

**Summary Minutes of the  
STATE ENVIRONMENTAL COMMISSION (SEC)**

**Meeting of October 05, 2011, 9:30 AM**

Nevada Department of Wildlife  
1100 Valley Rd., Reno NV

**Members Present:**

E. Jim Gans, Chairman  
Alan Coyner  
Kathryn Landreth  
Jim Barbee  
Mark Turner  
Tom Porta  
Cary Richardson

**Members Absent:**

Pete Anderson  
Frances Barron  
Jason King  
Ken Mayer

**SEC Staff Present:**

Rose Marie Reynolds, SEC/DAG  
John Walker, Executive Secretary

**BEGIN SUMMARY MINUTES**

The meeting was called to order at 9:45 am by Chairman Gans who noted the hearing was properly noticed and there was a quorum; Chairman Gans then moved to the first agenda item.

**1) Public Comments (Action Item):** Chairman Gans explained the new public comment procedures adopted by the 2011 Legislature; he called for public comments and hearing none he proceeded to the next agenda item.

**2) Approval of Agenda (Action Item):** Chairman Gans requested comments on the agenda, hearing none he asked for a motion to adopt the agenda; Commissioner Coyner moved to approve and Commissioner Barbee seconded - the agenda was approved as written.

**3) Approval of the minutes for the June 16, 2011 SEC Regulatory Hearing (Action Item):** Chairman Gans requested comments from the Commission on the June 16 minutes, hearing none he called for a motion to adopt the minutes. Commissioner Turner moved to approve and Commissioner Porta seconded; motion passed unanimously.

**4) Penalty Assessments for Air Quality Violations (Action Items):** Mr. Francisco Vega, Bureau of Air Pollution Control presented the specific violations and recommended penalties for the following three companies listed below (Of note, *Attachment 1 contains Mr. Vega's prepared comments as well as the penalty assessment table*).

- A. **EP Minerals, LLC** – Penalty Assessment for Air Quality Violation No. 2356; failure to comply with permitted emission limits set forth in Class II Air Quality Operating Permit. Recommended penalty \$1,500.00.

After hearing the details about this violation from Mr. Vega, Chairman Gans called for public comments. Mr. Tim Meredith from EP Minerals (Plant Manager) addressed the Commission. Mr.

Meredith noted that since the “air pollution event” his company had spent a half million dollars on improvements to address monitoring, recording, and pollution prevention, i.e. bag house improvement.

**Motion:** Hearing no further comments, Chairman Gans calls for a motion to approve the penalty amount described above. A motion was made by Commissioner Landreth and her motion was seconded by Commissioner Barbee; motion passed unanimously.

- B. **Rees's Enterprise** – Penalty Assessment for Air Quality Violation No. 2328: Failure to operate required air pollution controls by not having wet dust suppression on system hooked up. Recommended penalty \$600.00.

Mr. Vega explained the penalty assessment for Rees’s Enterprises to the Commission whereupon Chairman Gans called for questions from the Commission. There was some general discussion about dust control measures used at sand and gravel processing facilities for highway construction projects in Nevada.

**Motion:** Chairman Gans then called for public comments, hearing none he asked for a motion whereupon Commissioner Porta moved to accept the penalty amount as stated in number B above and his motion was seconded by Commissioner Coyner; motion passed unanimously.

- C. **Wulfenstein Construction** – Penalty Assessments for Air Quality Violation Nos.: 2347 & 2348: Failure to operate required air pollution controls by having excess emissions: failure to control emissions by not having wet dust suppression-water sprays in operations. Recommended penalty \$13,020.00.

Mr. Vega explained the final penalty assessment for Wulfenstein Construction in Nye County. Mr. Vega handed out a photo of particulate pollution taken by the NDEP inspector who sited Wulfenstein for the air quality violation. Chairman Gans again called for questions from the Commission. Chairman Coyner noted that the location of the violation is Wulfenstein’s home base and not a temporary processing facility. Mr. Mike Elges from NDEP noted Pahrump Valley is on the verge of non-compliance for particulate pollution; hence the repeat violation from the Wulfenstein operation was significant. Mr. Gans then called for public comments, hearing none he then asked if a representative from Wulfenstein would like to address the Commission. Mr. Jim Wulfenstein, owner of Wulfenstein Construction provided some additional background about the violation and actions by the company to address pollution prevention measures.

