





NEVADA  
**STATE ENVIRONMENTAL  
 COMMISSION**

**FINAL  
 MINUTES**

**Regulatory Meeting**

 <b>TIME</b>	 <b>LOCATION</b>
<p>Wednesday, May 28, 2025            9:00 am</p>	<p>Bryan Building            901 South Stewart Street            Bonnie B. Bryan Room, First Floor            Carson City, NV</p> <p>Video Conference            375 East Warm Springs Road, Suite 200            Las Vegas, NV</p>

**SEC members present:**

Tom Porta, Chairman  
 Fred Reeder  
 Katheryn Landreth  
 Tina Mudd  
 Adam Sullivan  
 Rob Ghiglieri  
 Tom Smith\*

**SEC members absent:**

Jason King, Vice Chairman  
 J.J. Goicoechea  
 Alan Jenne  
 Kacey KC

**SEC staff present:**

Harry B. Ward, SEC/DAG (Acting)  
 Sheryl Fontaine, Executive Secretary  
 Destiney Fitch, Recording Secretary

**Nevada Division of Environmental  
 Protection staff present:**

Danilo Dragoni  
 Michelle Grover  
 Andrew Tucker  
 Ken McIntyre  
 Nate Rash  
 Jeff Kinder  
 Jennifer Carr  
 Jennifer Schumacher  
 Tanya Soleta  
 Gregg Rosenberg  
 Chad Myers

**Public present:**

Josh Doorly, DMI  
 Scot Stretch, DMI  
 Glenn Miller  
 Greg Brooks  
 Ray Johnson  
 Sheila Smith

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## Begin Summary Minutes

### 1) Call to order, roll call, establish quorum (Discussion)

The meeting was called to order at 9:00 am by State Environmental Commission (SEC) Chairman Tom Porta. Sheryl Fontaine, the Executive Secretary, confirmed that the hearing was properly noticed, and a quorum was present. She asked if there was a member from the Attorney General’s office. Harry B. Ward, Acting Deputy Attorney General, identified himself. Ms. Fontaine then proceeded with the housekeeping rules for the meeting. Chairman Porta inquired if there were any changes to the posted agenda. There were none.

### 2) Public comment

Chairman Porta called for public comment on non-agendized items. There were no public comments.

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### 3) Approval of March 19, 2025 meeting minutes (Action Item)

Chairman Porta requested comments from the Commission regarding the March 19, 2025, meeting minutes. Hearing none, Chairman Porta called for a motion.

**Motion:** Commissioner Rob Ghiglieri made a motion to approve the minutes, Commissioner Landreth seconded. The minutes were unanimously approved.

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## Air Penalties

### 4) Drilling Minerals Industries, LLC – Osino Plant – NOAV No. 3175 (For Possible Action)

Andrew Tucker, Chief of the Bureau of Air Quality Planning (BAQP) with the Nevada Division of Environmental Protection (NDEP) introduced Michelle Grover, Supervisor of the Enforcement branch for the BAQP. Mr. Tucker presented Notice of Alleged Violation (NOAV) No. 3175, issued to Drilling Minerals Industries, LLC (DMI) for failing a source test, as well as

a less common aspect of source test failure: stopping the stack test due to a concern that completing the test would result in non-compliance with the facility's permitted emission limits. The facility was found to be in violation for failed source tests, consistent with State and federal source testing guidance and policy. The recommended penalty was calculated in the same manner as any other failed source test. This practice is in place to deter facilities from concealing non-compliance by stopping these tests prematurely. NDEP recommended a penalty in the amount of \$28,900.

Ms. Grover provided an overview of DMI's operations, including that the facility holds a Class II permit for their Osino Grinding Plant in Elko County which was last issued on May 17, 2023. On June 5 and 6, 2024, a third party conducted source testing, during which several systems failed. Ms. Grover explained that when NDEP received and reviewed the test results they discovered that DMI failed for two systems: System 3, Mill #1 and System, 6 Mill #2. Ms. Grover continued, providing some background and details of the stopped source tests. She reiterated that, as per 2009 U.S. Environmental Protection Agency (EPA) guidance, a source test may not be stopped due to probable failure of an emission standard. Further, if a source test is stopped because of a concern that if the test is concluded the results might show an exceedance in an emission standard, the facility is subject to both a violation for failing to conduct a valid source test and a violation for failing an emission standard. Ms. Grover explained that, in this case, NDEP is not pursuing penalties for failing to conduct a valid source test, only for exceeding an emission standard. She also stated that since the failed tests, DMI has retested and, concurrently, submitted an application for a revised permit increasing their emission limits. Ms. Grover then reviewed the exceedances and guided the commissioners through the penalty matrix to explain the calculation of the fines. Ms. Grover added that DMI has not had any previous violations within the past five years at this facility and there are no additional mitigating factors to consider. Ms. Grover asked the commissioners if there were any questions.

