

Permanent Regulation - Filing Statement

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

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC)

LCB File No: R014-11

Previous LCB# T008-11

R014-11: Air Pollution Control New Class IV (Area Source) Permitting Program; Class II Certification Requirements: With this permanent regulation, the State Environmental Commission (SEC) [at the request of the Nevada Division of Environmental Protection (NDEP)] has adopted the federal National Emission Standards for Hazardous Air Pollutants rules for area sources that have recently been issued by the US EPA. On June 16, 2011 the SEC adopted this regulation as a temporary regulation; it was subsequently adopted as a permanent regulation on October 5, 2011. The regulation would allow the NDEP to implement certain emission standards through a new, streamlined Class IV Operating Permit program developed for the sole purpose of assisting Nevada businesses in understanding and complying with the recent series of area source rules issued by US EPA. The agency's intent is to keep the program as simple as possible and to require no more than what is federally mandated at minimal cost to industry. The NDEP has also removed the unnecessary condition that Class II permits must contain requirements for compliance certification.

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 two regulatory workshops for this regulation; one was held on June 1, 2011 in Carson City and another on June 3, 2011 in Las Vegas. At these meetings, the NDEP solicited comment on the proposed regulation. Organizations represented at these workshops include NV Energy, the Clark County School District, Clark County Department of Air Quality and Environmental Management, Washoe County Division of Air Quality Management, the U.S. Dept. of Energy, various affected industry and tribes. Minutes are available on the SEC web site at http://www.sec.nv.gov/main/hearing_611.htm, see agenda item #3.

Following the workshops, the SEC held a regulatory hearing on June 16, 2011 and again on October 5, 2011. Both hearings were held in Reno at the Nevada Department of Wildlife, 1100 Valley Road. A public notice and agenda for the SEC regulatory 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 regulations 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 for both the temporary and permanent regulation was 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 regulations was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_611.htm & http://sec.nv.gov/main/hearing_1011.htm

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

- (a) Attended June 16, 2011 hearing: 20 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP)
- (c) Submitted to the agency written comments: 1

- (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 businesses and responded to through a mail survey, e-mail and telephone exchanges, and the 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.

Changes to the temporary regulation were requested at the June hearing by the NDEP in response to stakeholder comments prior to the hearing; the SEC adopted the regulation with the proposed changes. The permanent regulation was not changed.

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

The NDEP estimates that the new federal regulations will require between 1,000 and 1,500 sources to obtain a permit at a cost of \$50 each, plus an annual maintenance fee of \$50. Without this permanent regulation, sources would have been subject to NDEP's more expensive Class II permitting requirements; this regulation revises the permitting program fee structure to reduce required fees for the new Class IV program. See also number 9 below. There will be no economic impact on the public.

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

There will be additional staff time required for enforcement of the proposed regulation; however, the agency (NDEP) will use existing resources initially and will review workload needs over the next 12-24 months.

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. It adopts certain U.S. EPA area source National Emission Standards for Hazardous Air Pollutants rules by reference.

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.

This regulation provides a fee reduction for sources that will be subject to US EPA's area source NESHAP. Without this regulation, owners or operators of area sources would have been subject to the current Class II application fee of \$3000 and an annual fee ranging between \$1000 and \$5000 per year, depending on the level of emissions. This regulation establishes a \$50 permit application fee and an annual maintenance fee of \$50. In other words, the regulation ensures compliance with the new federal regulations but minimizes the impact to the regulated community by streamlining the permit processing timeline and reducing the associated costs. Any fees collected will be used to support the program.