**Motion:** After a somewhat long discussion and after Mr. Wulfenstein concluded his remarks, Chairman Gans asked for a motion from the Commission whereupon Commissioner Coyner moved and Commissioner Landreth seconded a motion to adopt the penalty assessment as presented in number C above; motion passed unanimously.

##### **5.) Petition for Variance: Regional Transportation Commission of Southern Nevada (RTC)**

**(Action Item):** Mr. Jacob Snow from the RTC gave the presentation for agenda item number five. Mr. Snow requested a one year variance from the use of alternative fuel for RTCs transit fleet vehicles as allowed under NAC 486A.200(1)(b). As noted on the agenda the variance would allow

the RTC to use diesel fuel for fixed route and Paratransit services vehicles instead of using a diesel alternative such as the B5 biodiesel fuel.

Mr. Snow provided details and the financial rational for the variance request which primarily focused on obtaining a savings of \$700,000.00 to the RTC. He noted the savings would allow additional Paratransit services to the aged and handicapped populations in Clark County. A discussion among the Commission and Mr. Snow ensued resulting in a request by Chairman Gans for comments from the Division of Environmental Protection. Dr. Colleen Cripps - Administrator of the Division addressed the Commission stating the agency had no objections to the variance request.

**Motion:** Hearing no further public comment on the matter, Chairman Gans asked for a motion from the Commission. Commissioner Jim Barbee moved to approve the variance request, his motion was seconded by Commissioner Turner and the motion passed unanimously.

**6) R030-11: Biennial Reports by Generators of Hazardous Waste (Action Item):** Ms. Valerie Kauffman of the Nevada Division of Environmental Protection (Bureau of Waste Management) presented agenda item six to the Commission (*Attachment II contains Ms. Kauffman's prepared remarks*). As described on the hearing agenda this regulation presently requires biennial reporting of hazardous waste; however, this reporting is more stringent than federal requirements. While federal regulations require only large quantity generators to submit biennial reports, State regulations require any generator holding an active USEPA identification number to report to the Division. As noted in Ms. Kauffman's remarks, by deleting this reporting requirement, State regulations would be consistent with federal requirements and thereby reduce the regulatory burden on businesses generating small quantities of hazardous waste in Nevada.

Following Ms. Kauffman's presentation Commissioner Coyner asked about the difference between large and small generators of hazardous waste. Ms. Kaufman noted that large generators would produce more than 22 hundred pounds of hazardous waste per month, excluding acute amounts of listed waste.

**Motion:** After the conclusion of additional discussions, Chairman Gans called for public comment. Hearing none, he then asked for a motion from the Commission, Commissioner Porta moved to adopt the regulation as presented and his motion was seconded by Commissioner Barbee. The motion passed unanimously.

**7.) R031-11: A Regulation Relating to Hazardous Waste (Action Item):** Ms. Kauffman proceeded by presenting agenda item seven. She noted the proposed regulation deletes NAC 444.8752 through NAC 444.8788, inclusive. As noted on the agenda, this regulation authorized a grant program to demonstrate methods and technologies for minimizing the generation of hazardous waste. Because these grants were issued in the 1990's, no new grants have been awarded for over 10 years and none are planned in the foreseeable future, the agency is proposing to delete the authority for the grants program. Ms. Kauffman noted that NDEP currently contracts with the University of Nevada Reno (business and environmental programs) to provide free "confidential"

pollution prevention assistance to Nevada business concerning the management of hazardous waste.

Commissioner Landreth asked what the original purpose of the grant program was, whereupon Ms. Kauffman noted the program was originally conceived to enable generators of waste to obtain grants for testing new industrial technologies to reduce the generation of hazardous wastes. She noted that over the past 16 years there have been few if any inquires or grant applications from the business community; she also noted that funds from US EPA to support the program were nonexistent.

**Motion:** After further discussions Chairman Gans called for public comment and hearing none, he asked for a motion from the Commission, Commissioner Barbee moved to adopt the regulation as presented and his motion was seconded by Commissioner Turner. The motion passed unanimously.