Commissioner Mudd asked if facilities had an advantage when stopping a source test because there were no results from the stopped run to use as a multiplier for the penalty calculation. Ms. Grover stated that, in this case, with the particulate matter with an aerodynamic diameter of less than 10 micrometers (PM10) and PM2.5, it would appear so, because they were unable to determine the actual exceedance. She also noted the possibility that the facility may have ultimately passed the test. Commissioner Ghiglieri asked about a retest and whether DMI was now in compliance; Ms. Grover confirmed both. Commissioner Sullivan questioned the process of new permit applications with new emission limits and how the Bureau evaluates permit applications with revised emission limits. Ms. Grover provided some information and Mr. Tucker explained that when an application is received, NDEP uses dispersion modeling to determine if operation of the facility under the conditions in the application would cause or contribute to an exceedance of the federal ambient air quality standards. In this case, the modeling results indicated that operating the facility under the new limits would not cause an exceedance. Commissioner Landreth asked why a facility would stop a source test. Ms. Grover stated that some test results are visible during testing, so the facility can see what the concentrations are in real time and choose to stop the test to prevent a higher penalty. Chairman Porta asked if the

facility was a New Source Performance Standards (NSPS) source plant and therefore subject to NSPS requirements. Mr. Tucker spoke to the specific pollutants and Jennifer Schumacher, Chief of the Bureau of Air Pollution Control (BAPC), confirmed that, for System 3, Mill #1 there is a particulate matter standard for NSPS for non-metallic mineral processing. Mr. Porta also asked about any changes to operational parameters and increase in emission limits on the revised application. Ms. Grover stated that the facility's burner had since been tuned to the correct gas but neither she nor Mr. Tucker were aware of any changes to operational hours.

Chairman Porta asked if anyone from DMI wanted to speak.

Josh Doorly, an Environmental Consultant with Westland Resources who assisted DMI with their environmental compliance and permitting, and Scot Stretch, DMI's Business Development Manager, introduced themselves. Mr. Doorly also introduced Dawn Valenti, owner of DMI, and Blake Eggleston, DMI's Plant Manager, who both attended virtually. Mr. Doorly thanked the NDEP and commissioners and requested that the SEC reconsider the penalties outlined in NOAV No. 3175. He explained that DMI has maintained a good working relationship with NDEP, has remained transparent throughout this process, and has demonstrated its ongoing commitment to compliance. He provided some history regarding facility operations and testing, adding that the source testing company did not advise DMI that stopping the test was against regulations. He also added that the company lost the samples from the test, so they were unable to calculate what the PM results would have been. Chairman Porta asked the commissioners if they had any questions.

Commissioner Reeder asked Mr. Doorly for confirmation that operating the plant for five to six hours had resulted in a \$28,900 penalty; Mr. Doorly confirmed. Commissioner Reeder also asked for clarification about the burner tuning. Mr. Doorly explained that the fuel used by the facility is propane and the burner had been initially tuned for a different fuel type. Commissioner Mudd asked if there was an opportunity for startup testing for a Class II permit for brand new facilities. Ms. Grover confirmed that facilities are allowed to run engineering testing on new equipment without penalty if they notify NDEP ahead of time. Mr. Tucker and Ms. Schumacher confirmed that the facility must request that initial engineering testing but that it would be separate from the source test in question. Mr. Porta asked if the permit allowed for a certain amount of time for a new facility to operate before requiring a source test. Ms. Schumacher explained that a test is required within 60 days of achieving maximum production and not later than 180 days after initial startup. Commissioner Ghiglieri asked about the timing of this test and Ms. Grover stated that DMI was close to the 180-day deadline when the test was done. Chairman Porta asked representatives of DMI if there were any operational changes in the revised permit to meet the new emissions level requirements or if they had just raised the emission levels on the permit. Mr. Doorly said they had approximately doubled the emission levels on the permit and there were no operational changes. Commissioner Reeder and Mr. Doorly discussed the timing of operation of each plant and the testing.

Chairman Porta asked commissioners and representatives of DMI if there were any questions or additional information they wanted to add. The matter was brought back to

the Commission for discussion.

Commissioner Reeder asked for clarification about what kind of discretion the Commission has in these cases. Chairman Porta explained the evolution of the penalty matrix and that, in the past, when there have been concerns about the amount of a penalty, the penalty amount has stood, but the Commission has allowed facilities the opportunity to complete a Supplemental Environmental Project (SEP) to benefit the environment in their area to offset some of the penalty amount. The commissioners discussed the reporting of the test results to NDEP, that the penalty matrix used to calculate the penalty has been ratified by the Commission several times over the past ten to fifteen years, the concept and timing of source testing itself, and that the emission limits are requested by the permit applicant. Commissioner Ghiglieri and Chairman Porta asked the NDEP about the possibility of a SEP. Mr. Tucker stated that the NDEP did not have a project readily available and Ms. Grover suggested that it would also be up to the facility.

Chairman Porta asked DMI for their thoughts on offsetting a portion of the penalty with a SEP. Mr. Stretch agreed that the company would be willing to consider a SEP. Chairman Porta suggested tabling this agenda item to allow the parties to come back to the SEC with a proposed project and cash balance. Jennifer Carr, NDEP Administrator, requested that the Commission allow the NDEP to approve the project and indicated that DMI would collaborate with the NDEP SEP Committee to agree on the terms and conditions of the SEP. The commissioners agreed, on the condition that NDEP would report back to the Commission to present the agreed-upon SEP and a revised penalty amount. Ms. Grover reminded the Commission about the generally accepted practice of adding 25% to the value of the SEP above the amount of penalty offset. The Commission discussed the matter further and Commissioner Ghiglieri added that DMI must work with the NDEP and get approval of the SEP before it is completed.

**Motion:** Commissioner Ghiglieri made a motion that NDEP work with DMI to settle the overall penalty amount for NOAV No. 3175 between a fine and a SEP and report back to the SEC. Commissioner Mudd seconded. Commissioner Sullivan clarified that if NDEP and DMI are not able to reach an agreement, the matter would be brought back before the Commission as an agenda item to reassess the violation. The motion passed.

