

## **Permanent Regulation - Filing Statement**

Nevada Division of Environmental Protection  
Bureau of Air Pollution Control

### **Chemical Accident Prevention Program**

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

### **State Environmental Commission (SEC) Petition 2006-19 – LCB File No. R019-07**

This permanent regulation amends the list of highly hazardous substances found in the Chemical Accident Prevention Program (CAPP) regulations (NAC 459.952-95528).

This regulation was originally adopted by the State Environmental Commission (SEC) as a temporary regulation in September 2006. Following this action, the 2007 session of the Nevada Legislature enacted Senate Bill 118; this legislation directs the SEC to permanently adopt a regulation for the handling and storage of mercury, when present in a quantity of 200,000 pounds (100 tons) or more. This is the identical threshold quantity defined in the temporary regulation.

Accordingly, this permanent regulation will amend the Chemical Accident Prevention Program (CAPP) regulations NAC 459.9533. The regulation will permanently establish measures for the prevention of an accidental release to the environment from the storage and handling of mercury at storage facilities in Nevada, i.e., the Hawthorne Army Depot. The purpose of the regulation is to protect the health, safety and welfare of the residents of the State. Mercury will be added to the list of highly hazardous substances in NAC 459.9533 at the threshold level noted above.

**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.**

NDEP's Bureau of Air Pollution Control held two public workshops on the above referenced regulation at the following locations.

**Hawthorne**  
**Friday, July 28, 2006**  
10:00 am to 1:00 pm  
Mineral County Library  
First and A Street

**Carson City**  
**Tuesday, August 1, 2006**  
1:30 to 3:30 pm  
Legislative Counsel Bureau  
401 South Carson Street

The workshop notice was sent by direct mail to every permitted facility in Nevada - over 600 - to all persons on the CAPP mailing list and to all interested persons on the Air Quality ground-based and electronic mailing lists. The workshop in Hawthorne was unattended; the Carson City workshop was attended by two persons. One person requested several clarifications; no adverse comments were received.

The State Environmental Commission (SEC) held a two public hearing to consider this regulation. The first hearing was held to consider the temporary regulation. That hearing was held on September 6, 2006 at the Nevada Division of Wildlife in Reno, Nevada. The second hearing was held to consider the regulations as a permanent regulation. That hearing was held on September 07, 2007. The hearing was held in Carson City and Las Vegas through a videoconference. The meeting location in Carson City was at the Legislative Counsel Bureau Chambers in the State Legislative Building (Room 2135), 401 South Carson Street. The meeting location in Las Vegas was at the Legislative Counsel Bureau in the Grant Sawyer Building (Room 4412), 555 E. Washington Street.

The hearing agenda was posted at the following locations: the Legislative Building in Carson City, the Grant Sawyer Office Building in Las Vegas, 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 noted above 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 hearing held on September 07, 2007 was published on August 14, 2007, August 21, 2007 and August 28, 2007 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\\_0907.htm](http://www.sec.nv.gov/main/hearing_0907.htm)

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

- (a) Attended September 7, 2007 hearing; 40
- (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. In addition to the public workshop and the SEC regulatory hearing, the NDEP held numerous meetings with representatives from the affected industry during regulation development and incorporated stakeholder comments into the regulation as it was drafted.

**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 without change on September 7, 2006. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting 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.**

Regulated Business/Industry. The new regulation will have an economic impact on facilities that handle or store 100 tons or more of elemental mercury. NAC 459.95334 requires that facilities which handle or store a highly hazardous substance pay an annual fee consisting of a base fee of \$5,600 plus a per unit fee of \$39. The unit size for mercury is 100 tons. Thus, a minimum annual fee of \$5,639 will be charged to qualifying facilities. So far, the only affected facility identified is the Hawthorne Army Depot in Hawthorne, Nevada.

Public. These proposed amendments will have no economic effect on the public.

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

Additional costs to the agency will be minimal. There will be some costs associated with enforcement, including a nominal increase in inspection time and possibly some extra in-state travel.

**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 proposed regulations do not overlap or duplicate any regulations of other state or government 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.**

There are no federal programs that regulate the handling and storage of mercury.

**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 amendments do address fees; see number 5 above. Any fees collected will be used to support the CAPP program.