**8.) R006-11: Air Pollution Control New Public Notice Provisions For Class II Air Permits:**

**(Action Item):** Agenda Item eight was presented by Mr. Rob Bamford, Bureau Chief of NDEP's Bureau of Air Quality Planning. Mr. Bamford noted he would be presenting agenda items eight, nine, and ten -- all of which were permanent regulations that were previously approved by the Commission as temporary regulations. The regulations were approved by the SEC at the regulatory hearings held in December 2010 and June 2011. He also noted that no changes were made to the regulations as previously adopted by the Commission.

As defined on the agenda, Mr. Bamford explained that regulation R006-11 amends the air permitting provisions of NAC 445B, which deals with Class II permit applications. The regulation streamlines the public notice timeline for Class II applications by requiring the NDEP to act on all Class II permit applications within 60 days after the official date of submittal. It further requires all new Class II air permit applications and all applications for a modification that exceeds a certain threshold be made available for public notice. Mr. Bamford stated the regulation was necessary to align state regulations with the federal Clean Air Act and US EPA rule requirements.

**Motion:** Chairman Gans proceeded by calling for public comments and hearing none, he asked for a motion from the Commission, Commissioner Landreth moved to adopt the regulation as presented, her motion was seconded by Commissioner Turner and motion passed unanimously.

**9.) R014-11: Air Pollution Control New Class IV (Area Source) Permitting Program; Class II Certification Requirements (Action Item):** Mr. Bamford proceeded with agenda item nine. He explained the regulation adopts the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) rules for area sources that have were recently issued by the US EPA. The regulation implements emission standards through a new, NDEP streamlined Class IV Operating Permit program. Mr. Bamford noted that one thousand businesses in Nevada could be affected; nonetheless, he said that NDEP's streamlined permitting program will be limited to federal requirements only with a 40 days permitting timeline at a cost of just \$50.00 per application to process.

Mr. Bamford explained that between December 2007 and August 2010, US EPA issued 17 new or revised NESHAPs that could impact business (emission sources) in Nevada. He said the Class IV

Operating Permit program will assist Nevada businesses in understanding and complying with these recent area source rules issued by US EPA. Commission Coyner asked how the division planned to contact the estimated thousand businesses now subject to the permitting process. Mr. Bamford explained the Division has a “role out plan” to accomplish that task and the Division would be using “industry groups” as the focal point for achieving compliance with the new regulation.

**Motion:** Chairman Gans proceeded by calling for public comments and hearing none, he asked for a motion from the Commission, Commissioner Coyner moved to adopt the regulation as presented and his motion was seconded by Commission Turner. The motion passed unanimously.

**10.) RO15-11: Air Pollution Control Adopt by Reference; Greenhouse Gas Permitting (Action Item):** Mr. Bamford proceeded with agenda item ten. As indicated on the agenda, he explained the regulation adopts the federal "prevention of significant deterioration of air quality" (PSD) rule to include US EPA's greenhouse gas (GHG) permitting requirements. Mr. Bamford noted the regulation also adopts applicable sections of the federal New Source Performance Standards (NSPS) and NESHAP rules that have been issued by the US EPA since July 1, 2009. He also said that adoption of this permanent regulation would allow the regulated industry to continue to work with the State rather than US EPA to comply with the new rules.

Chairman Gans asked about fee calculations and Mr. Bamford explained they were based on a per ton emission for criteria pollutants only. Mr. Bamford also noted the regulation does not impose a fee for greenhouse gas emissions.

**Motion:** Chairman Gans then proceeded by calling for public comments and hearing none, he asked for a motion from the Commission; Commissioner Porta moved to adopt the regulation as presented; his motion was seconded by Commissioner Turner; motion passed unanimously.

**11.) RO39-11: Motor Vehicle Emissions Inspection and Maintenance Program (Action Item):** Ms. Deborah Shope from the Department of Motor Vehicles (DMV) presented agenda item 11 to the Commission. Ms. Shope introduced regulation RO30-11 and explained that it changes Nevada's smog check program for certain class of vehicles. She further noted there are some shared regulatory responsibilities between DMV and the State Environmental Commission. Specifically Nevada Revised Statutes (NRS) 445B.760 establishes the authority for the State Environmental Commission (SEC) to prescribe standards for emissions from mobile internal combustion engines. The authority under this section includes the authority to provide for the exemption from such standards of a vehicle for which special license plates have been issued to certain older motor vehicles.

