

Temporary 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 & 233B.0603.10(f)

State Environmental Commission (SEC)

LCB File No. T009-11

SEC # P2011-01

T009-11: Air Pollution Control Adopt by Reference; Greenhouse Gas Permitting: With this temporary regulation, the State Environmental Commission (SEC) [at the request of the Nevada Division of Environmental Protection (NDEP)] has updated the agency's adoption of the federal "prevention of significant deterioration of air quality" (PSD) rules to include US EPA's greenhouse gas (GHG) permitting requirements. Without this adoption, US EPA would be the primary PSD permitting authority for sources in Nevada. The NDEP has also updated the agency's adoption of the federal *New Source Performance Standards* (NSPS) and *National Emission Standards for Hazardous Air Pollutants* (NESHAP) rules that have been adopted by the US EPA and published in the Federal Register since July 1, 2009. This allows the NDEP to request delegation from US EPA to implement these federally required rules in Nevada.

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 held a regulatory workshop for this temporary regulation on June 1, 2011 in Carson City. At this meeting, the NDEP solicited comment on the proposed regulation. Organizations represented at this workshop include various affected industries, tribes and the Washoe County Division of Air Quality Management. Minutes are available on the SEC website at http://www.sec.nv.gov/main/hearing_611.htm, see agenda item #4.

Following the workshop, the SEC held a regulatory hearing on June 16, 2011. The hearing was held in Reno at the Nevada Dept. of Wildlife, 1100 Valley Road. A public notice and agenda for the SEC 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 temporary 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 was also 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 the regulation was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_611.htm

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

- (a) Attended June 16, 2011 hearing: 20 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP)
- (c) Submitted to the agency written comments: 1

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 industry and responded to through e-mail and telephone exchanges, and the public workshops 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.

Changes to the temporary regulation were requested at the hearing by the NDEP in response to stakeholder comments prior to the hearing; the SEC adopted the regulation with the proposed changes. The revised temporary regulation is being submitted to the Legislative Counsel Bureau with this information statement.

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

Existing Class I sources will not see a change in annual fees due to GHG's. However, Class II sources that become subject to the Title V or PSD permitting requirements because of GHG emissions will be required to obtain a Class I permit and be subject to the higher Class I fees. It is difficult to determine what impact the new GHG requirements may have on the public and associated costs that may be passed on by the industry.

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

There will be additional staff time required for enforcement of the proposed regulation. Over the next year, NDEP will continue to evaluate the increased workload and develop a plan to address resource needs.

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. It adopts certain U.S. EPA NESHAP, NSPS and PSD rules 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 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.

This regulation retains the current fee for PSD and Title V permit applications and the annual permit maintenance fee, but excludes GHG's from an annual emissions fee. Existing Class I sources will not see a change in annual fees due to GHGs. However, Class II sources that become subject to the Title V or PSD permitting requirements because of GHG emissions will be required to obtain a Class I permit and be subject to the higher Class I fees. Any fees collected will be used to support the program.