



Meeting Agenda September 07, 2007

The State Environmental Commission (SEC) has scheduled a regulatory hearing for Friday, September 7th, 2007 beginning at 9:30 am. The hearing will be held in Carson City and Las Vegas through a videoconference. The meeting location in Carson City will be at the Legislative Counsel Bureau Chambers in the State Legislative Building (Room 2135), 401 South Carson Street. The meeting location in Las Vegas will be at the Legislative Counsel Bureau in the Grant Sawyer Building (Room 4412), 555 E. Washington Street.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this meeting agenda has been posted at the following locations: the State Legislative Building in Carson City, the Grant Sawyer Office Building in Las Vegas, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of this agenda and the information noted below were made available to all public libraries throughout the state as well as individuals on the SEC electronic mailing lists. The Public Notice for this hearing was also published on three separate occasions during August 2007 in the Las Vegas Review Journal and the Reno Gazette Journal newspapers. Additional information in support of this agenda is located on the SEC website at sec.nv.gov

The following items will be discussed and acted upon but may be taken in different order to accommodate the interests and time of the persons attending. Please note, however, that item #9 Public Petition - Western Resource Advocates will be considered in the afternoon session of the hearing.

1) Approval of minutes from the May 24, 2007 SEC hearing *ACTION

2) Approval of the following Settlement Agreements - Air Quality Violations *ACTION by Consent Calendar:

Company Name

1. Bing Construction
2. Cortez Gold Mines
3. Harrahs / Harveys
4. Marigold Mine
5. Wilkin Mining & Trucking Lincoln County
6. Queenstake Resources USA

3) Approval of Arsenic Rule Exemptions for the following list of water systems *ACTION by Consent Calendar

WATER SYSTEM ID #

SYSTEM NAME

NV0000903
NV0000206

CMC Steel Fabricators DBA CMC Joist
Pioneer Hills MHP

Regulatory Petition for Mining Regulation & Reclamation * ACTION ITEM

4) Regulation R141-06: Revises Provision Governing the Stabilization of Spent Ore: This regulation would amend NAC 445A.430 by focusing stabilization of spent ore on effluent chemistry levels rather than dictating a particular stabilization action or method (e.g., rinsing). The existing language in the regulation does not reflect the changes and advancements in spent ore stabilization methods and technologies that have occurred since the regulation was first promulgated. The proposed changes are designed to broaden spent ore stabilization options for spent ore that has been left on pads, or which will be remove from pads. The amended regulation will continue to require that spent ore effluent demonstrate Cyanide and pH stability levels in accordance with existing regulatory limits.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not materially alter fees.

Regulatory Petitions for Bureau of Air Pollution Control - ACTION ITEMS*

5) Regulation R019-07: Mercury Storage* This regulation was originally adopted by the State Environmental Commission (SEC) as a temporary regulation in September 2006. Following this action, the 2007 session of the Nevada Legislature enacted Senate Bill 118; this legislation directs the SEC to permanently adopt a regulation for the handling and storage of mercury, when present in a quantity of 200,000 pounds (100 tons) or more. This is the identical threshold quantity defined in the temporary regulation.

This permanent regulation will amend the Chemical Accident Prevention Program (CAPP) regulations NAC 459.9533. The regulation will permanently establish measures for the prevention of an accidental release to the environment from the storage and handling of mercury at storage facilities in Nevada, i.e., the Hawthorne Army Depot. The purpose of the regulation is to protect the health, safety and welfare of the residents of the State. Mercury will be added to the list of highly hazardous substances in NAC 459.9533 at the threshold level noted above.

While this regulation would not have an immediate or long-term adverse effect on business or the public, there would be a minimal additional cost to the agency for enforcement of the regulation. The regulation would not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is more stringent than federal law and it would result in nominal new fees for facilities storing "large quantities" of mercury.

6) Regulation R057-07: Adopt by Reference* This regulation updates NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations." The regulation would adopt into State regulation sections of the federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) rules that have been adopted by the U.S. Environmental Protection Agency (EPA) and published in the Federal Register since July 6, 2006.

