

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Workshop to Solicit Comments on Proposed Amendments to
NAC 445B: Air Pollution

June 7, 2016
9:00 AM

Tahoe Conference Room
2nd 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:

Danilo Dragoni, Chief, Bureau of Air Quality Planning (BAQP)
Jeffrey Kinder, Chief, Bureau of Air Pollution Control (BAPC)
Adele Malone, Supervisor, Planning and Modeling Branch, BAQP

NDEP Staff:

Patricia Bobo, Environmental Scientist, Planning and Modeling Branch, BAQP
Jennifer Collier, Permitting Supervisor, BAPC
Ashley Taylor, Permitting Supervisor, BAPC

Public:

Carson City:

Steve Hudson, Betra Manufacturing Co.
William J. Rieger, Fortifiber Corporation
Trevor McSwain, Foreland Refining Corp.
Laura R. Tachiquin, Mort's Auto Body
Sandra Carroll, Carroll Environmental
Consulting
Hal Lee, Graymont
Gay McCleary, ECON Inc.
Scott Soderstrom, Hunewill Construction
Michael Fitzgerald, Basalite Concrete
Products

Kyle Hamilton, Q & D Construction, Inc.
Joe Beetler, Newmont Mining Corporation
Chris Lynch, UNR Business Environmental
Program
Tom Herschbach, Pyramid Materials
Donna Kelley, The General Store
Will Adler, Reno, NV
Augustina Gonzales, Reno, NV
Armand Delgado, Verizon Wireless
Bruce Mills, Quad Graphics LLC
Karl Coughtry, North Sails

Las Vegas:

Gina Rou, Barrick Gold Corporation
Sarah Hoffman, McGinley & Associates
Tom Collet, Window Peak Trace Minerals
Sean Spitzer, NV Energy

CALL TO ORDER:

Ms. Malone called the meeting to order at 9:07 a.m., and BAQP and BAPC staff introduced themselves. She discussed the sign-in process, handouts and other housekeeping items. Ms. Malone reviewed the workshop agenda, noting that she would present P2016-04, proposed amendments to update Nevada Administrative Code (NAC) 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations." Mr. Dragoni and Mr. Kinder would present P2016-02, proposed revisions to the Nevada Division of Environmental Protection (NDEP) Air Quality Operating Permits program. This petition is intended to streamline the permitting program, which will benefit the regulated industry, and better align the resources spent by BAPC on permit applications with the consequent benefit to air quality. Ms. Malone noted that the workshop was being recorded and that speakers needed to identify themselves for the record. There were no questions or changes to the agenda.

Ms. Malone explained the regulatory adoption timeline for the petitions. A summary of the workshop will be posted on the NDEP website. Once the petitions have been presented at the workshop, the NDEP will consider comments received at the workshop, make any appropriate revisions and submit the petitions to the State Environmental Commission (SEC). The SEC will forward them to the Legislative Counsel Bureau (LCB), which reviews the petitions for clarity and conformity to other state regulations; content will not be changed. If the LCB finds issue with the content, the NDEP would have another workshop for the revised petition. After the LCB review the SEC will hold a hearing on October 12, 2016 at 10 a.m. at the Carson City NDEP offices where they will consider the petitions. There will be a 30-day public comment period prior to the SEC hearing and another opportunity for comment at the hearing. If the regulations are adopted by the SEC, they are submitted to the Legislative Commission. If the Legislative Commission approves the regulations, they are sent to the Secretary of State where they are filed and become effective. There is not a certain date for when the petitions may become effective because the Legislative Commission does not meet on a regular basis. The NDEP anticipates the amendments will be approved before the end of December 2016.

Ms. Malone explained that P2016-02 will be submitted to the United States Environmental Protection Agency as part of a revision to Nevada's State Implementation Plan (SIP). She asked for any questions and hearing none, moved on to the presentation of the petitions.

SUMMARY

P2016-04

Ms. Malone presented P2016-04, referring to a workshop handout with a table showing details for each proposed amendment. She explained that P2016-04 amends NAC 445B.221, which adopts federal regulations by reference. It is a routine update that allows the NDEP to request delegation of the federal rules that are being adopted by reference, such as New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). The NDEP will implement the federal regulations, once authority has been delegated. The NDEP is proposing to adopt amendments to the Code of Federal Regulations (CFR) for Part 51, Part 52.21, which is the Prevention of Significant Deterioration (PSD)

program, Part 60, NSPS, and Part 63, NESHAP. The last update to NAC 445B.221 was in March 2015. Only amendments or corrections to existing federal regulations are being adopted; no new regulations are being added into the NAC. The petition also proposes to “clean up” the NDEP’s adopt-by-reference regulation by removing adopted federal regulations for which no sources exist in Nevada. Ms. Malone went through the handout on the proposed amendments for Parts 51, 52.21, 60 and 63. The amendment to Part 51 revises a definition. The amendments to Part 52 alleviate certain permit requirements for greenhouse gas emissions and the 2015 ozone national ambient air quality standards (NAAQS). There are several amendments to the NSPS and NESHAP rules. She also pointed out the list of subparts the NDEP is proposing to remove.