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## Regulatory Petitions

### 5) **Permanent Regulation R077-24P: Bureau of Air Quality Planning – Repealing and Amending Regulations to Improve Efficiency in Nevada’s Air Program and Better Serve Public Interests (For Possible Action)**

Jeffrey Kinder, NDEP Deputy Administrator reintroduced Jennifer Schumacher, BAPC Chief, and introduced Ken McIntyre, Supervisor of the Planning and Data Management branch for BAQP. Mr. Kinder stated that, pursuant to Governor Lombardo’s Executive Order (EO) 2023-003, NDEP is proposing R077-24 to amend portions of Nevada Administrative Code (NAC)

Chapter 445B by repealing the odor regulations and by amending and repealing portions of the Nevada Mercury Control Program.

Mr. Kinder summarized the purpose and scope of EO 2023-003 and then explained that the EPA determined odors to be subjective nuisances without a clear connection to a health-based standard. As a result, EPA declined to regulate odors, leaving the issue to state and local jurisdictions. Mr. Kinder stated that as a program primarily tasked with implementing the Clean Air Act, NDEP does not have a regulatory construct that has been successful in addressing these types of issues, although when the odors are tied to an air quality violation, the Division has been successful in bringing facilities back into compliance. He also stated that regardless of the result of this potential action, NDEP will continue to work with local jurisdictions when odor challenges arise without creating the impression that it has regulatory authority to address odor issues from a Clean Air Act perspective.

Mr. Kinder provided a brief overview of the Clean Air Act, and stated that repealing these odor regulations will allow NDEP to focus its limited resources on implementation of the federal Clean Air Act on behalf of the State of Nevada, and continue to utilize the tools that are available to NDEP and have proven effective to address air quality concerns.

Mr. Kinder continued, introducing the Nevada Mercury Control Program aspect of the petition, providing a brief overview of the reason for the proposed changes.

Ms. Schumacher went over Nevada's odor regulations and penalty fines if odors are deemed a violation. She explained the obstacles to enforcement for odors and noted that no other acceptable alternative methods for enforcing odor regulations have been identified through NDEP's internal research, that conducted by other states, or through collaboration with local county jurisdictions. Ms. Schumacher stated that NDEP would continue to engage with local jurisdictions regarding possible solutions and would use their existing tools if the issue is related to a criteria or regulated air pollutant.

Public workshops for R077-24P were held on March 30, 2023, and May 23, 2024, and no comments were received. NDEP held a final workshop on July 31, 2024, and received comments and questions. Ms. Schumacher stated that one of the commenters had multiple questions concerning the lack of replacement or amended regulations to handle odor complaints. NDEP reiterated its commitment to continuing to receive and investigate odor complaints to determine if there are Clean Air Act or permit requirement violations. Ms. Schumacher also stated that the removal of the state regulations would not prevent any enforcement-related efforts by local jurisdictions. Ms. Schumacher summarized comments received by the Division and she reiterated that the regulation is not enforceable, creates false expectations for the public, and has not resulted in a successful outcome.

She asked the commissioners if they had any questions before moving on to the Nevada Mercury Control Program.

Commissioner Sullivan questioned if the counties' local ordinances focus on the nuisance aspect of odors as opposed to the health impacts, clarifying that the state's regulations are driven by any potential health impacts. Ms. Schumacher stated that the counties do have nuisance codes (similar to noise and light complaints) and are able to enforce those nuisance

regulations if needed. Mr. Kinder added that the counties also have a land use planning component and that the state does not have that authority. The state can only act if the issue is causing a health-based concern at the fence line of a facility. There was some discussion about a recent local odor issue and zoning. Commissioner Landreth asked how many odor complaints had been reported to NDEP this year. Ms. Schumacher responded that so far this year, there have been 19 odor complaints and 17 of those complaints are about one specific case that the NDEP is currently investigating to determine if the source relates to the Clean Air Act. Chairman Porta and Mr. Kinder briefly discussed odors associated with Concentration Animal Feeding Operation (CAFO) facilities, with Mr. Kinder acknowledging that NDEP does regulate CAFO facilities for water discharge but not from an air quality standpoint. Commissioner Sullivan asked about the Business Environmental Program (BEP) and Ms. Schumacher stated that BEP assists facilities who may be unable to afford a consultant to help with their air permit applications. Mr. Kinder further explained that the Clean Air Act requires states to have a small business outreach program, and NDEP contracts with BEP to provide that service for their Air program. Chairman Porta asked whether the Nevada Association of Counties (NACO) had provided input or feedback. Mr. Kinder stated that NDEP had not contacted NACO directly but had contacted each county instead. Mr. Porta then asked if there were any other questions regarding the odor regulations. There were none.

Mr. McIntyre introduced himself and went over the history of the Nevada Mercury Control Program (NMCP), which regulates mercury emissions at precious metal mines that have thermal units with the potential to emit mercury. He explained that, prior to the NMCP, the Voluntary Mercury Reduction Program (VMRP) added mercury controls to thermal units for five specific precious metal mines. The VMRP has since been superseded by the NMCP which uses a more standardized approach for all existing and future precious metal mines and thermal units with the potential to emit mercury within NDEP's jurisdiction. He went on to state that this petition proposes to remove terms and regulations specific to the VMRP that are no longer applicable, including "Tier I," "Presumptive Nevada Maximum Achievable Control Technology (NV MACT)," and "Phase I." Mr. McIntyre explained each term in more detail including why it is no longer applicable. Finally, Mr. McIntyre went over comments received during the public workshop held on July 31, 2024, and additional comments received on April 23 and 28, 2025. He also provided the Bureau responses to those comments, including that the proposed revisions were in response to EO 2023-003. He then asked the commissioners if they had any questions.