Ms. Shope explained that changes to the smog check program are being proposed pursuant to the passage of AB2 by the 2011 Nevada Legislature. She stated the proposed changes to the regulations would exempt vehicles that have been issued special license plates from emissions testing requirements. The categories receiving the exemption are, Classic Rods, Classic Vehicles and Old Timers. The proposed regulation would allow the exemption to be granted only if the owner certifies that the vehicle was not driven more than 5000 miles annually.

Following Ms. Shope's presentation Commissioner Porta asked about the number of vehicles that would be exempt under the regulation from DMV's smog check program; Ms. Shope stated that about 5,000 vehicles statewide would be exempted under the regulations. Commissioner Turner asked Ms. Shope about cutoff dates for eligibility under the exemption; she said the category of exempts were 20, 25 and 40 year old cars.

**Motion:** Chairman Gans proceeded by calling for public comments and hearing none, he asked for a motion from the Commission, Commissioner Turner moved to adopt the regulation as presented and his motion was seconded by Commissioner Barbee. The motion passed unanimously.

**12.) Administrator's Briefing to the Commission:** NDEP's Administrator Dr. Colleen Cripps provide the Commission with a briefing about NDEP's "Review of Regulations" as required by Gubernatorial Executive Order 2011-01 as well as NDEP's Lake Tahoe Total Maximum Daily Load - TMDL Report. *Dr. Cripps' prepared remarks are contained in Attachment III.*

**7) Public Comment: Non-Action Item**

No comments.

Chairman Gans confirmed with Mr. Walker that the next meeting date will be either December 07 2011 or February 15, 2012. Mr. Walker noted that the December 7, 2011 meeting would likely be canceled for lack of agenda items. He said he would be working with NDEP staff on that issue, he then said that the next meeting would like be the regularly scheduled February 15, 2011 hearing.

Meeting was adjourned.

## ATTACHMENTS

- ATTACHMENT 1: Penalty Assessment: This attachment contains Mr. Francisco Vega's prepared comments on agenda item 4 as well as the penalty assessment table describing each of three specific penalty assessments.
- ATTACHMENT 2: Prepared Comments by Valerie Kauffman on **R030-11: Biennial Reports by Generators of Hazardous Waste (Action Item)**:
- ATTACHMENT 3: Prepared Comments, Briefing to the Commission by Dr. Colleen Cripps, Administrator, NDEP

## Attachment I

SEC Minutes - 10/5/11

SEC Meeting - October 05, 2011

### Compliance and Enforcement Statement By Francisco Vega

Mr. Chairman, members of the Commission, good morning. For the record, Francisco Vega, Supervisor of the Compliance & Enforcement Branch in the NDEP's, Bureau of Air Pollution Control.

The Commission is authorized under the Nevada Revised Statutes to levy administrative penalties for Major violations of state rules and regulations that protect air quality. Based on a long-standing agreement, the Bureau of Air Pollution Control's Compliance & Enforcement Branch assesses penalties for these violations on behalf of the Commission. All penalty recommendations made today are based on the administrative Penalty Table and Matrix.

I will be making penalty recommendations for 3 facilities involving 4 Notices of Violation on today's agenda. One thing I would like to point out to the commission is that there is a common theme with all of the penalty recommendations I will be making today. And that common theme is that all of the cases before you today were discovered by an inspector that was in route to either a scheduled inspection or on their way to observe a source test.

Before I begin with the first penalty assessment, I would like to refer the commission to the table which was handed out earlier. This table summarizes the violations and the recommended penalty.

