resources being spent by

the NDEP on processing applications that result in a benefit to air quality. With the elimination of the Class III and Class IV permit programs, NDEP will better focus on the larger stationary sources that emit more pollutants. Currently, the NDEP often invests as much time processing a Class III application as it does a Class II application, and the air quality benefit is often substantially less.

Within the Class II category of sources, appropriate “general” permits will be developed by the NDEP 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.

## **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 7, 2016 NDEP conducted a public workshop on proposed regulation R085-16. The workshop was held in Carson City and teleconferenced in Las Vegas. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Tahoe Conference Room) and teleconferenced to the NDEP office, located at 2030 East Flamingo Road, Suite 230.

Twenty-three (23) 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\\_1016.htm](http://www.sec.nv.gov/main/hearing_1016.htm) .

Following the workshop, the SEC held a formal regulatory hearing on October 12, 2016 at the Bryan Building Tahoe Conference room located at 901 South Carson Street, Carson City. 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 Agriculture, 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 R085-16 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\\_1016.htm](http://www.sec.nv.gov/main/hearing_1016.htm) .

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

- (a) Attended October 12, 2016 hearing: 18 (approximately)
- (b) Testified on this Petition at the hearing: 1

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- (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 12, 2016 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. This regulation will have a positive economic impact on existing Class III and Class IV permit holders. Of the current Class IV permits, it is anticipated that approximately 90 percent will be rescinded, alleviating those sources of the annual maintenance fee (~\$52 for SFY 17) and any future permit-associated costs. Of the current Class III permits, it is anticipated that approximately 70 percent will be rescinded, alleviating those sources of the annual maintenance fee (~\$260 for SFY 17) and any future permit-associated costs. Regarding the sources that are anticipated to transition into the Class II program, more than 25 percent are expected to qualify for a general permit. A general permit application is \$500. For a

transitioning source to apply for a regular Class II operating permit, it will cost \$3,000, reduced by an amount determined by the time remaining on their current permit.

Public. The proposed regulation will have no economic impact on the public.

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

Enforcing Agency. There may be a small increase or decrease in income to the agency with the transition of some Class III and Class IV sources to Class II. Any additional income 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.

**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 or federal regulations.

**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 impose a new fee. It eliminates the Class III and Class IV permitting programs and, thereby, removes application and annual maintenance fees for those programs. The regulation also reorganizes the sources currently holding Class III and Class IV permits into new categories: (1) no permit required, (2) general permit, and (3) Class II permit.