



## Notice of Regulatory Hearing Adoption of Regulations and Other Matters Before the State Environmental Commission

The State Environmental Commission (SEC) will hold a regulatory hearing on Thursday, June 16, 2011 at 9:30 a.m. The hearing location is the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of the following regulatory petitions and related SEC business.

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### Air Quality Planning/ Air Pollution Control \* Action Item

**T009-11: Air Pollution Control Adopt by Reference; Greenhouse Gas Permitting:** The Nevada Division of Environmental Protection (NDEP) is proposing to update the agency's adoption of the federal "prevention of significant deterioration of air quality" (PSD) rule 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.

Additionally, this temporary regulation would revise the definitions of "regulated air pollutant" and "major source" to ensure that the higher GHG applicability thresholds in the federal rule apply in Nevada's Title V permitting program. If the State were to implement the federal GHG permitting requirements without revising these definitions, the NDEP would be required 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," in this regulation. With the exception of National Emission Standards for Hazardous Air Pollutants (NESHAP) for area sources, which are being adopted in P2011-02, the regulation proposes to adopt applicable sections of the federal New Source Performance Standards (NSPS) and NESHAP rules that have been issued by the US EPA since July 1, 2009. Adoption of this temporary regulation would allow the regulated industry to continue to work with the State rather than US EPA to comply with the new rules.

This temporary regulation will not have an immediate or long-term adverse economic impact on the public or the business community. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. Regarding fees, the NDEP is proposing to retain the current fee for

PSD and Title V permit applications. The 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 (SEC #P2011-01).

## **Air Quality Planning/ Air Pollution Control** \* Action Item

**T008-11: Air Pollution Control New Class IV (Area Source) Permitting Program; Class II Certification Requirements:** The Nevada Division of Environmental Protection (NDEP) is proposing to adopt the federal National Emission Standards for Hazardous Air Pollutants rules for area sources that have recently been issued by the US EPA. The emission standards will be implemented through a new, streamlined Class IV Operating Permit program. The agency'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.

By way of background, US EPA has identified 33 toxic air pollutants that pose the greatest threat to public health in urban areas pursuant to Clean Air Act requirements. 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 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 may impact area sources in Nevada. The Class IV Operating Permit program will assist Nevada businesses in understanding and complying with the recent series of area source rules issued by US EPA.

In addition, and in accordance with Executive Order 2011-01, this temporary regulation would remove the requirement for Class II permits to contain a compliance certification. Federal air quality regulations require only Title V permits to contain compliance certifications. The NDEP's Class II permits contain other mechanisms such as routine facility inspections and requirements to keep process records to demonstrate compliance.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be additional staff time required for enforcement of the proposed regulation; however, the agency will use existing resources initially and will review workload needs over the next 12-24 months. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. Regarding fees, NDEP is proposing a fee reduction for sources that will be subject to US EPA's area source NESHAP. If the regulation is not adopted, 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 maintenance 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 (SEC #P2011-02).

### **Additional Information about the meeting process**

Persons wishing to comment on the proposed actions of the State Environmental Commission (SEC) may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, the public notice for this hearing was posted at the following locations: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (2030 E. Flamingo Rd. Suite 230), at the State Library and Archives building in Carson City (100 Stewart Street) and the Nevada Department of Wildlife in Reno (11 Valley Road).

In addition, copies of this notice have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are also available on the State Environmental Commission's website at: <http://www.sec.nv.gov/index.htm>. All of the proposed regulations denoted in this notice, including previous drafts, are or will be posted on the Legislative Counsel Bureau's website at: <http://www.leg.state.nv.us/register/>.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on June 8, 2011.