

AGENDA Item # 4

Proposed Update To NEVADA'S APPLICABLE STATE IMPLEMENTATION PLAN

INFORMATION ITEM

BACKGROUND

Under the federal Clean Air Act of 1970, each state was required to develop an Applicable State Implementation Plan (ASIP) that contained the state regulations necessary to ensure that the National Ambient Air Quality Standards are attained and maintained. Nevada submitted its original ASIP to EPA in 1972. Once EPA reviews and approves a SIP submittal, it becomes federally enforceable. This means that if EPA finds cause, it can become involved to whatever extent it believes necessary in the implementation and enforcement of the regulations in the ASIP.

The regulations in the Nevada ASIP were last updated in 1984. The NDEP is proposing to update the existing ASIP by replacing outdated regulations with current state regulations, thereby bringing the ASIP into alignment with Nevada's current air pollution control regulations. In Clark and Washoe Counties, the State ASIP covers only plants that generate electricity by using steam produced by the burning of fossil fuel.

The ASIP update will be submitted to the U.S. Environmental Protection Agency by December 31, 2004 for approval and adoption into Nevada's ASIP. However, before we submit it, we want to provide you with this update on the status of the ASIP and the federal enforceability of the current program, as well as providing the public with another opportunity for comment.

CHANGES

The types of changes we are making in the proposed ASIP include removing outdated and inappropriate regulations, adding current regulations to reflect the present air quality operating permit program, updating regulations that have been amended since the last ASIP submittal and refreshing the regulation numbers. A few existing ASIP regulations are being retained.

Removing regulations. Because our air quality program evolves, many of the regulations in the old ASIP are no longer appropriate or no longer used. Examples include definitions of terms that are in the existing ASIP but no longer referenced in the proposed ASIP; procedural or administrative provisions that may be inconsistent with existing federal procedures, state programs that are not appropriate for federal enforcement (like odor regulations that deal with non-criteria pollutants), state enforcement provisions that would interfere or conflict with EPA

authority, and provisions that no longer apply, such as regulations written for specific sources (e.g., mining operations) that no longer exist.

Adding regulations. BAQP-BAPC's operating permits program has been significantly revised since 1984. For example, at the August 19, 2004 SEC hearing, regulations were adopted to allow the agency to implement the newly revised federal New Source Review provisions. Therefore, regulations that are appropriate for the ASIP, but not currently included, are being added.

Updating outdated regulations. For example, the ambient air quality standards table needs updating since standards, presentation format and methods of analysis have changed since 1984.

One of the criteria EPA uses to determine whether to approve the removal of an ASIP provision is that it not make the overall state program less stringent than the existing plan. For example, if a provision regulates the emissions of a source or category of sources, EPA will not approve removing that provision unless the state provides a satisfactory analysis proving that the source(s) will still be subject to the equivalent standard through some other route.

CONCLUSION

The Bureau of Air Quality Planning and Air Pollution Control (BAQP-BAPC) have been working for about 10 years to update the Nevada Applicable State Implementation Plan (ASIP). For the past two years, we have worked intensely with EPA and industry to develop a state implementation plan that is satisfactory to all parties. Many of the regulatory amendment packages that the SEC has adopted over the past several years included changes that were prepared cooperatively by BAQP-BAPC, the regulated industry and EPA to lay the foundation for this update. The enclosed ASIP update is the end product of this cooperative effort.

Because the SEC has already acted to adopt the regulations that are being submitted to EPA in this update, no formal action from the commission is necessary today.