

FORM # 1

FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR  
ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS

1. Nevada Division of Environmental Protection  
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2. The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is an environmental regulatory agency.
3. Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.300 establishes specific authority of the SEC regarding operating permit requirements for sources of air contaminants.

SPECIFIC CHANGES:

The NDEP is proposing to update its adoption of the federal “prevention of significant deterioration of air quality” (PSD) rules to include US EPA’s greenhouse gas (GHG) requirements. Without this revision, EPA would be the primary PSD permitting authority for sources in Nevada. Additionally, the amendments revise the definitions of “regulated air pollutant” and “major source” to ensure that the higher applicability thresholds that US EPA has adopted for GHG permitting apply in Nevada’s Title V permitting program. As currently written, the State regulations require the agency to issue GHG permits to sources that emit more than 100 or 250 tons per year of GHGs, depending on source type, potentially affecting thousands of small businesses statewide.

The NDEP is also proposing to update NAC 445B.221, “Adoption by reference and applicability of certain provisions of federal law and regulations.” We are proposing to adopt into State regulation certain 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.

4. NEED FOR AND PURPOSE:

**GHG-PSD; Adopt by Reference  
Temporary, P2011-01**

Nevada implements a federally delegated PSD permitting program. On June 3, 2010, EPA promulgated the *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule*. This rule sets thresholds for GHG emissions that define when permits under the New Source Review Prevention of Significant Deterioration and Title V Operating Permit programs are required for new and existing facilities. EPA is introducing the permitting requirements for GHGs in two initial steps. On January 2, 2011, sources already subject to PSD permitting for emissions of a regulated pollutant other than GHGs became subject to GHG permitting requirements. On July 1, 2011, operating permit requirements will apply to sources based on their GHG emissions, even if they would not apply based on emissions of any other pollutant. It is necessary to amend the State's air permitting program so that the NDEP can implement the federal GHG PSD and Title V permitting requirements in lieu of US EPA.

The NDEP is also delegated the implementation of the federal NSPS and NESHAP rules that apply in Nevada. The proposed amendments update the State's "adoption by reference" regulation so that Nevada can request delegation for the implementation of new and revised NSPS and NESHAP promulgated after July 1, 2009 (the last update). This will allow the regulated industry to continue to work with the State rather than the EPA.

5. ECONOMIC EFFECTS:

(a) Regulated Business/Industry. NDEP is proposing to retain the current fee for permit applications. NDEP is also proposing to retain the annual permit maintenance fee, but exclude GHG's from the 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 subject to the higher Class I fees.

(a) Public. 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. However, the new federal requirements are in effect nationwide and failing to adopt the proposed amendments will subject sources to lengthy permit actions by USEPA only adding to cost and project uncertainty.

(c) Enforcing Agency. The new GHG requirements will result in a significant increase in workload for the agency. Over the next year, NDEP will continue to evaluate the increased workload and develop a plan to address resource needs.

6. The proposed amendments adopt federal regulations by reference from 40 CFR Parts 52, 60 and 63 (PSD, NSPS and NESHAP).

7. The proposed amendments are no more stringent than what is established by federal law.

8. The proposed amendments do not address fees.