

Permanent Regulation - Filing Statement

A Regulation Relating to Air Pollution Control

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: R051-12

Regulation R051-12: This regulation revises the best available retrofit technology (BART) requirements for nitrogen dioxide (NO₂) for units 1, 2 and 3 at NV Energy's Reid Gardner Generating Station in Southern Nevada. The federal *Regional Haze Rule* requires states to establish emission reduction strategies for improving visibility in 156 mandatory Class I national parks and wilderness areas across the United States. One of the strategies required is the application of BART to certain existing sources, including electrical generating units 1, 2 and 3 at Reid Gardner. This regulation will be sent to the U.S. Environmental Protection Agency for approval into the Nevada State Implementation Plan.

The proposed regulation lowers the NO₂ emission limit for unit 3 from 0.28 pounds per million Btu on a 12-month rolling average to 0.20 pounds per million Btu on a 30-day rolling average. The averaging time for units 1 and 2 are also changed to a 30-day rolling average, and for determining compliance, emissions are averaged across all three units.

Additionally, the proposed regulation revises the control technology for all three units to low NO_x burners with overfire air and selective non-catalytic reduction. The regulation requires that BART control measures for all NV Energy facilities must be installed and operating on or before June 30, 2016.

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.

On April 23, 2012, staff from NDEP conducted a public workshop on LCB's Proposed Draft Regulation R051-12. The workshop was held in Carson City and video conferenced to Las Vegas. The meeting location in Carson City was the Nevada Department of Transportation, 1263 South Stewart Street (Room 301). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

Ten (10) members of the public commented on the proposed regulation at the workshop, they were:

Mr. Lee, representing the Moapa Band of Paiutes
Mr. Galpern, representing the Moapa tribe and the Sierra Club
Ms. Davis, speaking for the National Parks Conservation Association
Mr. O'Neill, retired public servant.
Mr. Joe Johnson, Private Citizen
Ms. Goya, speaking as a concerned citizen
Ms. Feldman, speaking for the Sierra Club
Ms. Cordua, Private Citizen
Mr. Spotleson, Private Citizen
Ms. Hess, Washoe Tribe

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at:
http://sec.nv.gov/docs/r038-12_workshop-minutes.pdf.

Following the workshop, the SEC held a formal regulatory hearing on October 11, 2012 at the Reno Office of the Nevada Department of Wildlife on Valley Rd. in Reno, Nevada. A public notice and agenda for the regulatory meeting was 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, at the Department of Wildlife in Reno, and at the Division of Minerals in Carson City.

Copies of the agenda, the public notice, and the proposed permanent regulation R051-12 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1012.htm

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

- (a) Attended October 11, 2012 hearing: 20 (approx.)
- (b) Testified on this Petition at the hearing: 2
- (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 e-mail and telephone exchanges, the public workshop, and at the October 11th Commission hearing as noted 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.

The regulation was adopted without changes.

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

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. Of note, NV Energy places the costs of environmental compliance into the company's rate base. The proposed regulation was developed using cost effective technology choices aimed at achieving optimized environmental benefit. Therefore, the impact on the public is expected to be minimal.

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

There will be no additional costs to the agency for enforcement of the proposed 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; it addresses requirements of the federal Regional Haze Rule.

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 does not address specific fees.