

# Open Burning Filing Statement

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

Petition 2003-13 (LCB File R-237-03)  
**State Environmental Commission**

## **The following statement is submitted for adopted amendments to Nevada**

**Administrative Code NAC 445B.22067 Open Burning:** This regulation prohibits open burning of any combustible refuse, waste, garbage, oil, or burning for any salvage operations. The regulation does allow open burning for the purpose of weed abatement, conservation, disease control, game or forest management, the elimination of hazards, or for open burning of yard waste and other untreated wood waste. Such actions must be approved in advance by the Director of the Department of Conservation and Natural Resources.

The regulation also allows opening burning for agricultural purposes and management except where prohibited by local ordinances or regulations. As well, it allows open burning at single-family residences in all areas of the state except in and within 1 mile of the boundaries of selected towns and cities named in the regulation. Moreover, in these areas, open burning is allowed only if authorized by the State of Nevada or its political subdivisions and concurred with by the Director and not specifically prohibited by local ordinances or regulations.

The regulation allows small wood fires for recreational, educational, ceremonial, heating or cooking purposes, and it requires that open burning be attended and controlled at all times to eliminate fire hazards.

Except as otherwise provided, open burning in any incinerator (NAC 445b.2207) other than the multiple chamber type is prohibited by this regulation.

### **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.**

To solicit public comments on the proposed Open Burning amendments, the Nevada Division of Environmental Protection, Bureau of Air Quality Planning (BAQP) conducted eleven public workshops throughout Nevada. Total attendance exceeded 200. Opponents were concerned about a number of issues including possible economic impacts such as increased landfill and transfer station costs passed on as a tax increase and increased trash collection and disposal fees, along with the cost of extra trips to a disposal site. Other concerns included environmental impacts such as increases in illegal dumping and litter created as a result of overfilled collection bins and impacts on physically disabled and handicapped who would be required to haul trash cans to the curb or a collection sites. Others supported the amendments because of concerns over acute health effects such as asthmatic attacks and respiratory problems triggered by the smoke, as well as fire safety and nuisance issues such as odor.

The proposed regulation was noticed by the State Environmental Commission 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.

There were public oral comments received by the Commission during the adoption hearing for the referenced regulation (see below).

**2. The number persons who:**

- (a) **Attended February 26, 2004 hearing;** 40
- (b) **Testified on this Petition at the hearing:** 3
- (c) **Submitted to the agency written comments:** 17

**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. In addition, the workshop notices were posted on the Bureau of Air Quality Planning's website (see: <http://ndep.nv.gov/baqp/planintro.html> ) and sent to local newspapers and libraries. The proposed regulation was also posted on the website hosted by the State Environmental Commission at (<http://www.sec.nv.gov/main/hearing0204.htm>).

Businesses that would be affected by the proposed amendments include Nevada farmers and ranchers. 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 by LCB on January 14, 2004 (R-237-03). The changes to the LCB draft regulation reflect comments obtained through numerous public workshops held throughout Nevada by the Division of Environmental Protection Bureau of Air Quality Planning - BAQP. The changes were accepted by the SEC and constitute a diminution of content from the original LCB draft regulations dated January 14, 2004.

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

There will be no economic impacts on businesses or the public.

**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 regulations are 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 regulations do not provide a new fee nor increase an existing fee.

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