

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection
Bureau of Air Pollution Control, Air Quality Planning

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

State Environmental Commission (SEC) Petition 2007- 01 – LCB File No. R056-07

Regulation R056-07: Nevada Mercury Air Emissions Control Program Fees: This regulation amends the Nevada Mercury Air Emissions Control Program (NMCP) – NAC 445B.3611 to 445B.3689. This program governs the precious metal mining industry in Nevada.

The regulation implements Assembly Bill 115 which was passed by the 2007 Nevada Legislature (<http://www.leg.state.nv.us/74th/reports/history.cfm?ID=273>). The legislation required the State Environmental Commission to "adopt regulations prescribing the appropriate fee to be imposed on the operator of a mine with the potential to emit mercury . . ." in order to hire staff to ensure compliance with the NMCP.

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 Bureau of Air Pollution Control / Air Quality Planning held two public workshops on the above referenced regulation at the following locations.

ELKO

July 10, 2007 1:00 PM to 2:00 PM
Berg Hall Conference Room
Great Basin College
1500 College Parkway

CARSON CITY

July 17, 2007 10:00 AM to 11:00 AM
Nevada Division of Environmental
Protection
4th Floor South Conference Room
901 South Carson Street

The State Environmental Commission (SEC) held a public hearing to consider this regulation on September 07, 2007. The hearing was held in Carson City and Las Vegas through a videoconference. The meeting location in Carson City was at the Legislative Counsel Bureau Chambers in the State Legislative Building (Room 2135), 401 South Carson Street. The meeting location in Las Vegas was at the Legislative Counsel Bureau in the Grant Sawyer Building (Room 4412), 555 E. Washington Street.

The hearing agenda was posted at the following locations: the Legislative Building in Carson City, 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 was published on August 14, 2007, August 21, 2007 and August 28, 2007 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://www.sec.nv.gov/main/hearing_0907.htm

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

- (a) Attended September 7, 2007 hearing; 40
- (b) Testified on this Petition at the hearing: 1 (1 NDEP Staff)
- (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 as indicated in number 1 above. In addition to the public workshop and the SEC regulatory hearing, the Nevada Division of Environmental Protection held numerous meetings with representatives from the mining industry and Nevada's environmental community; the meetings were used to solicit and incorporate stakeholder comments into the regulation. Prior to adoption of the regulation by the SEC, the Nevada Mining Industry (NMA) sent a letter to the SEC supporting the regulation.

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 without change on September 7, 2006. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

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

For state fiscal year 2008, the regulation increases annual maintenance fees for all thermal units that emit mercury by an amount sufficient to support two full-time state employees for 6 months (i.e., \$125,000) and fund start-up equipment costs of \$32,500.

For fiscal year 2009, and each year thereafter, the collective annual maintenance fee will increased by \$250,000 to cover the continuing cost of the two employees. These employees will be responsible for ensuring compliance with the NMCP. An inflationary adjustment factor of 2 percent, compounded annually, is also added. The inflation factor was added to make the mercury maintenance fee procedures consistent with

fee procedures for other stationary sources permitted by the Division of Environmental Protection. All fee increases will be divided among the number of thermal units that emit mercury from precious metal mining operations in Nevada.

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

Specific costs to the agency are detailed in # 5 above.

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 proposed regulation does overlap or duplicate any regulations of other state or government agencies.

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 regulations adopted by US EPA.

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 regulation does alter existing fees for permitting and monitoring activities conducted by the Nevada Division of Environmental Protection; see # 5 above.