

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

December 6, 2017
9:00 AM

Great Basin Conference Room
4th Floor
901 South Stewart Street
Carson City

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

MEETING NOTES

ATTENDEES:

Workshop Chair:

Danilo Dragoni, Chief, Bureau of Air Quality Planning (BAQP)

NDEP Staff:

Sig Jaunarajs, Supervisor, Planning and Modeling Branch, BAQP

Patricia Bobo, Environmental Scientist, Planning and Modeling Branch, BAQP

Public:

Carson City:

Xuan Wang, RTC Washoe

Ana Fitzgerald, Hawthorn Utilities

Darrel Lacy, Nye County

Alexis Motarex, NV AGC

Jeffrey Kinder, NDEP

Lisa Kremer, NDEP

Las Vegas:

Chris Heintz, NV Energy

Tony Garcia, NV Energy

CALL TO ORDER:

Mr. Dragoni called the meeting to order at 9:03 a.m. BAQP staff and attendees introduced themselves. Mr. Dragoni discussed the sign-in process, handouts and other housekeeping items. Mr. Dragoni reviewed the workshop agenda. There were no questions or changes to the agenda.

Mr. Dragoni explained the regulatory adoption timeline. Once the petitions have been presented at the workshop, the Nevada Division of Environmental Protection (NDEP) will consider comments received at the workshop, make any appropriate revisions and submit the petitions to the State Environmental Commission (SEC). The SEC will forward them to the Legislative

Counsel Bureau (LCB), which reviews the petitions for clarity and conformity to other state regulations. After the LCB review the SEC will hold a hearing on February 7, 2018 at 10 a.m. at the Carson City NDEP offices where they will consider the petitions. There will be a 30-day public comment period prior to the SEC hearing and another opportunity for comment at the hearing. If the regulations are adopted by the SEC, they are submitted to the Legislative Commission. If the Legislative Commission approves the regulations, they are sent to the Secretary of State where they are filed and become effective. There is not a certain date for when the petitions may become effective because the Legislative Commission does not meet on a regular basis. The NDEP anticipates the amendments will be approved by the end of April 2018.

Mr. Dragoni moved on to present the petitions.

P2017-06 SUMMARY

Mr. Dragoni presented P2017-06, amendments to NAC 445B.221, which adopts federal regulations by reference. NDEP updates this regulation on a regular basis because the United States Environmental Protection Agency (USEPA) routinely changes their regulations. This is the adoption of federal regulations that are referenced in the state's regulations. The last update to 445B.221 was in October 2016. These updates allow the NDEP to request delegation from the USEPA. The NDEP will implement the federal regulations, once authority has been delegated. The NDEP believes this allows for a more local and efficient approach in the management of air quality in Nevada. The NDEP is proposing to adopt amendments to the Code of Federal Regulations (CFR) for Part 51, which relates to the preparation of State Implementation Plans, Part 52.21, which is the Prevention of Significant Deterioration (PSD) program, Part 60, New Source Performance Standards (NSPS), and Part 63, National Emission Standards for Hazardous Air Pollutants (NESHAP). Mr. Dragoni explained specific updates to Part 51, most importantly the updates to Appendix W. This update allows the NDEP to use more modern air dispersion modeling that is more flexible. The update to Part 52 allows the NDEP's PSD program to match the USEPA's which allows the NDEP to maintain our delegation. This allows the NDEP to implement and enforce the program instead of the USEPA. The update to Part 60 is different than what was posted on the website. The NDEP is removing the original language requesting updates to Subparts TTTT and UUUU. Subpart TTTT is currently in litigation and Subpart UUUU is subject to a stay in the US Supreme Court and is also being proposed to be repealed by the USEPA. Because of the uncertainty the NDEP decided not to adopt them. The final amendments are to Part 63 for NESHAP. This adoption allows the NDEP to request delegation from the USEPA so the NDEP can enforce and implement the federal regulations.

COMMENTS AND QUESTIONS

Tony Garcia: Does the rulemaking specify fuel types? Is it restrictive of any fuel type? What about diesel fuel?

