

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection
Bureaus of Air Quality Planning and Air Pollution Control

Nevada Clean Air Mercury Rule Program

Legislative Review of Adopted Regulations as Required
By Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC) Petition 2006-18 – LCB File R162-06

This new permanent regulation will modify NAC 445B.001 to 445B.3689. The regulation establishes a Nevada Clean Air Mercury Rule Program to control air emissions of mercury from coal-fired electric utility steam generating units (EGUs). This action is in response to a federal requirement for states to control annual mercury emissions from coal-fired power plants.

In May 2005, the U.S. Environmental Protection Agency (EPA) issued the Clean Air Mercury Rule (CAMR). Under CAMR each state receives an annual budget (cap) for mercury emissions from coal-fired EGUs; a nationwide cap is set as well. The program developed by the State of Nevada modifies the EPA “Cap and Trade” program from CAMR and tailors it to the unique needs of the state.

The Nevada CAMR Program requires power plants with coal-fired EGUs to obtain a mercury operating permit to construct. Through the permitting process, the NDEP will allocate annual mercury emission allowances to existing power plants based on projected actual emissions, beginning in 2010. Remaining annual allowances from the state budget will be maintained in a pool to be administered by the NDEP. The pool will be used for new power plants, for incentive programs and by the NDEP to support program needs; or allowances may be retired. The major objective of Nevada’s CAMR Program is to encourage mercury reductions beyond the federal requirements at existing facilities and to encourage new facilities to install “Low Emitting Units” or “Integrated Gasification Combined Cycle” units.

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

NDEP’s Bureaus of Air Quality Planning and Air Pollution Control held a public workshop on the above referenced regulation at the following location.

Reno Workshop
August 10, 2006
Nevada Division of Wildlife
1100 Valley Road
1:00 PM to 3:00 PM

The workshop was attended by 10 individuals; seven persons provided oral comments at the workshop; no adverse comments were received.

The State Environmental Commission (SEC) held a public hearing to consider this regulation on September 6, 2006 at the Nevada Division of Wildlife in Reno, Nevada. The hearing agenda was posted at the following locations: the Nevada Department of Wildlife building in Reno, 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 the agenda, the public notice, and the proposed regulation noted above were made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the hearing was published on August 15, 2006, August 22, 2006 and August 29, 2006 in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at http://sec.nv.gov/main/hearing_0906.htm.

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended September 6, 2006 hearing; 70
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: 8

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

Comments were solicited from affected businesses as indicated in number 1 above. The workshop notice was sent by direct mail to every permitted facility in Nevada – over 600 – and to all interested persons on the Air Quality ground-based and electronic mailing lists. In addition to the public workshop and the SEC regulatory hearing, the NDEP held numerous meeting with representatives from the affected industry during regulation development and incorporated stakeholder comments into the regulation as it was drafted.

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.

Changes to the regulation were proposed at the hearing by NDEP staff and a consensus on the proposed changes were agreed to and adopted at the hearing by the Commission. The changes made to the regulation were not considered substantive in content or scope with regard to implementation of the Nevada Clean Air Mercury Rule Program.

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

Regulated Business/Industry. The new regulation will have an economic impact on new and existing coal-fired electric utility steam generating units (EGUs) at power plants in Nevada. Power plants with coal-fired EGUs will be required to install and operate continuous emissions monitoring systems, and if their EGUs do not meet their mercury emission allowance, they may be required to put on additional controls. These companies will also be subject to the Nevada CAMR permitting program and applicable fees (see #9 below).

Public. These proposed amendments may have an economic effect on electricity customers if the affected industry elects to pass on the costs of monitoring and additional emissions control equipment/systems.

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

There will be additional costs to the NDEP for implementing this regulation. The agency will need to hire two additional staff to implement the NV CAMR program and purchase one vehicle. Those costs will be covered entirely by new permit fees and other revenue generated by the program.

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, federal or local agencies. The proposed regulations are necessary to comply with the federal Clean Air Mercury Rule, which requires states to submit a State Plan to control mercury emissions from coal-fired power plants by November 17, 2006.

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 State regulation is no more stringent than what is established by federal law, but it does modify the federal rule (see introduction above).

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 proposed amendments do address fees: The fee for a new or revised CAMR operating permit to construct is \$2000; an annual maintenance fee will also be assessed for each coal-fired EGU. Any fees collected will be used to support the program.