Chairman Porta asked if there were any facilities that were left out that were in Phase 1 or the VMCP but are no longer in any mercury program as Phase 2. Mr. McIntyre responded that all Tier 1 facilities were still in the program except for one copper mine that was removed from the NMCP and that all Tier 1 facilities are still part of the program. Commissioner Ghiglieri asked if the NMCP included all metal mining (not just precious metal mines). Mr. McIntyre stated that NMCP was specifically for gold and silver mines. Chairman Porta asked if there were any additional questions. There were none. Chairman Porta opened the agenda item for public comment.

Glenn Miller, resident of Reno, Nevada, and Ray Johnson, resident of Silver Springs, Nevada, introduced themselves and expressed their concerns regarding the changes in the odor regulations, citing effects they had experienced due to odors in their residential areas. Brian Bass, a licensed Environmental Engineer who participated in the meeting virtually, also shared his concerns and recommended revising the language of the regulation rather than pursuing its complete repeal. Mr. Kinder reassured the Commission and the public speakers that even with the changes to the regulation, NDEP would still be investigating reports of odors.

Chairman Porta brought the regulation back to the Commission for discussion. Commissioner Reeder asked the NDEP for confirmation that repealing these odor regulations would have no effect on other regulations such as contaminated soil or water and that the Division would still respond to complaints of soil odor and sample and enforce regulations as needed. Ms. Schumacher and Mr. Kinder confirmed. Mr. Kinder added that the NDEP's jurisdiction is over ambient air and that if the Division received a complaint of an odor in a building such as a school, staff would defer to the county or local health district. Commissioner Landreth mentioned that the impetus for the proposed regulatory action was EO 2023-003 but that this repeal would not result in increased efficiency because the Division has committed to continue to investigate odor complaints. Mr. Kinder responded that the Division currently pursues two concurrent paths upon receipt of a complaint and that this proposed action would remove the path that has not been effective. Commissioner Landreth also inquired about the harm in leaving the regulation in place, suggesting that just having it there provides some sense of authority. Mr. Kinder replied that the regulation dilutes NDEP's authority because it's not enforceable and it provides a false sense of security to the public. Chairman Porta asked whether any other state has a successful odor program that the Division could adopt that would be better than the existing regulations. Mr. Kinder acknowledged the question, explaining that work on this action was initiated in 2011 and one of the reasons for the delay in bringing this before the Commission was to participate in and wait for the results of an odor program study conducted by the State of Minnesota. Mr. Kinder stated that no new odor regulations came out of that study. He also reminded the Commission that the EPA does not regulate odors due to their transient and subjective nature. He indicated that the Minnesota study has published preliminary results but is ongoing.

Chairman Porta asked for public comment regarding the mercury portion of the regulation. Mr. Miller provided public comment.

Chairman Porta brought the matter back to the Commission for additional discussion. Chairman Porta, Commissioner Landreth, and Commissioner Mudd discussed the benefits and drawbacks of keeping the regulation. Commissioner Ghiglieri stated that NDEP had been instructed to review its regulations for provisions that were unenforceable or outdated and to work through the process of eliminating them, and they did that. Chairman Porta requested a motion.

**Motion:** Commissioner Ghiglieri made a motion that NDEP move forward with the recommended changes under LCB File No. R077-24. Commissioner Mudd seconded. The

motion passed unanimously.

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## **6) Language Access Plan (Discussion)**

Sheryl Fontaine, the Executive Secretary for the SEC, stated that the Language Access Plan (LAP) had been posted for a public comment period of 30 days. There were no comments received and, with the Commission's approval, the NDEP or SEC staff would submit the Draft LAP to the Governor's office, as required by statute, by June 30, 2025. Chairman Porta asked Commissioners if there were any questions or concerns. There were none.

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## **7) Administrator's Briefing to the Commission (Discussion)**

Jennifer Carr began her briefing by providing an overview of two key legislative initiatives: Assembly Bill (AB) 40 and Senate Bill (SB) 43. Ms. Carr explained that SB 43 established a new framework for delegating state and federal authority concerning the drinking water and solid waste management programs. Meanwhile, AB 40 clarified the definition of what constitutes a "solid waste management facility."

She also noted that Assembly Bill 493, although not originating from NDEP, related to distributed energy facilities—specifically residential solar panels leased from solar companies rather than owned by homeowners. Under this bill, solar companies were required to develop plans for the proper management and disposal of these panels at the end of their operational lifespan, which was estimated to be approximately 30 years. Ms. Carr asked the commissioners if they had any questions.

