

## **Permanent Regulation - Filing Statement**

Nevada Division of Environmental Protection  
**Bureau of Air Quality Planning**

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

### **State Environmental Commission (SEC)**

#### **LCB File No. R142-07**

SEC # P2008-06

**Regulation R142-07: Minor Violation Fine Increase; Revising the Definition of a Class III Source; and Permitting Corrections/Clarifications:** This regulation will amend NAC 445B.001 to 445B.3497 of the State "Air Pollution" regulations, by adding the following requirements: The regulation will revise fines for minor violations. Of note, Assembly Bill 67 was passed by the 2007 Legislature, increasing the maximum allowable fine for a minor violation to \$2000. The last increase in the maximum allowable fine was 20 years ago. This regulation changes the fine structure for minor violations to make the amounts more commensurate with today's economy. The higher fine amounts will provide a greater deterrent to violating state regulations.

The regulation will also revise the operating permits regulations in response to the U.S. Environmental Protection Agency's review of NDEP's proposed update to the Nevada State Implementation Plan. The revisions are minor, including clarifications; aligning the state definition of "federally enforceable" with the federal definition, and adding public participation requirements for Class II general permits.

The regulation will also revise the definition of a "Class III source" to allow a stationary compression ignition internal combustion engine (CI-ICE) that is subject to 40 CFR 60 Subpart IIII and does not exceed 750 horsepower to qualify as a Class III source. If the regulation is not adopted, businesses with stand-alone emergency or backup generators must now obtain a Class II permit. The time and cost required in obtaining a Class II permit for stationary CI-ICEs that do not exceed 750 horsepower would impose undue hardship on business/industry. Hence, the proposed regulation alleviates this hardship.

**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 November 8, 2008, NDEP's Bureau of Air Quality Planning held a public workshop on the above referenced regulation in Carson City, NV at the Brian Building located at 901 South Stewart Street. A total of 4 people attended the workshop.

Following the workshop, the State Environmental Commission (SEC) held a public hearing to consider the regulation on March 18, 2008. The hearing was held in Reno at the Nevada Department of Wildlife (1100 Valley Road).

The hearing agenda was posted at the following locations: the Nevada Department of Wildlife in Reno, 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 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 for the regulation was published on Monday February 25, 2008 and on March 3<sup>rd</sup> and 10<sup>th</sup> 2008 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\\_031808.htm](http://www.sec.nv.gov/main/hearing_031808.htm)

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

- (a) Attended March 18, 2008 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 SEC adopted the regulation on March 18, 2008. Consensus on the proposed regulation was reached during the regulation development 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.**

Fines: Unless the Nevada Administrative Code is violated, there will be no economic impact on the regulated community attendant to the increase in fines for minor violations. If a minor violation does occur, the penalty for a third violation will be twice the current amount in most cases; for fugitive dust violations, the penalty for the first violation is doubled, and the second and third violations are no longer major violations, but set at \$1000 and \$2000, respectively.

ICEs: This regulation will have a beneficial economic effect on businesses or industries that would otherwise have been required to apply for and obtain a Class II operating permit with associated fees and a longer, more involved application process. The

application fee for a Class II permit is \$3000; annual maintenance fees are also assessed.

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

There will be no additional cost to NDEP 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.**

The regulation does not overlap or duplicate any regulations of other state, federal, or local 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 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 address any fees.