The Nevada Division of Environmental Protection is delegated the implementation of the federal NSPS and NESHAP rules that apply in Nevada. Because of this delegation, it is necessary to keep the State's "adoption by reference" regulation up to date so that EPA can continue to delegate the implementation of new rules and revisions to existing rules to the State. NAC 445B.221 currently adopts the applicable NSPS and NESHAP rules, as they existed on July 6, 2006. These proposed amendments are necessary so that Nevada can request delegation for the implementation of new and revised federal NSPS and NESHAP rules promulgated after July 6, 2006. This will allow the regulated industry to continue to work with the State as opposed to the EPA.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not materially alter fees.

7) Regulation R056-07: Nevada Mercury Air Emissions Control Program Fees* This proposed regulation implements Assembly Bill 115, a bill that was passed by the 2007 Nevada Legislature with the support of the Governor. The legislation requires the State Environmental Commission to adopt regulations prescribing the appropriate fee to be imposed on the operator of a mine with the potential to emit mercury.

The regulation will amend the Nevada Mercury Air Emissions Control Program (NMCP), which is codified under NAC 445B.3611 to 445B.3689. For state fiscal year 2008, the regulation will increase annual maintenance fees for all thermal units that emit mercury by an amount sufficient to support two full-time state employees for 6 months (i.e., \$125,000) and fund start-up equipment costs of

\$32,500. For fiscal year 2009, and each year thereafter, the collective annual maintenance fee will be increased by \$250,000 to cover the continuing cost of the two employees. These employees will be responsible for ensuring compliance with the NMCP. An inflationary adjustment factor of 2 percent, compounded annually, is also added. All fee increases will be divided among the number of thermal units that emit mercury from precious metal mining operations in Nevada. The inflation factor was added to make the mercury maintenance fee procedures consistent with fee procedures for other stationary sources permitted by the Division.

This regulation will have both an immediate and a long-term adverse effect on businesses [stationary sources] that conduct precious metal mining in Nevada and operate one or more thermal units that emit mercury. The public will not be affected by this regulation; however, there will be additional cost to the agency [as noted above] for compliance and enforcement activities. The regulation does not overlap or duplicate any regulations of other state, federal, or local agencies.

Lunch break 11:30

Start Afternoon Session - 1:30 approximate

Regulatory Petitions by Western Resource Advocates * ACTION ITEM

8) Public Petition - Western Resource Advocates (WRA): This petition requests that the State Environmental Commission (SEC) suspend Nevada's air pollution control permitting process for proposed new coal-fired electric generating plants. The suspension would remain until such time as the Nevada Division of Environmental Protection (NDEP) promulgates regulations enacting a Green House Gas (GHG) emission standard. The petition was submitted to the SEC pursuant to NRS 233B.100 and/or NAC 445B.886.

The petition further requests that before a utility constructs, operates, acquires, or makes a long-term purchase from a new electricity generating facility, it must first obtain a certification from NDEP that such facilities are designed and will be operated to emit into the atmosphere "no more than 1,100 pounds of carbon dioxide pollution per megawatt-hour." This is the proposed GHG emission standard contained in the petition.

According to the petition, an electricity generating facility using traditional pulverized coal as a fuel source would be unable to meet this emission standard. Hence, the petition would have an adverse effect on any new coal fired power plants proposed in Nevada. The petition notes this would not be the case for power plants using natural gas [combined cycle] and/or other renewable energy sources to produce electricity [e.g. wind and solar]. The petition further notes that rate payers would experience a slight increase in their bills in the short term, as the utilities invest in new, cleaner technologies; however long term costs for power would decrease through avoidance of

possible future carbon regulation and/or the rising, and often unstable, prices of fuels.

There would be additional costs to NDEP for incorporating a GHG emission standard into the agency's regulatory framework; according to the petition the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not materially alter fees.

9) Public Comments

Additional Meeting Information: Copies of materials referenced in this agenda may be obtained by calling the Executive Secretary, John Walker at (775) 687-9308. The public notice and the text of materials for the meeting are also available on the State Environmental Commission website at:

<http://www.sec.nv.gov/index.htm>

Persons wishing to comment on the proposed actions on this agenda 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.

Upon adoption of any regulation, the SEC, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

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 August 30, 2007.