Commissioner Mudd inquired whether a timeline had been established for the agency to present a new regulation to the Commission. Ms. Carr responded that, once a regulation is approved, NDEP has two years to present it to the Commission. She further noted that a request for an extension could potentially be made, but the regulations did have an expiration date. Chairman Porta asked if any e-waste recycling programs currently existed within the state. Mr. Kinder stated that no e-waste recycling was available within the state and that recycled materials were shipped to other locations, including overseas. Chairman Porta referenced Assembly Bill 493 and observed a decline in consumer interest in purchasing electric vehicles and solar panels, attributing the trend to rising costs. Ms. Carr and Commissioner Reeder discussed AB 40, which addressed the financial assurance of companies and authorized the agency to place a lien on the assets of permitted entities if the Division utilized its own resources to complete a cleanup.

Ms. Carr also provided an update to the Commissioners regarding the agency's budget approval and added that the agency's vacancy rate was below 10%.

**8) Public Comment (Discussion)**

Chairman Porta then inquired whether there were any public comments, either online or in person. There were none.

**9) Adjournment**

Chairman Porta thanked participants and adjourned the meeting.

**ATTACHMENTS**

**ATTACHMENT 1: Drilling Minerals Industries, LLC NOAV 3175**

**ATTACHMENT 2: PowerPoint – Regulatory Petition R077-24P**

**ATTACHMENT 3: Language Access Plan**

# **Attachment 1**

**Drilling Minerals Industries, LLC**

**NOAV 3175**



April 17, 2025

Scott Thibodeaux  
Plant Manager  
Albemarle US, Inc.  
PO Box 98  
Silver Peak, NV 89047

**RE: Letter of Alleged Findings and Order to Appear for Enforcement Conference  
Class 2 Air Quality Operating Permit AP2819-0050 (FIN A0452)**

Dear Scott Thibodeaux:

The Nevada Division of Environmental Protection (Division) alleges that Albemarle US, Inc. (Albemarle) has violated one or more conditions of Class II Air Quality Operating Permit (AQOP) AP2819-0050.

On March 25, 2025, the Division held an enforcement conference with Albemarle to discuss potential enforcement actions alleged in the Letter of Alleged Findings (LOAF) previously sent to Albemarle. The conference was held to clarify the circumstances of the potential enforcement actions and provide an opportunity for Albemarle to provide evidence demonstrating that violations did not occur or that efforts were made to mitigate the violation.

Based on the information provided during the enforcement conference, the Division has determined that the issuance of Notice of Alleged Violation (NOAV) 3067 is warranted and the issuance of NOAV 3105 is warranted as a warning.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, NOAVs 3067 and 3105 constitute major violations. For major violations not issued as warnings, the Division makes penalty recommendations to the Nevada State Environmental Commission (Commission), and the Commission assesses the penalties. Based on the factors considered in the penalty matrix and penalty calculation worksheet, as established with the Commission, the Division has calculated a recommended penalty of **\$31,600** for NOAV No. 3067. As NOAV 3105 is a warning with no monetary penalty associated it will not be recommended to the Commission.

The date for the next Commission hearing for penalties has not yet been determined. Before the hearing for the penalties, the Commission will notify you of the final date and time of the hearing and provide information about how you can participate if you want.

Appeals of NOAVs 3067 and 3105 may be requested pursuant to **Nevada Revised Statute (NRS) 445B.360 Appeals to Commission: Appealable matters; action by Commission; regulations** and the Commission's administrative rules. Appeals must be received within ten (10) days of receipt of this notice, pursuant to **NRS 445B.340 Appeals to Commission: Notice of appeal**. A copy of the Commission's appeal form is enclosed and can also be found on the Commission's

website at: <https://sec.nv.gov/participate/forms-and-documents/>. Appeals are processed through Sheryl Fontaine, the Executive Secretary for the Commission, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Ms. Fontaine can be reached at (775) 687-9374, or by email at [sfontaine@ndep.nv.gov](mailto:sfontaine@ndep.nv.gov). Please provide me with a copy of any correspondence your company may have with the Commission.

If you have any questions regarding the NOAVs or the fines, please contact me at (775) 687-9392 or by email at [m.grover@ndep.nv.gov](mailto:m.grover@ndep.nv.gov).

Sincerely,



Michelle Grover (Apr 16, 2025 07:22 PDT)

Michelle Grover,  
Supervisor, Enforcement Branch  
Bureau of Air Quality Planning

MG/nr

enc.: Notice of Alleged Air Quality Violation Nos. 3067 and 3105  
SEC Appeal Form #3

E-Copy: Danilo Dragoni, Ph.D, Deputy Administrator, NDEP  
Andrew Tucker, Chief, BAQP  
Jennifer Schumacher, Chief, BAPC  
Chad Myers, P.E., Compliance Supervisor, BAPC  
Shannon Watson, Compliance Staff, BAPC  
Pete Preciado, Compliance Staff, BAPC  
Tanya Soleta, P.E., Permitting Supervisor, BAPC  
Nathan Rash, Enforcement Staff, BAQP

Certified Mail No.: 9489 0090 0027 6528 8121 14

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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249  
**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3067**

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**Person(s) to Whom Served:** Scott Thibodeaux, Plant Manager  
**Company Name:** Albemarle US, Inc.  
**Address:** PO Box 98, Silver Peak, NV 89047  
**Permit Number:** AP2819-0050 **FIN:** A0452  
**Site of Alleged Violation:** Silver Peak Operations, Esmeralda County, Nevada  
**Date of Observation:** 5/10/2022, **Time:** N/A  
1/11/2024

**It is alleged that the following regulation was violated by the person named in this notice:**

**Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

[...]

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

[...]