Mr. Jaunarajs: This regulation is for standards of performance for fossil fuel fired electric utility steam generating units and for fossil fuel fired stationary combustion turbines. I don't think diesel fuel is covered.

Chris Heintz: TTTT and UUUU will not be adopted but it's listed on the regulation.

Mr. Dragoni: We didn't have time to correct the amendment for the workshop but it will be corrected to reflect the changes.

There were no further comments or questions from the public on P2017-06.

P2017-05 SUMMARY

Mr. Jaunarajs presented P2017-05, proposed amendments to NAC 445B.22097, "Standards of quality for ambient air." The regulation contains a table with the State air quality standards and the National air quality standards. The NDEP is proposing to revise the ambient air quality standard for ozone. Mr. Jaunarajs explained how the USEPA adopts and implements the NAAQS. Under the Clean Air Act (CAA) there are six criteria pollutants for which there are standards for ambient air quality. The CAA calls for a five year review cycle in which relevant data is reviewed by a scientific panel to see if the current standard is appropriate. That was done for ozone and the decision was made that the current standard was not strict enough. On October 1, 2015 the USEPA proposed the change to 70ppb. Once the standard is changed the process for designations starts. This is where states review the ambient air quality data from monitors throughout the state and then make a recommendation to the USEPA of what parts of the state are in compliance with the new standard and which are not in compliance. The State of Nevada recommended that the entire state was in attainment with the exception of certain monitors in Clark County. Once the standard is set by the USEPA the states need to demonstrate how they will implement and maintain the standard. The first step is for the state to adopt the new standard into their regulations. P2017-05 is in response to the new standard set by the USEPA from 75ppb to 70ppb. This will align the state standards with the National standard. The NDEP is also proposing to eliminate the National standards table that is next to the State standards table. This is because it's just there for reference and it is often out of date. It is also being proposed to eliminate the Methods column because the methods listed are usually out of date. The amendments propose to revise the table to say that the NDEP will use any method that is accepted by the USEPA. The petition will be heard at the February 7, 2018 SEC hearing which provides for another opportunity for public comment. If it is adopted the NDEP has to revise the State Implementation Plan (SIP) to demonstrate to the USEPA that the State is prepared to implement the revised standard. The NDEP will be doing that within the next year. The Infrastructure SIP demonstrates to the USEPA that the NDEP has the legal authority to implement and enforce the new standard.

COMMENTS AND QUESTIONS

Darrel Lacy: How do we keep Nye County out of it?

Mr. Jaunarajs: The USEPA designated areas in the last few weeks. The CAA required the USEPA to designate all areas by October 1, 2017. A partial designation was issued for counties that were easily designated. For counties with a known monitor that violated the standard or neighboring counties the USEPA was silent. There are violating monitors in Clark County and the USEPA did not designate neighboring Nye County and Lincoln County. The same is true for three Northern Nevada counties that touch Placer County in California. These counties are waiting to be designated too.

Mr. Dragoni: One thing the State needs to consider is the affect that non-violating counties are having on counties with violating monitors. If these non-violating counties are affecting violating counties then the USEPA will potentially prescribe non-attainment conditions for the counties affecting the violating county. When the NDEP did its analysis, it was shown that Nye County did not cause the violation in Clark County. So the NDEP recommended attainment/unclassifiable for Nye County and Region 9 concurred. The NDEP did not do the same for Lincoln County because it was obvious that it did not cause the violations in Clark County. The NDEP expects that the USEPA will agree with the recommended designation for Nye County.

Darrel Lacy: I question the scientific evidence of the standard change.

Mr. Dragoni: That decision was made in 2015. We are in the planning and implementation phase. There are initiatives that are proposing changes to the CAA. The USEPA is supposed to send 120 day letters which provides states the opportunity to provide more information and possibly change a final designation. A letter was not sent out for the first round of designations the NDEP believes because states were in agreement with the designations. The NDEP believes that if we disagree with a proposed designation a 120 day letter will be sent which will allow the NDEP to provide additional information.

There were no more comments or questions from the public on P2017-05.

ADJOURNMENT

The Workshop was adjourned at 9:37 a.m.