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- The first penalty assessment on the agenda today involves Eagle Picher Minerals, LLC. Eagle Picher operates a diatomaceous earth processing facility in Storey County, Nevada.
  - In the case of Eagle Picher, an inspector driving in the vicinity of the plant noticed large amount of emissions spewing from the stack.
  - The inspector conducted a VEO on the stack and determined that Eagle Picher was exceeding their permit limit for visual emissions. The inspector then went to the facility and spoke with an Eagle Picher representative to discuss situation.
  - The inspector explained what the results of the VEO were and it was explained that they were aware of the excess emissions and that maintenance was scheduled to be conducted on the baghouse the next day. The inspector asked why the plant was still operating if they were aware of the problem and no response was given.
  - After the site visit, an enforcement conference was held in Carson with Eagle Picher officials to discuss the violations and details behind the situation.
  - The NDEP explained what had occurred during the site visit and asked what had been done to remedy the problem. It was explained that the baghouse had experienced considerable deterioration due to condensation. It was then

described that the baghouse had been temporarily repaired on June 1 and that it was completely refurbished in the middle of July.

➤ In order to prevent excess emissions in the future Eagle Picher committed to conducting weekly VEO and more thorough inspections of the baghouse be conducted every 6-8 weeks.

➤ In summary Eagle Picher has been issued a violation for exceeding a permitted emission limit.

➤ For a class 2 source this violation carries a base penalty of \$600. Because the opacity was found to be greater than 30%, the base penalty is multiplied by 2.5x. The total penalty is \$1,500.

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➤ Penalty Assessment No. 2 involves Rees's Enterprise. Rees operated crushing and screening equipment near Lovelock in Pershing County, Nevada.

➤ An inspector driving on I-80 noticed large amounts of dust coming from an aggregate operation. After a closer the look the inspector noticed that the operation was Rees's Enterprise and that a piece of equipment was operating without its required air pollution control. The inspector explained that the control needed to be on when operating and asked the Rees's operator hook up the water to the control.

➤ An enforcement conference was held with Rees officials to discuss what we had seen and see what could be done in the future to avoid a similar situation. Rees took full responsibility for the violation and explained that the operator

simply forgot to hook up the water to the control. He explained that that he would re-emphasize with all Rees employees the importance of running the air pollution controls.

➤ In summary Rees has been issued a violation for failing to operate required air pollution controls.

➤ For a class 2 temporary source this violation carries a base penalty of \$600. In this case the base penalty has been adjusted so the total penalty is also \$600.

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The third Penalty Assessment involves Wulfenstein Construction. Wulfenstein operates an aggregate processing facility and asphalt plant in Nye County, Nevada.

➤ While driving near the Wulfenstein facility an inspector noticed clouds of dust coming from the pit. When the inspector was close enough to determine the extent of the dust a VEE was conducted. After a closer look at the equipment, the inspector noticed that equipment was running without the required water sprays. The operator at the site explained that he was aware the controls were not and that the equipment was being shut down for the day.

➤ After the site inspection an enforcement conference was held to go over what we had found during the site inspection and discuss the circumstances behind the violations. The representatives with Wulfenstein explained that they could not argue with any of the findings and that once again the equipment was being shut down when the violation occurred.

➤ So Wulfenstein has been found to be in violation for failing to operate

required air pollution controls and for exceeding a permitted emission limit.

➤ For a Class 2 source the base penalty for an emission exceedance is \$600.

The exceedance was found to be extremely high which multiplies the base penalty by 6. \$11,160

➤ For a Class 2 source the base penalty for an emission exceedance is \$600.

Because Wulfenstein has had 2 violations within the past 36 months with one being of a similar nature the base penalty is adjusted by 210%. \$1,860

➤ The total recommended penalty is \$13,020.

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NDEP-BAPC PENALTY RECOMMENDATIONS - October 5, 2011