**It is alleged that the following act or practice constitutes the violation:**

Failed Source Test

**Evidence:**

Albemarle US, Inc. (Albemarle) currently holds a Class 2 Air Quality Operating Permit (AQOP) to operate the Silver Peak Operations site, a lithium salt recovery facility, under the requirements of AP2819-0050, last issued by the Nevada Division of Environmental Protection (Division) on March 21, 2023.

In May of 2022 the Facility, contracting through a third party, conducted source testing. System 04 (Rotary Dryer) was shown to have exceeded permitted emission limits. A retest was completed in August of 2022 and the test was invalidated and required retesting within 45 days. Retesting was not completed until January of 2024 and System 04 exceeded permitted emission limits again. System 04 was again retested in June of 2024 and passed.

On March 25, 2025, the Division held an enforcement conference with Albemarle to determine whether the issuance of Notice of Alleged Air Quality Violation (NOAV) 3067 was or was not warranted. During the enforcement conference, Albemarle did not supply any evidence that the alleged violation did not occur. The Division has subsequently determined that formal issuance of NOAV 3067 is warranted for System 04.

Based on the factors considered in the penalty matrix and penalty calculation worksheet, as established with the Nevada State Environmental Commission, the Division has calculated a recommended penalty of \$31,600.00 for NOAV No. 3067.

**Table 1: Failed Source Tests**

Item	System Name	System/ Emission Unit	Date	Pollutants	Tested Value [lb/hr.]	Permit Limit [lb/hr.]	Percent Limit
1	Rotary Dryer	S04.S2.007a & S04.S2.07b	5/10/2022	Particulate Matter (PM <sub>10</sub> & PM <sub>2.5</sub> )	1.93	1.3	148%
2	Rotary Dryer	S04.S2.007a & S04.S2.07b	1/11/2024	Particulate Matter (PM <sub>10</sub> & PM <sub>2.5</sub> )	6.291	1.3	484%

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation, and Albemarle has no previous air quality violations within the last 60 months.

Signature  \_\_\_\_\_

Issued by: Andrew Tucker  
Chief  
Bureau of Air Quality Planning

Phone: 775-687-9340 Date: Apr 16, 2025

AT/MG/nr

Certified Mail No.: 9489 0090 0027 6528 8121 14

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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249  
**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3105**

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**Person(s) to Whom Served:** Scott Thibodeaux, Plant Manager  
**Company Name:** Albemarle US, Inc.  
**Address:** PO Box 98, Silver Peak, NV 89047  
**Permit Number:** AP2819-0050 **FIN:** A0452  
**Site of Alleged Violation:** Silver Peak Operations, Esmeralda County, Nevada  
**Date of Observation:** 10/24/2023

**It is alleged that the following regulation was violated by the person named in this notice:**

**Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

[...]

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

[...]

**It is alleged that the following act or practice constitutes the violation:**

Failure to Comply with a Permitted Operating Parameter as required by the Nevada Administrative Code and the Air Quality Operating Permit.

**Evidence:**

Albemarle US, Inc. (Albemarle) currently holds a Class 2 Air Quality Operating Permit (AQOP) to operate the Silver Peak Operations site, a lithium salt recovery facility, under the requirements of AP2819-0050.05, issued by the Nevada Division of Environmental Protection (Division) on March 21, 2023.

On October 2, 2023, BAPC Compliance Staff initiated a partial, off-site inspection of the facility. As part of this inspection, records were requested from the facility for review. During this review, multiple instances were noted where the recorded values exceeded permitted operating parameters.

On March 25, 2025, the Division held an enforcement conference with Albemarle. During the enforcement conference Albemarle was unable to provide evidence that the alleged violation did not occur. Therefore, the Division has determined that issuance of NOAV No. 3105 is warranted as a warning.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation, and Albemarle has no previous air quality violations within the last 60 months.

ORDER

Under the authority of Nevada Revised Statute (NRS) 445B.100 to 445B.640, inclusive, the person named in this notice is ordered:

\_\_\_\_\_ To pay the following administrative fine in accordance with NAC 445B.281: \_\_\_\_\_

\_\_\_\_\_ To take corrective action: \_\_\_\_\_

\_\_\_\_\_ To appear for an enforcement conference in person at: 901 S. Stewart St. Suite 4001, Carson City, Nevada, 89701, or by video conference or phone.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

\_\_\_\_\_ To conduct a Supplemental Environmental Project specified by NDEP

X  This notice is a warning.

Signature  \_\_\_\_\_

Issued by: Andrew Tucker  
Chief  
Bureau of Air Quality Planning

Phone:  775-687-9340  Date:  Apr 16, 2025

AT/MG/nr

Certified Mail No.: 9489 0090 0027 6528 8121 14

# 231024\_A0452\_FinalNOAVPackage

Final Audit Report

2025-04-16

Created:	2025-04-16
By:	Michelle Grover (m.grover@ndep.nv.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAT8TBX_TfOxRXJzJbSpb4AsbAXJ3cVynP

