

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R038-22P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

The Nevada Division of Environmental Protection (Division) is proposing to amend NAC 445B.221, Adoption by reference and applicability of certain provisions of federal law and regulations, to adopt applicable federal rules promulgated since the State regulation was last updated as of March 2020. This is a routine activity. The update includes rulemakings under 40 CFR Part 60, “Standards of performance for new stationary sources” (NSPS) and Part 63, “National emission standards for hazardous air pollutants for source categories” (NESHAP).

The NDEP is delegated the implementation of certain 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 the regulated industry to continue to work with the State rather than the U.S. Environmental Protection Agency.

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.

The Division held a hybrid (in-person and virtual) public workshop for R038-22P on May 10, 2022 in the Great Basin Conference Room on the fourth floor of the Bryan Building, 901 South Stewart Street, Carson City, Nevada to present the substance of and receive public comment on the proposed regulation. Two members of the public and regulated industry attended the in-person workshop, and 25 members of the public attended the virtual workshop.

The Legislative Counsel Bureau published its draft, R038-22P, in the Nevada Register on April 22, 2022. The Division accepted written comments on R038-22I up to May 10, 2022. The Division did not receive any written comments concerning R038-22I.

The SEC held a hybrid regulatory hearing on June 15, 2022 to consider possible action on R038-22P. The SEC posted its public notice, which included a link¹ and instructions to access R038-22P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting.

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

- (a) Attended June 15, 2022 hearing: 37 (approximately)
- (b) Testified on this Petition at the hearing: 2

1. Danilo Dragoni, on behalf of the Nevada Division of Environmental Protection
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- (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 one public workshop and at the June 15, 2022 SEC hearing as noted in number 2 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.

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-june-15-2022>

The Commissioners unanimously adopted R038-22P with no proposed edits. The regulation was adopted without change because the public and the SEC were satisfied with the proposed amendments.

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

Regulated Business/Industry. The regulatory amendments in R038-22P are estimated to have no economic impact on the regulated entities. The federal rules adopted by reference in NAC 445B.221 are federal requirements that the regulated business/industry must already comply with regardless of whether the U.S. Environmental Protection Agency (USEPA) or the NDEP implements them. Industry prefers that NDEP implement the federal rules; the NDEP has an active working relationship with industry and will implement the federal regulations in as effective and efficient manner as possible.

Public. The regulatory amendments in R038-22P are expected to have no economic impact on the public.

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

Enforcing Agency. The regulatory amendments proposed in R038-22P are not expected to result in any additional costs to the Division.

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.

The proposed amendments in R038-22P adopt federal regulations from 40 CFR Parts 60 and 63 in order to allow the NDEP to implement them in Nevada.

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 regulatory amendments in R038-22P are no more stringent than what is established by federal law.

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 proposed amendments in R038-22P do not address fees.