

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection Bureau of Corrective Actions

Adoption By Reference of Federal Regulations

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

State Environmental Commission (SEC) Petition 2005-03 – LCB File R083-05

This permanent regulation amends NAC 459.9921 to 459.999 by establishing certain requirements for leak detection, prevention, and operation of above ground marina storage tank systems. It adopts by reference the International Fire Code (IFC 2003) for the construction, design, and location of marina tanks, and it provides for an annual registration fee of \$50 for each above ground marina storage tank compartment. The regulation also modifies the handling of petroleum-contaminated soils and it requires monitoring for MTBE and any other contaminant in the groundwater as directed by the Nevada Division of Environmental Protection (NDEP)

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 held a public workshop via video conferencing on Thursday, March 10, 2005, at the Washoe County District Health Dept., 1001 East 9th St., Conference Room B, Reno, Nevada -- and at the Early Intervention Services, 3811 West Charleston Blvd., Room #209, Las Vegas, Nevada.

Copies of this public notice for the above referenced workshop were posted at the Legislative Building in Carson City and at the Legislative Counsel Bureau in Las Vegas, all county libraries in Nevada, the State Library in Carson City, the Clark County Commission Chambers in Las Vegas, the Washoe County Commission Chambers in Reno, and at the offices of the Department of Conservation and Natural Resources in Carson City and Las Vegas.

Information received from attendees at the workshops indicated that existing marina above ground storage tank systems would not require replacement. Attendees also noted that the cost to comply with the regulations would be passed through to the public. As a result of the regulation, it was noted that the public would be the beneficiary of cleaner and more protected waterways for recreation, agriculture, and other beneficial uses.

Regarding the regulatory hearing held by the State Environmental Commission (SEC), the regulation was noticed by SEC in the Las Vegas Review Journal and Reno Gazette Journal newspapers on the following dates (September 05, 19, 26, 2005). Members of the public subscribing to the SEC electronic and ground-based mailing lists were subsequently mailed a public notice and meeting agenda for the SEC regulatory hearing; the hearing was held in Reno on October 04, 2005.

At the SEC hearing, there were no public comments received by the Commission during the adoption of the referenced regulation.

2. The number persons who:

- (a) Attended October 04, 2005 hearing; 18
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: (none)

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 as indicated in number 1 above. Comments were also solicited by State Environmental Commission (SEC) in the SEC notice in the newspapers, by direct mail to interested persons subscribing to the SEC electronic and ground-based mailing list.

The public notice for the referenced SEC meeting was also sent to county libraries throughout the state and the proposed regulation was made available for public inspection in libraries in Clark and Washoe Counties, at the State Library in Carson City, and at the offices of the Nevada Division of Environmental Protection in Carson City and Las Vegas. The workshop notice, the proposed regulation, the SEC public notice and the SEC meeting agenda were also made available on SEC Website at: <http://www.sec.nv.gov/main/hearing1005.htm>

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 State Environmental Commission adopted the regulation on October 04, 2005. Four technical corrections were made to the regulation.

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

The economic impact to a business could be substantial if replacement of an existing tank system is required. Information received from attendees at the workshops held by NDEP indicated that the majority of existing facilities would not require tank replacement.

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

There will be a marginal cost to the agency for enforcement of the proposed regulation, which will be recovered by the annual tank registration fee of \$50.

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, indicate the name of the regulating federal agency.

To a certain extent, the proposed regulation does overlap certain existing regulatory requirements. Specifically, the International Fire Code 2003 (IFC 2003), adopted by the State

of Nevada, has requirements for the location and placing of above ground petroleum storage tanks but does not require advanced systems for leak detection and prevention. The proposed regulation expands on the requirements of IFC 2003 and adds certain other requirements similar to those already existing for aboveground storage tanks.

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 regulation provides for an annual registration fee of \$50 for each above ground marina storage tank compartment. The agency could collect as much as \$400.00 per year in registration fees.

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