Ms. Malone asked if there were any requests for her to read through the list of proposed amendments. Mr. Kinder added that the federal government routinely changes their regulations and this is a yearly process that the NDEP goes through so we can maintain our delegation. Hearing no questions or comments, Ms. Malone moved on to the next petition, which Mr. Kinder and Mr. Dragoni presented.

P2016-2

Mr. Kinder began by noting that P2016-02 proposes a significant change in the way the NDEP runs its permitting program. It proposes to redefine the Class II source definition and eliminate the Class III and Class IV programs. A power point presentation was presented to aid in describing the proposed amendments.

Per NAC 445B.287, all “stationary sources” require an operating permit. Stationary source is defined in NAC 445B.187. There are four elements to the definition of a stationary source. One of the elements is that the source emits or may emit a regulated air pollutant. Once the determination has been made that you are a stationary source, the NDEP looks at the source’s “potential to emit” or PTE. The State definition of PTE is basically the same as the federal definition and allows a source to take credit for federally enforceable permit conditions. If the permit limitation is federally enforceable, the NDEP may take those controls or limitations into account when determining the source’s PTE. This will impact the NDEP’s determination of whether or not a source needs a permit under the NDEP’s program. There are many federal programs that are federally enforceable: Part 52.21 (PSD), Part 70 (Title V) and Nevada’s State Implementation Plan. The NSPS and NESHAP, 40 CFR Parts 60, 61 and 63, are also federally enforceable. Even if a source is not required to have an state operating permit, it must still comply with the federal rules and standards. This fact is the foundation for the proposed changes in the NDEP’s permitting program.

Once Mr. Kinder finished discussing the context for the amendments, he described the proposed revision to the definition of a Class II source. The new definition includes a PTE threshold for each regulated air pollutant, under which a source will not be required to obtain an operating permit. Sources are still subject to federal rules and must comply, but if the source emits under the listed threshold, they will not require a permit from the NDEP.

Mr. Dragoni continued the power point presentation by explaining how the thresholds were established, the analysis and the more technical aspects of the proposed revisions and the

anticipated impacts on the regulated industry. Modeling was used to establish the proposed thresholds. A typical source was modeled for each pollutant with the idea of establishing a threshold that would ensure compliance with the NAAQS. Mr. Kinder added that because these thresholds are established to support the NAAQS which are health-based standards, sources that are below the thresholds will not have a negative impact on the NAAQS, whether they have a permit or not.

The NDEP made an estimate of the impact of the proposed changes on current Class III and Class IV permit holders. Mr. Dragoni explained how Class III and Class IV permits will be reclassified. About 159 Class III sources will no longer be required to have a permit, and about 66 will be required to obtain a Class II permit. About 237 Class IV sources will no longer be required to have a permit, while about 25 will be required to obtain a Class II permit. Overall, the NDEP expects that about 81 percent of the current Class III/IV sources will no longer require a permit.

Mr. Dragoni then reviewed the general permit option created to cover certain operations or activities that are substantially similar in nature and performed by numerous similar stationary sources. Mr. Kinder noted that the NDEP-BAPC permitting staff has already begun creating these general permits for different source categories. If a Class III or IV facility is required to obtain a Class II permit and meets the criteria for a general permit, those general permits should be available by the end of the year. Mr. Kinder explained that a general permit has similar requirements for a certain source category as well as a blanket modeling demonstration, which is performed by the NDEP. The agency actually creates the general permit, which sources that meet the criteria for the general permit may apply for authority to operate under. It is a much more streamlined process compared to normal operating permit applications and substantially less expensive.