TAB NO.	COMPANY NAME	VIOLATION & PENALTY SUMMARY	NOAV NUMBER	RECOMMENDED PENALTY
4a	EP Minerals, LLC, Storey County	<p><b><u>NOAV 2356</u></b>                      Violation: Emissions Exceedance (Visual Emissions)                      Emissions Limit: 20% Opacity                      VEE : 31% Opacity</p> <p>Base Penalty: \$600, for Class 2 Source                      Magnitude (Multiplier): Medium Amount (2.5x)                      Violation History ( Adjustment): No Violations within past 60 months                      Total Penalty: \$600 x 2.5 = <b>\$1,500</b></p>	2356	\$1,500
4b	Rees's Enterprise, Pershing County	<p><b><u>NOAV 2328</u></b>                      Violation: Failure to Operate required air pollution controls                      Requirement: Wet Dust Suppression                      Emission Unit : Single Bin Feeder transfer to Conveyor C-44 (PF1.016)</p> <p>Base Penalty: \$600, for Class 2 Source                      Magnitude (Multiplier): 1 Emission unit for 1 Day (1x)                      Violation History ( Adjustment): No Violations within past 60 months                      Total Penalty: <b>\$600</b></p>	2328	\$600
4c	Wulfenstein Construction, Nye County	<p><b><u>NOAV 2347</u></b>                      Violation: Emissions Exceedance (Visual Emissions)                      Emissions Limit: 10% Opacity                      VEE : 53% Opacity</p> <p>Base Penalty: \$600, for Class 2 Source                      Magnitude (Multiplier): Extremely High (6 x)                      Violation History (Adjustment): 2 violations within the past 36 months with one of a similar nature (210%)                      Total Penalty: \$600 x 6 = \$3,600 + (\$3,600 x 210%) = <b>\$11,160</b></p> <p><b><u>NOAV 2348</u></b>                      Violation: Failure to Operate required air pollution controls                      Requirement: Wet Dust Suppression                      Emission Unit : 3-Deck Screen (PF1.043)</p> <p>Base Penalty: \$600, for Class 2 Source                      Magnitude (Multiplier): 1 Emission unit for 1 Day (1x)                      Violation History (Adjustment): 2 violations within the past 36 months with one of a similar nature (210%)                      Total Penalty: \$600 + (\$600 x 210%) = <b>\$1,860</b></p>	2347 & 2348	\$13,020

## Attachment 2

SEC Minutes - 10/5/11

Valerie Kauffman -- Bureau of Waste Management at NDEP.

Good morning! My name is Valerie Kauffman and I am from Bureau of Waste Management at NDEP.

As you are aware, the Bureau of Waste Management periodically reviews the State hazardous waste regulations. Based on recent review, the Bureau is proposing to update our hazardous waste regulations by deleting various provisions. Thus, Items R030-11 and R031-11 are before you for consideration today.

On September 14, 2011, a workshop to solicit public comment on these proposed revisions was held in Carson City with a video link to Las Vegas. A total of fifteen people attended the workshop at both locations. The proposed regulations and notes from the workshop were posted on the NDEP website and made available for review and comment via the internet.

Let me briefly describe the two proposed revisions:

1) Item R030-11 proposes to delete NAC 444.8675. This state regulation is more stringent than the current federal standard, as it requires all holders of an active EPA identification number to file a hazardous waste biennial report (commonly referred to as a "biennial report"). Deletion of this regulation will make the biennial report requirements in Nevada consistent with the federal requirements and result in a modest burden reduction for small quantity generators of hazardous waste that would no longer be required to submit the report.

Large quantity generators and transfer, storage and disposal facilities will still be required to submit the biennial report pursuant to federal regulations, which Nevada adopted by reference in NAC 444.8632.

Approximately 98% of all hazardous waste generated in Nevada is accounted for in the biennial data reported by large quantity generators and transfer, storage and disposal facilities, not smaller quantity generators. The NDEP is required to receive, review and relay BRS data for LQGs and TSDFs to EPA Region IX, as a condition of our hazardous waste grant with EPA.

I would be glad to answer any questions about this petition.

2) Item R031-11 proposes to delete NAC 444.8752 through NAC 444.8788

inclusive. These regulations pertain to an obsolete grant funded Program for Reduction of Hazardous and Industrial Waste. This program has not been implemented for over a decade and no funding for this program is included in the current legislatively approved budget.

The specific provisions proposed for deletion are NAC 444.8752, 8754, 8756, 8758, 8762, 8764, 8766, 8768, 8776, 8778, 8782, 8784, 8796 and 8788.

Alternatively, the NDEP does support pollution prevention activities through a long-standing contract with the Business Environmental Program at UNR. This contract provides for free and confidential pollution prevention and hazardous waste management assistance through phone consultations, on site visits and training sessions available to all Nevada businesses.