## "231024\_A0452\_FinalNOAVPackage" History

-  Document created by Michelle Grover (m.grover@ndep.nv.gov)  
2025-04-16 - 2:21:19 PM GMT
-  Document emailed to Michelle Grover (m.grover@ndep.nv.gov) for signature  
2025-04-16 - 2:21:24 PM GMT
-  Document emailed to Andrew Tucker (atucker@ndep.nv.gov) for signature  
2025-04-16 - 2:21:24 PM GMT
-  Email viewed by Andrew Tucker (atucker@ndep.nv.gov)  
2025-04-16 - 2:21:30 PM GMT
-  Email viewed by Michelle Grover (m.grover@ndep.nv.gov)  
2025-04-16 - 2:21:30 PM GMT
-  Document e-signed by Michelle Grover (m.grover@ndep.nv.gov)  
Signature Date: 2025-04-16 - 2:22:42 PM GMT - Time Source: server
-  Document e-signed by Andrew Tucker (atucker@ndep.nv.gov)  
Signature Date: 2025-04-16 - 2:28:27 PM GMT - Time Source: server
-  Agreement completed.  
2025-04-16 - 2:28:27 PM GMT



STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249  
**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3067**

**Person(s) to Whom Served:** Scott Thibodeaux, Plant Manager  
**Company Name:** Albemarle US, Inc.  
**Address:** PO Box 98, Silver Peak, NV 89047  
**Permit Number:** AP2819-0050 **FIN:** A0452  
**Site of Alleged Violation:** Silver Peak Operations, Esmeralda County, Nevada  
**Date of Observation:** 5/10/2022, **Time:** N/A  
1/11/2024

RECEIVED

APR 25 2025

ENVIRONMENTAL PROTECTION

**It is alleged that the following regulation was violated by the person named in this notice:**

**Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

[...]

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

[...]

**It is alleged that the following act or practice constitutes the violation:**

Failed Source Test

**Evidence:**

Albemarle US, Inc. (Albemarle) currently holds a Class 2 Air Quality Operating Permit (AQOP) to operate the Silver Peak Operations site, a lithium salt recovery facility, under the requirements of AP2819-0050, last issued by the Nevada Division of Environmental Protection (Division) on March 21, 2023.

In May of 2022 the Facility, contracting through a third party, conducted source testing. System 04 (Rotary Dryer) was shown to have exceeded permitted emission limits. A retest was completed in August of 2022 and the test was invalidated and required retesting within 45 days. Retesting was not completed until January of 2024 and System 04 exceeded permitted emission limits again. System 04 was again retested in June of 2024 and passed.

On March 25, 2025, the Division held an enforcement conference with Albemarle to determine whether the issuance of Notice of Alleged Air Quality Violation (NOAV) 3067 was or was not warranted. During the enforcement conference, Albemarle did not supply any evidence that the alleged violation did not occur. The Division has subsequently determined that formal issuance of NOAV 3067 is warranted for System 04.

Based on the factors considered in the penalty matrix and penalty calculation worksheet, as established with the Nevada State Environmental Commission, the Division has calculated a recommended penalty of \$31,600.00 for NOAV No. 3067.

*This Notice of Alleged Violation becomes final and the violations stand unless appealed within ten (10) days of this notice. The person named in this Notice may appeal this notice by submitting a written request for a hearing to the Chairman of the Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.*

**Table 1: Failed Source Tests**

Item	System Name	System/ Emission Unit	Date	Pollutants	Tested Value [lb/hr.]	Permit Limit [lb/hr.]	Percent Limit
1	Rotary Dryer	S04.S2.007a & S04.S2.07b	5/10/2022	Particulate Matter (PM <sub>10</sub> & PM <sub>2.5</sub> )	1.93	1.3	148%
2	Rotary Dryer	S04.S2.007a & S04.S2.07b	1/11/2024	Particulate Matter (PM <sub>10</sub> & PM <sub>2.5</sub> )	6.291	1.3	484%

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation, and Albemarle has no previous air quality violations within the last 60 months.

Signature  \_\_\_\_\_

**Issued by:** Andrew Tucker  
Chief  
Bureau of Air Quality Planning

**Phone:** 775-687-9340      **Date:** Apr 16, 2025

AT/MG/nr

Certified Mail No.: 9489 0090 0027 6528 8121 14

**Form #3**  
**Request an Appeal Hearing**  
Revised 6-2012



NEVADA  
**STATE ENVIRONMENTAL  
COMMISSION**

**1. Name, address, telephone number, and signature of appellant:**

Name: Albemarle U.S., Inc.

Physical Address: HWY 265, Silver Peak, NV 89047

E-mail Address: scott.thibodeaux@albemarle.com

Telephone Number: 775.380.0347

Signature: Scott Thibodeaux Digitally signed by Scott Thibodeaux  
Date: 2025.04.25 14:55:05 -07'00'

Representative capacity (if applicable): Responsible Official

**2. Attach copy of Nevada Division of Environmental Protection final decision, such as permit or notice of alleged violation, being appealed.**

**3. Specify grounds of appeal: (check all that apply)**

- Final decision in violation of constitutional or statutory provision;
- Final decision made upon unlawful procedure;
- Final decision was affected by other error of law;
- Final decision was clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- Final decision was arbitrary or capricious or characterized by abuse of discretion;

**4. For each ground of appeal checked above, please list the constitutional, Nevada Revised Statute (NRS), and/or Nevada Administrative Code (NAC) provision allegedly violated. Also list the statutes and/or or regulations that give the State Environmental Commission jurisdiction to hear the appeal.**

NAC 445B.275(c) allegedly violated.  
NRS 445B.360 Appeals to Commission: Appealable matters; action by Commission; regulations.  
NAC 445B.252 Testing and sampling, subpart (5).

