

## **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)**  
**LCB File No. R190-08**  
SEC # P2008-15

**Regulation R190-08: [BART] Best Available Retrofit Technology & Emission Limitations for Major Electric Generating Units:** This regulation adds a requirement for certain electric generating units to install best available retrofit technology and comply with emission limitations for NO<sub>x</sub>, SO<sub>2</sub> and PM<sub>10</sub>. These requirements apply to NV Energy's Fort Churchill and Tracy Generating Stations in the Mason Valley and the Truckee River Basins, respectively; as well as NV Energy's Reid Gardner Generating Station in the California Wash northeast of Las Vegas; and Southern California Edison's Mohave Generating Station near Laughlin. The regulation is necessary to comply with the federal Regional Haze Regulations promulgated in July 1999 (64FR35714). The regulation also updates NAC 445B.221, NDEP's provisions that adopt federal regulations by reference.

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), Bureaus of Air Pollution Control and Air Quality Planning worked closely with the affected power industry to develop the regulation. Federal Land Management agencies reviewed and commented on the regulation, and their comments were taken into account. NDEP held a public workshop for this regulation at the location noted below.

CARSON CITY  
October 21, 2008 9:00 AM to 1:00 PM  
State Legislative Building  
401 S. Carson Street (at 5th St.)  
Room 3143

Following this workshop, the State Environmental Commission (SEC) held a public hearing to consider the regulation on February 11, 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 located at 901 South Stewart Street. In Las Vegas the hearing location was at the offices of the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230. The SEC hearing agenda was posted at the meeting locations, at the State Library in Carson City, at the Offices of the

Division of Environmental Protection in Carson City and Las Vegas and at the Department of Wildlife in Reno. 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 January 26, 2009, and on February 2<sup>nd</sup> and February 9<sup>th</sup> 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\\_021109.htm](http://sec.nv.gov/main/hearing_021109.htm)

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

- (a) Attended February 11, 2009 hearing; 30 (approx.)
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: 1 (support letter from NV Energy)

**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 and responded to through e-mail and telephone exchanges, working meetings and the public workshop 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 LCB draft of the regulation was amended by the agency. The amended draft of the regulation was posted on the SEC web site during the public participation process. The SEC adopted the amended draft of the regulation without any changes.

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

In some cases, the BART regulation will require the regulated industry to install new control technologies, upgrade existing controls and/or switch to a different fuel. In other cases, BART is the same as what is required under existing permit conditions, and so the regulation will impose no additional cost. The proposed regulation will have no economic effect on the public, unless the regulated industry chooses to pass cost along to the consumer.

**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.

The regulation does not overlap or duplicate any regulations of other state or government agencies. The proposed amendments to NAC 445B.221 adopt federal regulations by reference.

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.