

Permanent Regulation - Filing Statement

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

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

State Environmental Commission (SEC) LCB File No. R088-09

Permanent Regulation R088-09: Adopt by Reference Federal Regulations: The Nevada Division of Environmental Protection (NDEP) is proposing to convert the temporary regulation, T036-09, which was adopted by the State Environmental Commission (June, 2009), to a permanent regulation and to adopt specific ASTM International test methods by reference. NDEP regularly adopts by reference appropriate new and revised federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated by the U.S. Environmental Protection Agency (EPA). NDEP then requests delegation of the NSPS and NESHAP programs to Nevada; however, it is necessary for the state to first adopt the federal rule so that EPA can delegate the implementation.

These proposed amendments update NAC 445B.221 with applicable new and revised federal NSPS and NESHAP rules that became effective after March 2008. This update will allow the regulated industry to continue to work with the state as opposed to the EPA. Additionally, adopting the test methods will allow the NDEP to use methods approved by EPA and recognized by the scientific community to measure emissions from sources.

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 Nevada Division of Environmental Protection, Bureau of Air Quality Planning held public workshops on the above referenced regulation on May 28, 2009 in Carson City at the Bryan building (901 South Stewart Street) and again on August 13, 2009.

Following these workshop, the State Environmental Commission (SEC) held a public hearing to consider the regulation on October 6, 2009. The hearing was conducted as a video conference in Carson City and Las Vegas. The hearing location in Carson City was the Bryan Building, 901 South Stewart Street (2nd floor, Tahoe Room). In Las Vegas the hearing was held at the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230. The SEC hearing agenda 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. Copies of the agenda, the public notice, and the proposed 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 for the regulation was published on Monday, September 14, 21, and 28, [2009] 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_100609.htm

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

- (a) Attended October 06, 2009 hearing; 30 (approx.)
- (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.

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 regulations without any changes

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

The regulation is not anticipated to have any significant economic impact on the public or Nevada businesses.

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

There will be no additional cost 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 local or federal laws and regulations.

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 not address any fees.