

Permanent Regulation - Filing Statement

A Regulation Relating to Air Pollution Control

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R041-13

Regulation R041-13: This regulation revises NAC 445B.221, *Adoption by reference and applicability of certain provisions of federal law and regulations*, by adopting applicable federal rules promulgated since the State regulation was last updated as of January 1, 2012. The update includes rulemakings under 40 CFR Part 52.21, “Prevention of significant deterioration of air quality” (PSD), related to the regulation of greenhouse gases, Part 60, “Standards of performance for new stationary sources” (NSPS), and Part 63, “National emission standards for hazardous air pollutants for source categories” (NESHAP).

1. Need for Regulation: The NDEP is delegated implementation of the federal PSD program in Nevada. NDEP must adopt amendments to the federal program into State regulation in order to retain full delegation of the program. The amendments to Part 52.21 relate to the federal program’s emissions of greenhouse gases (GHG) from major sources under the PSD and Title V permitting programs. The update will adopt the U.S. Environmental Protection Agency’s determination not to lower the current PSD and Title V applicability thresholds for GHG-emitting sources.

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 since the last update. This will allow for the regulatory oversight of Nevada’s regulated industry to be maintained at the State level as opposed to receiving federal oversight.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

On July 25, 2013, staff from NDEP conducted a public workshop on LCB’s Proposed Draft Regulation R041-13. The workshop was held in Carson City and video conferenced to Las Vegas. The meeting location in Carson City was the Public Employees’ Benefits Program Boardroom, 901 S. Stewart Street (Room 1002). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

Although fourteen (14) people attended the workshop, there were no comments made regarding this regulation.

Summary minutes of the workshop are posted on the SEC website at: http://sec.nv.gov/docs/r041-13_workshop_minutes.pdf

Following the workshop, the SEC held a formal regulatory hearing on October 9, 2013 at the Nevada Department of Conservation and Natural Resources on Stewart Street in Carson City, Nevada. A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, and on the LCB website.

Copies of the agenda, the public notice, and the proposed permanent regulation R041-13 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://sec.nv.gov/main/hearing_1013.htm

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended October 9, 2013 hearing: 10 (approximately)
- (b) Testified on this Petition at the hearing: 1
- (c) Submitted to the agency written comments: 0

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through e-mail, the public workshop and at the October 9th Commission hearing as noted in number 1 above.

5. 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 without changes as a result of NDEP receiving no significant comments that would cause a need for change.

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

The adopted PSD, NSPS and NESHAP rules are federal rules which the regulated business/industry must comply with regardless of whether EPA or NDEP implements them. Therefore, there will be no added economic impact on the regulated industry due to NDEP's adopt-by-reference regulation update. The amendments have no economic effect on the public.

7. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional costs to the agency for enforcement of the proposed regulation.

8. 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.

This regulation does not duplicate any other federal, state or local regulation.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is not more stringent than any federal regulation or guidance.

10. 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 regulation does not address specific fees.