

Air Pollution Control Filing Statement

Legislative Review Of Adopted Regulations As Required
By Administrative Procedures Act, NRS 233B.066

Petition 2004-22 (LCB File R-125-04)
State Environmental Commission

The following statement is submitted for adopted amendments to Nevada Administrative Code NAC 445B Air Pollution Control.

This regulation amends NAC 445B.001-.3497. The regulation incorporates revisions to the federal New Source Review (NSR) and Prevention of Significant Deterioration (PSD) rule into State regulations for PSD sources. This is necessary to ensure consistency with the federal program and to ensure the State of Nevada's ability to implement these new provisions. The regulation also provides specific criteria for new major stationary sources that are locating in or for sources making major modifications in an area designated as "basic" nonattainment for the 8-hour ozone standard. This is necessary as a result of new 8-hour National Ambient Air Quality Standards (NAAQS) for ozone.

In addition, the regulation streamlines the public notification provisions of NAC 445B.3425. Specifically, it removes duplicate requirements for public notification and participation in cases where the Director drafts proposed conditions for an operating permit because the applicant's proposed conditions were not adequate, or where the Administrator of the U.S. EPA objects to the proposed revision, and the Director subsequently revises the proposed revision. This change will shorten the timeline for processing minor revisions to Class I operating permits. The regulation also contains several technical revisions and removes definitions that are no longer used in NAC 445B.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Nevada Division of Environmental Protection (NDEP) Bureaus of Air Pollution Control (BAPC) and Air Quality Planning (BAQP) held meetings and conference calls with affected industries during April, May and June to address specific concerns and gain concurrence on the proposed regulatory amendments. In July, BAPC/BAQP conducted a workshop in Reno, Nevada. The workshop was held to solicit public comments on the proposed regulations. Additional copies of the proposed regulations were made available at the workshops and continuously maintained on NDEP and the State Environmental Commission's websites.

The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates – July 19, July 26 and August 9, 2004. The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing list was used for both mailings.

At the SEC hearing, there were public oral comments received by the Commission during the adoption of the referenced regulation. Comments in support of the regulation were provided by the Nevada Mining Association.

2. The number persons who:

- (a) **Attended August 19, 2004 hearing;** 30
- (b) **Testified on this Petition at the hearing:** 1
- (c) **Submitted to the agency written comments:** 2

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. Workshop notices were sent to every business with an air quality permit as well as trade associations and other interested parties on the mailing list maintained by BAPC and BAQP. For their comments see #1 above.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted by the State Environmental Commission on August 19, 2004 without any changes.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

The NSR/PSD regulatory amendments only apply to major stationary sources of air pollution. There are currently approximately 12 facilities that may be affected by the NSR Reform amendments. If a minor source were to become major, these regulatory amendments would apply to them at that time. By adopting these changes, the agency will be able to regain full delegation of the PSD program in Nevada from the US EPA. Once the agency has received full delegation, affected sources wishing to apply for permits for new facilities or modifications to their existing facility will be able to work directly with the state rather than having to go through US EPA to receive their permit(s). These regulatory changes will allow affected sources to utilize the new NSR reforms adopted by US EPA on December 31, 2002. These provisions were designed to provide sources with additional flexibility and to decrease the number of modifications that would otherwise be required to go through formal PSD review. Specific fees are proposed to cover costs associated with implementing the NSR flexibility provisions. These costs will be born by the sources requesting any of the new NSR reforms at the time that they modify their existing permit.

There is no change in permitting costs associated with the 8-hour ozone nonattainment area regulation. Furthermore, costs for industry to comply with the current regulations, which are more stringent, would be greater in a basic nonattainment area than with the regulatory amendments.

The proposed regulation will have no measurable economic effects on the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be additional costs to the agency for processing the new types of applications and issuing permits related to the NSR Reforms. These additional costs will be covered by the revisions to the fee structure that are incorporated into the regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulation does not overlap or duplicate any regulations of other state or government agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The regulation is no more stringent than what is established by federal law.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The amount that will be collected depends on how many and what types of permit applications the agency receives from sources. Any fees collected will be used to support the program.

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