Finally, please note these regulations which are proposed for deletion are in no way related to the RCRA hazardous waste grant that NDEP receives from EPA Region IX to implement the state hazardous waste program.

Again, I would be glad to answer any questions.

## Attachment III

### Administrator's Briefing to the Commission:

SEC Minutes - 10/5/11

SEC Meeting - October 05, 2011

#### **Review of Regulations**

The Division has finished its review of regulations in response to the Governor's Executive Order 2011-01 that was issued on January 3<sup>rd</sup> of this year. As you recall, this order established a freeze on the adoption of new regulations, with certain exceptions, and required agencies and regulatory bodies to review their regulations for consistency with the Governor's regulatory priorities and to assess whether they are still needed. Basically he wanted to ensure that the regulations are protective of public health without discouraging economic growth.

We evaluated the regulations that govern the air, water and waste programs, mining regulation and reclamation, corrective actions, and administration, including those of the State Environmental Commission.

We determined that overall the Division's regulations, together with those that govern the Commission, are consistent with the Governor's regulatory priorities. They provide certainty and timely service to businesses and industry, largely avoid intervention and regulation by federal agencies, comply with State statutory mandates to adopt various regulations and remain vitally important to protecting public health and the environment.

We did, however, identify several instances where specific regulations are no longer needed or should be clarified or updated (and you heard two of them today). Given the number of regulations under which we operate, this is a very small percentage -- due in large part to the fact that the Division has routinely reviewed its regulations and administrative processes over the past few years to remove obsolete regulations and amend its regulations to streamline processes.

We do anticipate that the Commission will see another 6 or 8 regulation petitions as a direct result of this review at upcoming hearings.

*These proposed changes include the repeal of obsolete mining reclamation provisions related to bonding, some additional changes to the Safe Drinking Water regulations to change the name of the regulatory agency from the Health Division to NDEP, streamline and simplify the Clean Water SRF regulations governing the application and review process to increase flexibility and make them more consistent with the Drinking Water process.*

## **TMDL**

Nevada's final Lake Tahoe Total Maximum Daily Load (TMDL) for fine sediment particles, nitrogen and phosphorus was approved by the U.S. Environmental Protection Agency at the Lake Tahoe Summit in August. The Tahoe TMDL is the culmination of years of collaborative work between federal, state and local agencies, scientists and public stakeholders in California and Nevada to:

- (1) Determine which pollutants are causing Lake Tahoe's clarity loss
- (2) Identify the sources and quantities of those pollutants entering the Lake and
- (3) Determine how much of each pollutant the lake could accept and while improving the Lake's clarity.

Years of scientific analysis has shown that the primary pollutants controlling clarity are fine sediment particles, and the nutrients phosphorous and nitrogen. The vast majority of fine sediment entering the lake comes from urban runoff. The TMDL establishes the level of reductions in fine particulate, nitrogen and phosphorous necessary to restore the Lake's historic clarity.

We are now entering the implementation phase of the TMDL. NDEP is working closely with Douglas and Washoe Counties, NDOT and land management agencies to develop Stormwater Load Reduction Plans.

Work also continues on the development and refinement of several TMDL implementation tools including the TMDL Management System, Lake Clarity Crediting Program, Pollutant Load Reduction Model, Rapid Assessment Methodologies for Roads and Best Management Practices, and the Accounting and Tracking Tool.

As initially envisioned, implementation of the TMDL was expected to cost \$1.5 billion. However, in today's economy, the funding available for load reduction projects has been greatly diminished and we will need to continue to work together with local governments, private investors, land managers and public stakeholders to determine what is achievable and what will be most cost effective so we can make the most of our limited resources.

I would like to acknowledge Jason Kuchnicki, the leader of the Division's Tahoe team and a long time member of the APC and Kathy Sertic, the Chief of the Bureau of Water Quality Planning for their years of work on the TMDL. We would never have completed it with out them. And Dave Gaskin, one of my Deputies and a relative new comer to the TMDL process, who was instrumental in pushing it over the finish line just before the Summit. They certainly have their work cut out for them in the years ahead as we begin to implement the TMDL and work to restore the clarity of Lake Tahoe.