

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Public Workshop to Solicit Comments on Proposed Amendments
to NAC 445B Air Controls: Air Pollution

July 25, 2013
1:30 to 2:15 PM

PEBP Boardroom, Room 1002
901 S. Stewart St.
Carson City

Teleconference to:
NDEP Red Rock Conference Room
2030 E. Flamingo Road, Ste. 230
Las Vegas

MEETING SUMMARY

ATTENDEES:

Workshop Chair: Adele Malone, Supervisor, Bureau of Air Quality Planning (BAQP)

NDEP Staff: Rob Bamford, Chief, Bureau of Air Pollution Control (BAPC); Pat Mohn, Professional Engineer, BAPC; Frank Forsgren, Environmental Scientist, BAQP; and Chad Schoop, Environmental Scientist, Bureau of Corrective Actions – Las Vegas office.

Public:

Carson City:

Foster Kenton, SOC, LLC
Mark Longpre, Pyramid Materials
Jeanne Thames, Yerrington Paiute Tribe Environmental Office
Daren Daters, Enel Green Power
John Allen, Enel Green Power
Tara Hess, Washoe Tribe of NV and CA
Cindi Byrns, Nevada Iron
Yvonne Downs, SOC Nevada, LLC
Todd Kerkendall, Johns Manville
Gay McCleary, Econ, Inc.
Denise Stathes, American Buildings Company
Daman's Pierrott, American Buildings Company

Las Vegas:

Tim Carlo, Nye County
Doug Baker, Nye County

CALL TO ORDER:

Ms. Malone called the Workshop to order at 1:31 PM. She introduced herself and asked each person in the audience to state their name and affiliation both in Carson City and Las Vegas. She explained the purpose of the Workshop was to solicit public comment on two regulations being proposed by the Nevada Division of Environmental Protection (NDEP):

1. Permanent Regulation P2013-01, which updates:
 - o NAC 445B.221, which adopts federal regulations by reference,
2. Permanent Regulation P2013-02, which amends:
 - o NAC 445B.22097, the Nevada standards side of the table of ambient air quality standards, and;
 - o Removes subsection 5 of NAC 445B.308, containing requirements for obtaining an operating permit in a basic ozone nonattainment area for the 1997 ozone national ambient air quality standards (NAAQS).

Ms. Malone asked if there were any questions about the agenda and gave an overview. There were no questions regarding the agenda. Ms. Malone stated that she will present the first proposed regulation, while Ms. Malone and Mr. Bamford will present the second proposed regulation. There will be opportunity for questions from the public following each discussion.

Ms. Malone then reviewed the timeline for the adoption of these regulations and noted there may be changes to the draft text as revised by the Legislative Counsel Bureau (LCB). The proposed regulations will be heard by the State Environmental Commission (SEC) at their Regulatory Hearing on October 9th at 10:00 am in the Tahoe Room (2nd floor), 901 S. Stewart Street, Carson City. There will be a thirty day comment period prior to the hearing. If adopted, the regulations will be reviewed by the Legislative Commission or the Subcommittee to Review Regulations within weeks to months after the SEC Hearing. They become effective upon approval by the Legislative Commission or Subcommittee. The second petition, P2013-02, will be sent to the US Environmental Protection Agency (US EPA) as a revision to Nevada's State Implementation Plan (SIP). Ms. Malone asked if there were questions regarding the timeline; there were none.

Permanent Regulation P2013-01

Mr. Bamford asked if the public understood what the NDEP was trying to achieve with NAC 445B.221 and then gave an overview of the update to NAC 445B.221 proposed under Permanent Regulation P2013-01. He explained that without adoption of federal regulations by reference some permit actions might fall under jurisdiction of the US EPA rather than the NDEP. He then asked for questions from the public and there were none.

Ms. Malone then provided additional background and gave an example of updating the date of a regulation where no changes were made in the rule, but the new date shows that the NDEP has adopted the current version of federal regulations and that the NDEP is

current in our adoption by reference process. She then discussed areas where the NDEP had adopted federal regulations such as updates to the *Prevention of Significant Deterioration* (PSD) rule, as well as amendments to the *New Source Performance Standards* and *National Emissions Standards for Hazardous Pollutants*. The public was invited to review the list of recent adoptions by reference and the associated US EPA rules and declined. Ms. Malone went on to explain that these are routine updates to rules the NDEP has already adopted and implemented and occasionally adoption of a new rule when applicable. Adoption allows the NDEP to continue to implement and enforce these provisions. She then asked for public questions. There were no questions from the public.

