

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection
Bureaus of Air Pollution Control and Air Quality Planning

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

State Environmental Commission (SEC)

LCB File No. R147- 09

SEC # P2009-04

Regulation R147-09; Class I Air Quality Operating Permit to Construct (OPTC): This regulation amends timelines for air quality permits involving case-by-case Maximum Achievable Control Technology (MACT) determinations in Nevada's Class I Operating Permit to Construct (OPTC) program. Case-by-case MACT is required by federal rules governing the National Emissions Standards for Hazardous Air Pollutants.

The former Class I OPTC regulations did not allow sufficient time for processing case-by-case MACT determinations. R147-09 establishes requirements and timelines for OPTC permits involving case-by-case determinations for MACT that are consistent with the federal MACT program and aligns the case-by-case MACT determination process with Nevada's current Prevention of Significant Deterioration permitting process. The change ensures that there is adequate time to process a case-by-case application and develop a sound technical basis to support the determination. This timeline is also consistent with the existing Class I Operating Permit (Title V) timelines for a case-by-case determination.

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 (NDEP), Bureau of Air Quality Planning held a public workshop on the above referenced regulation in Carson City on November 4, 2009 at the Bryan Building (901 South Stewart Street).

Following this workshop, the State Environmental Commission (SEC) held a public hearing to consider the regulation on Wednesday, December 09 2009. The hearing was held at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada. 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 November 23 and 30, 2009, and on December 7, 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://www.sec.nv.gov/main/hearing_1209.htm.

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

- (a) Attended December 09, 2009 hearing; 20 (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.

The NDEP Bureau of Air Pollution Control held meetings with affected industry face-to-face, via conference call and e-mail during the development of the amendments. Comments were also solicited from affected businesses as indicated in number 1 above. Every business holding an air quality permit in Nevada was notified of the public workshop.

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 with out any changes.

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

The proposed regulation will not have an economic effect 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 NDEP for the administration of this 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 regulation does not address fees.