

Air Pollution Control Filing Statement

Legislative Review Of Adopted Regulations As Required
By Administrative Procedures Act, NRS 233B.066

Petition 2003-07 (LCB File R-198-03)
State Environmental Commission

The following statement is submitted for adopted amendments to Nevada Administrative Code NAC 445B Air Pollution Control.

The regulation changes the permitting provisions of NAC 445B - Air Pollution Control. The regulation provides a sunset provision for the exception to visible emission rules that is currently allowed for boiler lancing or soot blowing at fossil fuel or wood fired steam generating units. It removes the state visibility standard; make violations of the fugitive dust regulations a major violation after the first offense; and revises the procedures for determining when an application for a Class I/PSD operating permit is considered complete.

The regulation requires public notification of certain minor revisions to Class I operating permits, as well as public notification of certain Class II operating permit applications and revisions to allow public comment pursuant to the Clean Air Act, Title I. The regulation increases timelines for processing Class I and II operating permit revisions and renewals, depending on the new public notification requirements; and makes several clarifications and technical corrections.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

In January, the Nevada Division of Environmental Protection (NDEP) Bureaus of Air Pollution Control (BAPC) and Air Quality Planning (BAQP) conducted workshops in Carson City, Winnemucca and Pahrump Nevada. The workshops were held to solicit public comments on the proposed regulations. Additional meetings were held with affected industries during February to address specific concerns. Copies of the proposed regulations were made available at the workshops and continuously maintained on NDEP and the State Environmental Commission's websites.

The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates – January 28, February 4, and February 11, 2004. The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing list was used for both mailings.

At the SEC hearing, there were public oral comments received by the Commission during the adoption of the referenced regulation. Comments in support of the regulation were provided by the Nevada Mining Association.

2. The number persons who:

- (a) **Attended February 26, 2004 hearing;** 40
- (b) **Testified on this Petition at the hearing:** 2
- (c) **Submitted to the agency written comments:** 2

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. Workshop notices were sent to every business with an air quality permit as well as trade associations and other interested parties on the mailing list maintained by BAPC and BAQP. For their comments see #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 regulation was adopted by the State Environmental Commission on February 26, 2004. The regulation was altered from the original draft permanent regulations received from LCB on February 3, 2004 (R-198-03). The changes to the LCB draft regulation reflect comments obtained through numerous public workshops held throughout Nevada by the Division of Environmental Protection Bureaus of Air Pollution Control and Air Quality Planning. Changes were also made at the SEC Hearing to reflect concerns identified by the Nevada Mining Association. These changes were accepted by the SEC and constitute an augmentation of content from the original LCB draft regulations dated February 3, 2004.

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 have no measurable economic effects on the public or the regulated industries.

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

There will be no additional costs to the agency for enforcement 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.

The regulation does 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.

The regulation is no more stringent than what is established by federal law.

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 provide a new fee or increase an existing one.

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