

Permanent Regulation - Filing Statement

Rules of Practice, State Environmental Commission (SEC)

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: R135-11

Petition R135-11: This regulation updates NAC 445B.875 to NAC 445B.895, which is the section in the Nevada Administrative Code (NAC) that governs the practices before the State Environmental Commission (Commission) in contested cases as allowed under NRS 233B.121. The regulation is designed to reduce the time and resources needed to conduct appeals by the Commission. The regulation clarifies a standard of review, defines procedures for briefs, addressing the admission of evidence during appeal hearings, and requires attorneys to be licensed in Nevada or associated with a Nevada licensed attorney (i.e., as is required in state court litigation) to ensure attorneys are knowledgeable of administrative hearing procedures defined under NRS 233B. Overall, the proposed regulation will streamline the appeal process for all parties, including Nevada business.

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 February 7, 2012 the Commission's staff conducted a public workshop on LCB's Proposed Draft Regulation R135-11. The regulation, dated January 30, 2012 was presented to the public through a video-conferenced workshop conducted in Carson City and Las Vegas. The regulatory workshop notice and agenda were published in statewide newspapers, distributed to Nevada's public libraries, and made electronically available to individuals on the SEC mailing lists. The regulatory workshop was attended by representatives from Nevada industry including NV Energy, the Nevada Mining Association and Jungo Land & Investments as well as representatives from the Nevada Attorney General's Office and members of the Commission.

Following the workshops, the SEC held a formal regulatory hearing on February 15, 2012. The hearing was held in Reno at the Nevada Dept. of Wildlife, 1100 Valley Road. A public notice and agenda for the regulatory hearing 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 permanent regulation were also made available to all public libraries throughout the state as well as to individuals on the SEC mailing lists.

The public notice for the permanent 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 hearing. Other information about this regulation was made available on the SEC website at: http://sec.nv.gov/main/hearing_0212.htm

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

- (a) Attended February 15, 2012 hearing: 30 (approx.)
- (b) Testified on this Petition at the hearing: 5*
- (c) Submitted to the agency written comments: 1

* At the February 15 hearing, the regulation was presented to the Commission by the Commission's Counsel, Ms. Rese Marie Reynolds. Verbal comments presented to the Commission on the regulation were given by the following individuals.

- Thomas Woodworth, Council for NV Energy (also provided a written comment)
- Allen Biegia, Nevada Mining Association
- Dan Galpern, Sierra Club
- Debbie Lenard, Council for Jungo Land & Investments
- Jasmine Mehta, Nevada Attorney General's Office

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 at the public workshops and at the February 15 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.

Several non-substantive proposed changes were made to the LCB Proposed Draft Regulation at both the workshop and at the Commission hearing noted in number 1 above. Those changes were delineated on a revised proposed agency draft regulation R135-11, which was subsequently adopted by the Commission and submitted to LCB along with this filing statement. A cover letter to LCB was also included with this filing statement that detailed each proposed change to the regulation adopted by the Commission.

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.

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.

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 fees.