



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission [SEC.nv.gov](http://SEC.nv.gov)

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

## Agenda

### SEC Meeting December 4, 2013

The State Environmental Commission (SEC) will hold a meeting on Wednesday December 4, 2013 at 10:00 am in Carson City. The meeting location in Carson City is the Bryan Building located at 901 South Stewart Street (2nd floor, Tahoe Room). The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this agenda.

The following items may be taken out of order and/or items may be combined for consideration. Items may also be removed from the agenda or the SEC may delay discussion relating to an item on the agenda at any time. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the SEC may refuse to consider public comment. See NRS 233B.126

#### 1) Public Comments: (Discussion)

Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson.

#### 2) Approval of the Agenda: (For Possible Action)

#### 3) Approval of Meeting Minutes: October 9, 2013 (For Possible Action)

#### 4) Penalty Assessments for Air Quality Violations (For Possible Action)

- A. NV Energy, Reid Gardner Generating Station – NOAV No. 2452, alleged failure to comply with a permitted emission limit during a compliance source test. The Recommended penalty amount is \$11,255.00.
- B. El Sueno Resort and Casino - NOAV No. 2165, alleged failure to apply for and obtain an Air Quality Operating Permit. The Recommended penalty amount is \$1,450.00.
- C. Galtar LLC - NOAV No. 2141, Failure to Apply for and obtain an Air Quality Operating Permit. The Recommended penalty amount is \$10,500.00.

**NDEP Regulatory Petitions:**

**Bureaus of: Mining Regulation & Reclamation/Water Quality Planning/Waste Management/Air Quality Planning/ Air Pollution Control**

**5) R092-13 - Bureau of Mining Regulation and Reclamation Regulation, Provide for Public Non-motorized Access to Mine Pit Lakes under Certain Conditions; and Reclamation Plan Providing for a Point of Access: (For Possible Action)**

Assembly Bill 346 (AB 346), passed during the 2013 Nevada Legislative session, amended NRS 519A.230 providing new statutory provisions related to public access to mine pit lakes. The bill allows for non-motorized public access in pit lakes with a predicted filled surface area of more than two hundred (200) acres subject to the landowner(s) determination of the final and ultimate use of the premises and whether public access will be provided. If access is allowed, at least one (1) point will be provided when the lake has reached ninety (90) percent of maximum capacity.

Proposed revisions to NAC 519A.250, Section 5 would reference the new statutory provisions related to pit lake access (NRS 519A.230). If public access will be provided, an exemption from reclamation requirements would not be available and reclamation of the open pit or rock face would be required for the point(s) of public non-motorized access to the water level of the pit lake.

A new section is proposed to be added to NAC 519A.265 and 519A.270 requiring a plan for reclamation to include the landowner(s) determination whether public access will be allowed to the future pit lake located on their premises, and if so, provision(s) for a point or points of access.

Additional revisions to NAC 519A.260(3), 519A.315(1) and 519A.345(9) are proposed for the regulation to conform to statute NRS 519A.230.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to NDEP for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP.

**6) R093-13: Standards for Water Quality: (For Possible Action)**

The NDEP is proposing changes to NAC 445A which remove waterbodies or portions of waterbodies pertaining to State Water Quality Standards on Federal Indian Reservations. During the 1970's, when Nevada was

establishing its water quality standards, Nevada set standards on several Federal Indian Reservations. In 1983, the Federal government established a federal Indian policy to treat Tribal governments on a government-to-government basis, and to support the principle of self-determination and local decision making by Indian Tribes. Section 518(e) of Clean Water Act (CWA) was added as part of the 1987 Amendments. This section authorizes the U.S. EPA to treat federally recognized Indian Tribes in a similar manner as states for certain provisions of the CWA, including the water quality standards program.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to NDEP for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP.

#### **7) RO37-13 - Solid Waste Regulation (For Possible Action)**

Nevada Revised Statutes (NRS) 444.560 establishes the authority of the State Environmental Commission (SEC) to adopt a schedule of fees related to regulation of solid waste management facilities in areas subject to the jurisdiction of the Department of Conservation and Natural Resources (excludes Washoe and Clark Counties). This proposed regulation establishes the following fees: application fees for obtaining a permit or approval to operate certain new solid waste facilities; annual permit fees applicable to certain Class I and Class III disposal sites; and fees related to requests to modify an existing permit.

The proposed fees would apply to small number of landfill disposal facilities. There would be no significant economic impact on the public if the proposed fee schedule were adopted. If the fees applicable to municipal landfills were passed on to customers, the amount would be insignificant. There would be no additional cost to the agency for implementing the proposed fee schedule. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation.

#### **8) RO38-13 - Hazardous Waste Regulation (For Possible Action)**

Nevada Revised Statutes (NRS) 459.500 and 459.510 establishes the authority of the SEC to adopt fees related to regulation of hazardous waste management facilities. The proposed regulation revises existing fees applicable to facilities that treat, store or dispose of hazardous waste. Permit review fees that are charged on an hourly basis for renewal or modification of an existing permit are replaced with a flat fee structure. The structure of annual permit fees is also revised and

fees are increased. The regulation is further clarified to indicate that annual permit fees are applicable to facilities where a remedial action plan has been permitted pursuant to 40 CFR Part 270 Subpart H. Various fees applicable to the volume of waste disposed or treated by a permitted facility are also revised.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. While the regulation does address fees, each of the affected facility owners were contacted individually regarding the impact of proposed fee increases, and all of the facility owners were accepting of the proposed fee increases and none indicated adverse impacts to their business operations. Finally, the proposed regulation does not include provisions which are more stringent than a federal regulation.