Mr. Dragoni explained again that facilities that will no longer require a permit from the NDEP will still be subject to federal requirements such as NSPS and NESHAP. The NDEP's intent is to organize an outreach initiative, so it can still stay in contact and be available to assist facilities in meeting federal requirements. The NDEP is also proposing changes to the Class II public notice requirements. Currently, applications for a new or revised Class II operating permit must comply with public notice requirements if they have not previously held a Class I or Class II operating permit or if they are requesting an increase in allowable emissions exceeding established thresholds. $PM_{2.5}$ is being added to the pollutant threshold list, because the federal standard for that pollutant was recently adopted as the Nevada ambient air quality standard. The NDEP is proposing to add a requirement to provide public notice with a public comment opportunity for a preliminary determination to issue a permit for a facility located within 1,000 feet of a school, hospital or residential area. The NDEP is also proposing to add a timeline for issuing or denying a Class II operating permit when public notice is required. If public notice is not required, the NDEP has 60 days from the submittal to issue or deny a permit. If public notice is required, the proposal provides 90 days from submittal for the NDEP to issue or deny a permit to allow for the 30-day public comment period.

Mr. Dragoni noted that if facilities are not required to have a permit as a result of the program revision, they will be informed. Outreach will be in place at the time these proposed changes are

in effect. Class III and Class IV facilities that will require a Class II permit will be allowed to continue operating under their current permit until a new Class II operating permit is issued or denied. A schedule will be established to reclassify Class III and Class IV permits to Class II permits, if required, when the regulation becomes effective. As proposed, the transition from Class III and Class IV permits to Class II permits will begin no sooner than 6 months from the effective date of the regulation and be completed no later than 5 years after the effective date of the regulation. The regulation proposes to establish the schedule for transitioning to Class II permits based on the amount of emissions of each stationary source and the expiration date of each permit. Priority will be given to those permits that have the highest emissions and/or to those facilities that have a permit that is close to expiring. Class III and Class IV permit holders can apply for a Class II general permit, if they meet the criteria and wish to do so.

The presentation will be posted on the NDEP website. Mr. Dragoni asked for comments or questions on P2016-02.

COMMENTS AND QUESTIONS

Gay McCleary: To determine if a facility no longer requires a permit, are the potential emissions going to be based on 8760 hours of operation?

Jeffrey Kinder: It's going to be based on the definition of PTE. For example, if you're subject to a federal requirement that limits, say, operating hours, you can take that limitation into account when calculating PTE.

Armand Delgado: Verizon Wireless probably has all of the emergency generators, and we're continuing to expand our network exponentially. What do you foresee the process being for our standby generators that would be added after the regulation? When the regulation goes into effect, do we apply for a general permit? What about when we plan to install a new facility, do we notify NDEP that we're adding this specific location to our general permit?

Jeffrey Kinder: Up until the point the regulation becomes effective, it's permitting as usual. Once the regulation is effective, if you're subject to one of the federal applicabilities that limits you to 100 hours, and based on 100 hours your PTE is below the threshold, there is no required permitting or notification to NDEP. But, we would be available to answer any questions or help you with any reporting that is required under them.

Sean Spitzer: First, NV Energy supports this NDEP initiative. After the rule goes into effect, for Class III sources that are no longer subject to permitting requirements, you say you would let us know that we don't require a permit any longer. Can you elaborate on that process?

Jeffrey Kinder: Our intent is to go through the list once the regulation becomes effective, identify those sources that no longer require a permit, and officially send you a letter saying that we are terminating your permit and removing it from our data base. We haven't defined a schedule for that, but probably in those initial six months we would work diligently to handle the cleanup of the 81 percent of the Class III and Class IV facilities that we expect to drop out of the permitting program.

Danilo Dragoni: If we have questions about emissions, for example, we might approach the permit holder for clarification during that period.

Scott Soderstrom: We do a lot of work under the Class II general. On the change of locations, if I have some that are going to be under that threshold, does that mean I don't apply for a change of location for that operation, or since I'm under a general I have to?

Jeffrey Kinder: My initial impression is that if you don't meet the thresholds, permitting is not required. But, we will look into that issue and make sure we give you a definitive answer.

Tom Herschbach: So, any portable equipment, such as crushing and screening plants, would not require a general permit?

Jeffrey Kinder: I think we would have to look at the definition of PTE and see where you fit into that, to say whether you have to get a permit or not. Your temporary operation is federally enforceable because it's in your general permit; it's not federally enforceable for another reason.

Bruce Mills: We have a Class I permit, and we have emergency generators with time limitations. If they fall below that PTE threshold, will they be let off even if you're a Class I permit holder?

Jeffrey Kinder: They will not, because your PTE will be based on the stationary source in aggregate. General permits are based on stationary sources. So, if the entire stationary source is below the threshold, you don't require a permit; but not individual sources within a general permit.

There were no more comments or questions from the public. Finally, Ms. Malone remarked that written comments will be accepted through the SEC comment period ending October 12th when the public hearing is held.

ADJOURNMENT

The Workshop was adjourned at 9:53 a.m.