Permanent Regulation P2013-02

Ms. Malone began the discussion by pointing to the summary note on the handout covering P2013-02, which describes the federal requirement that triggered the proposed revisions to NAC 445B.22097. However, she then reviewed the second regulation proposed for adoption under Permanent Regulation P2013-2, NAC 445B.308, since it is a simple housekeeping action. Ms. Malone explained that subsection 5 of NAC 445B.308 contains requirements for obtaining an operating permit in a basic ozone nonattainment area for the 1997 ozone NAAQS. The deletion of this subsection reflects the US EPA's withdrawal of the basic nonattainment area classification category, so there is no point in the NDEP retaining this subsection. She also noted the proposed deletion of the reference to subsection 5 under subsection 4. Mr. Bamford asked if the public understood the proposed changes and asked if there were questions from the public and there were none.

Ms. Malone began discussion of NAC445B.22097, the standards of quality for ambient air, the first regulation proposed for adoption under P2013-2. Mr. Bamford asked if the public was familiar with the ambient air standards table and what it is doing. Mr. Bamford reviewed the Clean Air Act requirements for SIPs and noted that Nevada must recognize the national standards and have a strategy for how to demonstrate compliance with these standards. The national standards side of the table provides the current national standards for reference purposes. The Nevada standards side of the table serves a different purpose. One of the strategies to demonstrate compliance with federal standards is to conduct air dispersion modeling before an operating permit or a revision of an operating permit is issued to see if the proposed actions will comply with the federal standards. The left side of the table lists the pollutants and Nevada standards that have to be modeled for permit actions and on the right, or federal side, are the national standards that must be achieved and maintained. The NDEP maintains that there is more than one way to assure compliance with the NAAQS; the Nevada standards are only a part of the strategy to meet the standards where modeling is required.

The standards table was revised in June of 2012 to update federal standards including ozone, nitrogen dioxide, sulfur dioxide, and PM₁₀, as well as adding PM_{2.5} and revising lead. The current action revises standards on the Nevada side and adds an explanatory note in response to a September 2012 rulemaking by the US EPA, which identified deficiencies in Nevada's SIP related to the minor source permitting program for the 2006 PM_{2.5} and

2008 lead air quality standards. The NDEP also identified a deficiency related to the 2008 ozone standards. The 2012 rulemaking obligated the US EPA to promulgate a Federal Implementation Plan (FIP) if the NDEP does not update Nevada's SIP to address attainment and maintenance of the lead and PM_{2.5} NAAQS. To avoid a FIP, Nevada's SIP revisions must be approved by October 29, 2014.

The proposed action for ozone will remove the 1-hour ozone standard, since the US EPA replaced the 1-hour standard with an 8-hour standard in 1997. The 1-hour standard no longer exists. The table will be updated with the 8-hour standard and the analytical method. The NDEP is also proposing to change the Nevada lead standard to align it with the national standard.

Mr. Bamford asked the public if they understood the ramifications of not revising these standards and provided additional insight into the process of revising SIPs. For ozone, the Scheffe screening tool will be used to demonstrate compliance with the State standards. For lead, applicants will model as they always have, but to a tighter standard. Mr. Bamford noted that there are only a few small sources of lead under the NDEP's jurisdiction, and lead emissions are often reduced as a co-benefit of other controls.

Ms. Malone noted that the NDEP conducted in-house analyses to demonstrate that putting the federal standards on the Nevada side of the table will not impact Nevada's industry, as they already meet the federal standards.

