



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 89701-5249

## SEC Meeting Agenda June 17, 2010

The State Environmental Commission (SEC) will hold a regulatory hearing on Thursday, June 17, 2010 at 10:00 am. The hearing location is the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada. Unless otherwise stated, items may be taken out of the order presented on the agenda at the discretion of the chairperson.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of the following regulatory petitions and related SEC business.

1) Approval of minutes for 10/06/09 and 12/09/09 SEC hearings \* Action Item

2) Settlement Agreements, Air Quality Violations \* Action Item

- Advanced Refining Concepts, LLC
- WorldColor Fernley
- 21st Century Environmental Management of Nevada, LLC
- Bango Oil, LLC

3) Air Quality Violation: Zeox Mineral Materials Corporation (Ash Meadows, LLC): \* Action Item The Commission will determine the appropriate penalty for the violation contained in the Notice of Alleged Air Quality Violation and Order (NOAV) No. 2225.

### Safe Drinking Water

4) Regulation R061-10: Safe Drinking Water Adoption by Federal Reference: \* Action Item The Nevada Division of Environmental Protection (NDEP) is proposing to update its adoption by reference date in NAC 445A for regulations that have been promulgated by the U.S. Environmental Protection Agency (U.S. EPA) from July 1, 2006 to July 1, 2009.

Nevada's Safe Drinking Water Program regulates public water systems using a combination of State regulations and the National Primary Drinking Water Regulations (NPDWR) adopted by reference. The U.S. EPA has granted the NDEP primary enforcement responsibility for the NPDWR. In order to maintain primary enforcement responsibility, the NDEP must adopt regulations that are at least as stringent as new or amended federal regulations. In part, the

proposed amendments adopt the new federal Ground Water Rule and the Lead and Copper Rule Short-Term Revisions and Clarifications. The Lead and Copper Rule is a current regulation implemented by the NDEP. These amendments are considered necessary to maintain Primary Enforcement Responsibility for NDEP's Bureau of Safe Drinking Water's (BSDW) federal program elements. Additionally, changes are proposed to enhance a BSDW safe drinking water program element, and provide "cleanup" and clarification of existing regulations.

The regulations will not have an immediate or long-term adverse economic impact on the public or the business community. It should be noted, however, that some provisions of the federal regulations to be adopted by reference will have a small cost associated with implementation including monitoring and public notification for some small businesses, but this cost will be nominal.

There will be no additional cost to the agency 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.

## **Air Quality Planning / Air Pollution Control**

**5) Regulation R040-10: Repeal of Nevada Clean Air Mercury Rule Program (CAMR):** \* **Action Item** The Nevada Division of Environmental Protection (NDEP) is proposing to repeal the Nevada Clean Air Mercury Rule Program by removing NAC 445B.3711 to 445B.3791, inclusive, and all references to the program throughout Chapter 445B of the Nevada Administrative Code (NAC). This program was established in 2006 in response to a federal requirement for states to control mercury emissions from coal-fired electric generating units at power plants. In February 2008, the U.S. Court of Appeals for the District of Columbia struck down the federal Clean Air Mercury Rule (CAMR) in *New Jersey v. Environmental Protection Agency*. Thus, the federal requirement for the Nevada CAMR program no longer exists

Repeal of this regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There is no additional cost to the agency for repealing this regulation as the regulation does not overlap, duplicate or conflict with any regulations of other government agencies.

**6) Regulation R022-10: Alternative Fuels in Fleets:** \* **Action Item** This regulation amends Chapter 486A of the Nevada Administrative Code (NAC) to reflect recent changes made in statute by the Nevada Legislature (i.e., S.B. 332). The proposed changes clarify in regulation both the types of alternative fuels and vehicles that will comply with the Alternative Fuels in Fleets program. The regulation addresses vehicle acquisition and fuel use requirements, reporting requirements, and program applicability. Overall the

proposed regulation will provide more flexibility to respond to changes in the alternative fuels and low emission vehicles markets.

Specifically, the proposed regulation adds hybrid electric vehicles and clean vehicles as meeting the requirements of the program, while it exempts fleets that are subject to the federal Energy Policy Act alternative fuels program, along with vehicles that are used for fire, law enforcement, emergency response and military purposes. It requires the fleet operator to submit a statement outlining the procedures and internal controls to ensure alternative fuels are used. The proposed regulation also specifies the conditions under which the State Environmental Commission may grant a variance from provisions of the program (i.e., it extends the duration of a variance from 12 to 36 months).

The proposed regulation does not overlap or duplicate any regulations of other state or government agencies as it specifically exempt fleets that must comply with the Energy Policy Act, a federal program that the State's program would otherwise duplicate. The regulation does not address fees and will not have an immediate or long-term adverse economic impact on the public or the business community. The regulation does not affect businesses, only state and local government fleets located in Clark and Washoe Counties.

#### **7) SEC Form 6 - Variance Request Mandating Use of Alternative Fuels:**

**\*Action Item** Laws and regulations in Nevada mandate the purchase of alternative fueled vehicles by government fleets. To allow certain exceptions to this obligation, in 2009 the Nevada Legislature passed S.B. 332, which amended NRS 486A.150. The legislation now requires the State Environmental Commission to establish a procedure for approving variances to the acquisition of alternative fueled vehicles by government fleets. These procedures are detailed in the proposed draft variance request, SEC Form 6.

### **Other SEC Business**

#### **8) Administrator's Briefing to the Commission: Non-Action Item**

NDEP's Administrator will provide the Commission with informational updates about staffing changes at NDEP, the new state budgeting initiative and the permitting process for the Jungo landfill.

**9) Public Comment: Non-Action Item** Public comment may be limited to ten minutes per person at the discretion of the Chairperson. (See AG Open Meeting Law Manual, pages 58 & 81, <http://ag.state.nv.us/publications/manuals/omlmanual.pdf>)

#### **Additional Information**

Persons wishing to comment on the proposed actions of the State Environmental Commission (SEC) may appear at the scheduled public hearing or 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 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.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, the public notice and this agenda are posted at the following locations: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (2030 E. Flamingo Rd. Suite 230), at the State Library and Archives building in Carson City (100 Stewart Street), and at the Nevada Department of Wildlife (1100 Valley Road, Reno, Nevada).

In addition, copies of the public notice and this agenda have been deposited electronically at major library branches in each county in Nevada. This agenda and the text of the proposed regulations are also available on the State Environmental Commission's website at: SEC.NV.GOV. All of the proposed regulations denoted in this notice, including previous drafts, are also posted on the Legislative Counsel Bureau's website at: [www.leg.state.nv.us/register](http://www.leg.state.nv.us/register) .

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 John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on June 09, 2010.