

Permanent Regulation - Filing Statement

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

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

State Environmental Commission (SEC)

LCB R006-11

Previous LCB# T011-11

RO06-11: Air Pollution Control - New Public Notice Provisions for Class II Air Permits: On December 7, 2010, the SEC adopted this regulation as a temporary regulation; it was subsequently adopted as a permanent regulation on October 5, 2011. The Nevada Division of Environmental Protection (NDEP) has amended one section in the air permitting provisions of NAC 445B, which deals with Class II permit applications. This permanent regulation addresses the Director's action on applications and public notice.

Specifically, the regulation requires the Director (NDEP) to act on all Class II permit applications within 60 days after the official date of submittal thus streamlining the public notice timeline for Class II applications. It requires all new Class II air permit applications and all applications for a modification (to an existing Class II source) that exceeds a certain threshold be made available for public notice on an Internet web site. These regulatory changes respond to US EPA comments on the approvability of the NDEP's public notice provisions for minor sources into Nevada's applicable State Implementation Plan. The regulation is necessary to align state regulations with the federal Clean Air Act and US EPA rule requirements.

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.

The NDEP held a public workshop on the above referenced regulation on Tuesday November 16, 2010 at the Bryan Building in Carson City. Minutes are available on the SEC web site http://www.sec.nv.gov/main/hearing_1210.htm agenda item #8. At this meeting, the NDEP solicited comment on the proposed regulation. The workshop took approximately 45 minutes; eight (8) members of the public attended the workshop.

Following the workshop, the SEC held a regulatory hearing on December 7, 2010, when the regulation was adopted as a temporary regulation. At the October 5, 2011 hearing, it was adopted as a permanent regulation. Both hearings were held in Reno at the Nevada Department of Wildlife. A public notice and agenda for both hearings were posted at the meeting location, at the 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 temporary and permanent

regulation were also 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 was also published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to each of the SEC regulatory hearings. Other information about the regulation was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1210.htm & http://sec.nv.gov/main/hearing_1011.htm

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

- (a) Attended December 07, 2010 hearing; 20 (approx.)
- (b) Testified on this Petition at the hearing: 3 (3 NDEP)
- (c) Submitted to the agency written comments: 0

- (a) Attended October 05, 2011 hearing; 15 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP)
- (c) Submitted to the agency written comments: 0

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 industry and responded to through e-mail, conference calls and the working meetings and public workshops indicated in number 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.

One non-substantive change to the temporary regulation was requested at the SEC hearing in December and was subsequently incorporated into the permanent regulation adopted by the SEC in October.

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

The NDEP does not expect these amendments to have any direct economic impacts, either immediate or long term, on any regulated industry or on the public.

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

There will be additional costs to the Division of Environmental Protection for implementing this 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.

This regulation does not duplicate any other federal, state or local regulation.

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 not more stringent than any federal regulation or guidance.

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 not address fees.