

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 adopt into State regulation the applicable federal *National Emission Standards for Hazardous Air Pollutants* (NESHAP) rules for area sources that have recently been adopted by the US EPA. These emission standards will be implemented through a new Class IV Operating Permit program developed for the sole purpose of assisting Nevada businesses in understanding and complying with the recent series of area source rules issued by US EPA. The NDEP's intent is to keep the program as simple as possible and require no more than what is federally mandated at minimal cost to industry.

In accordance with Executive Order 2011-01, the NDEP is also proposing to remove the unnecessary condition that Class II permits must contain requirements for compliance certification.

4. NEED FOR AND PURPOSE:
Pursuant to Clean Air Act requirements, US EPA has identified 33 toxic air pollutants that pose the greatest threat to public health in urban areas. Thirty of these are identified as being emitted from smaller industrial sources known as "area" sources. "Area" sources are those sources that emit less than 10 tons annually of a single

**Class IV Operating Permit
Temporary Regulation P2011-02**

hazardous air pollutant (HAP) or less than 25 tons annually of a combination of HAPs. US EPA has identified 70 source categories that emit 90 percent of the HAP emissions from area sources. Between December 2007 and August 2010, US EPA issued 16 new or revised NESHAP that impact area sources in Nevada. The NDEP is proposing a new, streamlined permitting program to assist Nevada sources in complying with these federal requirements.

In accordance with Executive Order 2011-01, the NDEP is proposing to remove the requirement for Class II permits to contain a certification of compliance. Federal air quality regulations only require Title V permits to contain compliance certifications. NDEP's Class II permits do not utilize a certification for determining compliance. Instead, other mechanisms such as routine facility inspections and requirements to keep process records are used to demonstrate compliance.

5. **ECONOMIC EFFECTS:**

(a) Regulated Business/Industry. The NDEP is proposing a fee reduction for sources that will be subject to US EPA's area source NESHAP. Without the amendments, owners or operators of area sources would be subject to the current Class II application fee of \$3000 and an annual fee ranging between \$1000 and \$5000 per year, depending on the level of emissions. This regulation proposes a \$50 permit application fee, which is good for five years, and an annual permit fee of \$50. These regulations will ensure compliance with the new federal regulations but minimize the impact to the regulated community by streamlining the permit processing timeline and reducing the associated costs.

(b) Public. It is difficult to determine what impact the new federal 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 and potential enforcement action by USEPA, only adding to cost and project uncertainty.

(c) Enforcing Agency. There will be additional staff time required to implement the new area source requirements. The NDEP will use existing resources to implement these provisions and will evaluate overall workload needs for the next 12 to 24 months.

6. The proposed regulations implement federal regulations from 40 CFR Part 63 (NESHAP).

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

8. The proposed regulations do address fees; see 5(a) above. Any fees collected will be used to support the Class IV operating permit program.