**9) R041-13 – Air Quality, Adoption by Reference of Certain Federal Regulations: (For Possible Action)**

The NDEP is proposing to amend NAC 445B.221, Adoption by reference and applicability of certain provisions of federal law and regulations, to adopt applicable federal rules promulgated since the State regulation was last updated as of January 1, 2012. The update includes rulemakings under 40 CFR Part 52.21, "Prevention of significant deterioration of air quality" (PSD), related to the regulation of greenhouse gases, Part 60, "Standards of performance for new stationary sources" (NSPS), and Part 63, "National emission standards for hazardous air pollutants for source categories" (NESHAP).

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to NDEP for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP.

This regulation was previously approved at the October 9, 2013 SEC meeting, but due to noncompliance with posting requirements in NRS 445B.215, it will be considered again.

**10) R042-13 – Air Quality, Standards of Quality for Ambient Air, Prerequisites & Conditions for Operating Permits; and Compliance with Applicable State Implementation Plan: (For Possible Action)**

The NDEP is proposing to amend NAC 445B.22097, "Standards of quality for ambient air," and NAC 445B.308, "Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan." The NDEP is proposing to revise the Nevada side of the ambient air quality standards table in NAC 445B.22097 to further align it with the federal standards currently in effect. The proposed regulation also revises the 2008 lead and ozone standards in the Nevada side of the ambient air quality standards table. Additionally, it adds an explanatory note regarding implementation of the federal fine particles standard in Nevada.

NDEP is proposing this action in response to a rulemaking by the U.S. EPA, which identified deficiencies in Nevada's state implementation plan (SIP) with respect to Nevada's minor sources permitting program. USEPA determined that Nevada's permitting regulations did not adequately address the 2006 fine particulate or the 2008 lead NAAQS. The NDEP identified a similar deficiency with respect to the 2008 ozone National Ambient Air Quality Standard. If adopted, these amendments will be submitted to the U.S. EPA as part of a SIP revision. Finally, the proposed regulation removes an obsolete subsection from NAC 445B.308 in accordance with Governor Sandoval's directive to agencies to streamline regulations, use clear and concise language, and remove unnecessary requirements.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to NDEP for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP.

This regulation was previously approved at the October 9, 2013 SEC meeting, but due to noncompliance with posting requirements in NRS 445B.215, it will be considered again.

**11) Motion to Dismiss Appeal of Air Quality Violations: (for Possible Action)**

Pursuant to NAC 445B.894 (4), the SEC will consider NDEP's request to dismiss an appeal, filed on January 12, 2004, by Clark & Nye County Development Corp. concerning NOAV 1819.

**12) Hydraulic Fracturing Presentation: (Discussion)**

Rich Perry, NDOM Administrator, will provide an overview of the hydraulic fracturing efforts in Nevada.

**13) Election of Vice Chairman (For Possible Action)**

#### 14) Administrator's Briefing to the Commission: (Discussion)

NDEP Administrator Colleen Cripps will brief the Commission on aspects of the information, in general, NDEP provides to the SEC.

#### 15) Public Comments: (Discussion)

Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible discretion of the chairperson.

#### 16) Adjournment:

**Additional Information:** As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this agenda was posted no later than three working days prior to the hearing at the following locations:

- Nevada State Library & Archives, 100 N. Stewart St., Carson City, NV;
- Dept. of Conservation & Natural Resources, 901 South Stewart Street, Carson City, NV;
- Nevada Division of Minerals, 400 W. King Street, Carson City, NV;
- Nevada Dept. of Wildlife, 1100 Valley Road, Reno, NV.
- Nevada Division of Environmental Protection, 2030 E. Flamingo Rd, Las Vegas;

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

This notice and the text of the proposed regulations are also available on the State Environmental Commission's website at:

[http://sec.nv.gov/main/hearing\\_1213.htm](http://sec.nv.gov/main/hearing_1213.htm). All of the proposed regulations denoted in this notice, including previous drafts, are or will be posted on the on the Legislative Counsel Bureau's website at:

<http://www.leg.state.nv.us/register/>.

This agenda and supporting material for the above referenced meeting are posted on the State Environmental Commission's website at:

[http://www.sec.nv.gov/main/hearing\\_1213.htm](http://www.sec.nv.gov/main/hearing_1213.htm). Supporting material is also available at the office for the State Environmental Commission, 901 South Stewart St., Suite 4001, Carson City, NV. Anyone desiring supporting material or additional information is invited to contact Valerie King at (775) 687-9374.

Persons wishing to comment on the proposed actions of the SEC may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South

Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of Valerie King, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9374, no later than 5:00 p.m. on November 27, 2013.