Mr. Bamford noted that for PM_{2.5} the NDEP was not proposing to put the standard into the Nevada side of the table or to require air dispersion modeling to show compliance with the NAAQS. Instead, the NDEP is following a different strategy that demonstrates that PM_{2.5} emissions from non-major stationary sources in Nevada constitute a de minimis impact on the ambient air. New language is proposed in Note A of the standards table indicating this de minimis approach. Mr Bamford provided an overview of the history of PM_{2.5} and the previous strategy of using PM₁₀ as a surrogate for the early standards. The logic was that if you are protective of the PM₁₀ standard you are also protective of the PM_{2.5} standard, since PM_{2.5} is generally a subset of PM₁₀. The US EPA ended the surrogacy policy in May 2011. Since the surrogacy policy is no longer allowed, the US EPA is requiring a revision to Nevada's permitting program strategy.

The NDEP investigated alternatives to modeling as a demonstration of compliance with the PM_{2.5} NAAQS. Mr. Bamford noted the technical challenges for modeling PM_{2.5} due to secondary formation from precursor emissions and lack of emission factors. The NDEP looked at how much PM_{2.5} is emitted from sources subject to this regulation and found that only about 1.3 percent of the state-wide PM_{2.5} inventory comes from stationary sources that are not PSD sources (PSD sources have emissions greater than 250 tons). The NDEP has adopted the federal PSD program and implements the federal program as is. Therefore, PSD sources in NDEP's jurisdiction must follow the requirements of the PSD federal rules.

The regulation under consideration affects *stationary sources that are not PSD*; it does not address non-point sources like cars and dust storms. These non-PSD stationary sources contribute very little to the state-wide inventory. In Nevada, the largest emitters of PM_{2.5} are forest fires, wood stoves, and cars, i.e., not stationary sources. The NDEP conducted modeling and inventory exercises to evaluate how much risk there was of non-PSD sources exceeding the national standard for PM_{2.5}. The NDEP found that when modeling worst case scenarios, sources would be pulled into PSD before they would exceed the PM_{2.5} standard.

The NDEP is currently conducting a series of demonstrations and a state-wide evaluation to show that the current permitting regulations are protective of the PM_{2.5} NAAQS, instead of requiring modeling for PM_{2.5}. The NDEP plans to submit the revisions to NAC 445B.22097, if adopted, to the US EPA and request approval of it into Nevada's SIP. The strategy will have ample review and public notice and comment at both the state and federal level. This will be an umbrella strategy for non-PSD sources as noted in Note A of the table. Since these sources comprise only 1.3 percent of the state-wide inventory, their PM_{2.5} emissions have a *de minimis* impact on the State's ambient air quality. These sources should not have to model because of the state-wide demonstration that a non-major stationary source will fall under PSD before it will break the federal standard. For almost all sources in Nevada, PM_{2.5} is a subset of PM₁₀ and any source approaching the PSD limit for PM_{2.5} will already be subject to PSD as a result of PM₁₀, NO₂, or SO₂ emissions and will have to follow the PSD regulations. This *de minimis* strategy is not uncommon in state plans. The strategy is subject to US EPA approval and will go through another public notice process with the NDEP and then the US EPA via the Federal Register. The remaining changes to the table are housekeeping actions.

Ms. Malone asked if the public had questions.

Ms. Thames asked if there are any of these regulations for agricultural dust and expressed her concerns about dust related to the Anaconda Mine near Yerington.

Mr. Bamford responded the dust from agricultural operations is not regulated by NDEP beyond best management practice provisions applied to controllable fugitive dust. Mr. Bamford suggested speaking with the responsible party to control dust.

Ms. Thames noted that the public is also subject to crop spraying.

Mr. Bamford suggested she also contact the inter-tribal liaison, Bill Campbell.

Mr. Allen questioned why Nevada requires modeling for hydrogen sulfide when there is not a national standard.

Mr. Bamford noted that states can create standards more stringent than federal standards. He also suggested that Mr. Allen look at the footnotes in the LCB record to see the dialog

during rulemaking leading to the regulation. Mr. Bamford thought this requirement was a good neighbor provision related to the geothermal industry.

There were no further questions from the public. Mr. Bamford and Ms. Malone then identified the next steps in the rulemaking process, which will be a 30-day public notice for the Oct 9th hearing of the SEC together with the LCB version of the proposed rules.

Adjournment:

There being no further questions or comments, Ms. Malone adjourned the meeting at 2:15 pm.

Respectfully submitted,

Frank Forsgren