**5. For each ground of appeal checked above, provide a brief and concise statement of the facts which provide the basis for the appeal.**

Albemarle conducted site-wide performance testing on May 10, 2022 during which System 04 failed PM testing. Notification was timely on June 7, 2022 and retesting was immediately scheduled for June 28, 2022, resulting in passing tests. Report was submitted timely on July 21, 2022. No communication was received from Division regarding System 04 stack testing results until invalidation letter dated August 17, 2023. Invalidated due to a broken sample bottle (1 of 4) during transit to third party testing laboratory, despite two complete runs and remaining analysis from third run passing all analysis conducted. Invalidation of this performance test was in error of law at NAC 445B.252(5) which states, "In the event of... other circumstances with less than three valid samples being obtained, compliance may be determined using the arithmetic means of the results of the other two runs upon the Director's approval." Subsequent testing should not have been ordered, thus eliminating the need to conduct the second failing test cited in NOAV 3067.

System 10 similarly failed performance testing on May 10, 2022, and was retested on June 28, 2022, where it also passed. This result was accepted by Division, and following evidence presented during March 3, 2025 Enforcement conference, no violation was proposed.

Albemarle presented evidence of substantial efforts and expenditures made in good faith to evaluate and correct an elusive malfunction of the emission control device causing failure of System 04 performance testing during the Enforcement Conference on March 25, 2025.

LOAF/OAEC letters dated March 3, 2025 and April 17, 2025 incorrectly represent some dates of testing, incorrectly state Albemarle failed to conduct retesting within 45 days despite invalidation notice not being sent until 13 months later and retesting being scheduled and approved in full coordination with Division, and incorrectly indicate that Albemarle did not supply any evidence during March 25, 2025 Enforcement Conference which would have allowed the Division to exercise discretion and not issue the NOAV.

Records of excess emissions from System 04 & 10 during performance testing were submitted on June 7, 2022. No discussion of enforcement or violation was made until March 3, 2025, nearly 3 years later. This unresponsive delay, combined with passing results obtained on June 28, 2022 for System 04 believed to be valid until improperly invalidated on August 17, 2023, as well as Division's decision not to consider evidence presented during Enforcement Conference are the bases for Albemarle's appeal.

Additionally, Albemarle's review of publicly available information regarding enforcement actions involving industry peers suggests inconsistent and more stringent treatment of Albemarle that is not warranted in light of Albemarle's extensive and successful efforts to return and maintain System 04 compliance.

Documents and evidence previously presented and submitted to Division are attached with this appeal.

Date of Request: April 25, 2025.

**Supporting Documents**



After signing and submitting this form (below), attach the permit or notice of alleged violation that you are appealing directly to your email message. Include other supporting documents as needed.

**Send form to:** Executive Secretary, State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, NV 89701

## Destiney Fitch

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**From:** Chase Lenz <Chase.Lenz@albemarle.com>  
**Sent:** Tuesday, March 25, 2025 4:11 PM  
**To:** Michelle Grover  
**Cc:** Danilo Dragoni; Andrew Tucker; Jennifer Schumacher; Chad Myers; Shannon Miller; Pete Preciado; Tanya Soleta; Shantell Davis; Nathan Rash; Leo Drozdoff; Scott Thibodeaux  
**Subject:** RE: Courtesy Email Copy of Letter of Alleged Findings for Silver Peak Operations (A0452)  
**Attachments:** Discussion Guide for OAEC\_Send to NDEP.pptx; RE\_ Albemarle and Air Compliance.msg; Air Records Documentation Summary\_System 6 Update.pdf

Good Afternoon Michelle,

As promised, please find attached the presentation we covered this afternoon in our meeting.

Also attached is the original email chain we discussed, with my June 12, 2024 response which was the last message we had record of from Compliance or Enforcement regarding the data presented in the LOAF and discussed today. In item #2 I question if we will see something from Compliance or Enforcement and unfortunately, neither group ever reached out.

The message contains the corrected data file related to Table 6 - Item 10/Table 7 - Items 1-290, but I have also attached the file separately here for ease of access.

Thank you again for everyone's time today and the opportunity to move forward. Please let me know if you have any questions or need anything else.

Best Regards,  
Chase

### Chase Lenz

Manager HSE & Laboratory

M: +1.512.296.7745

P: +1.775.380.0378

E: chase.lenz@albemarle.com



PO Box 98, HWY 265  
Silver Peak, NV 89047, USA  
[www.albemarle.com](http://www.albemarle.com)

---

**From:** Michelle Grover <m.grover@ndep.nv.gov>  
**Sent:** Tuesday, March 18, 2025 10:57 AM  
**To:** Scott Thibodeaux <SCOTT.THIBODEAUX@ALBEMARLE.COM>  
**Cc:** Danilo Dragoni <ddragoni@ndep.nv.gov>; Andrew Tucker <atucker@ndep.nv.gov>; Jennifer Schumacher <jschumacher@ndep.nv.gov>; Chad Myers <cmyers@ndep.nv.gov>; Shannon Miller <s.miller@ndep.nv.gov>; Pete Preciado <PPRECIADO@ndep.nv.gov>; Tanya Soleta <tsoleta@ndep.nv.gov>; Shantell Davis <shantell.davis@ndep.nv.gov>; Nathan Rash <nrash@ndep.nv.gov>; Leo Drozdoff <leodrozdoff@att.net>; Chase Lenz

<Chase.Lenz@albemarle.com>

**Subject:** RE: Courtesy Email Copy of Letter of Alleged Findings for Silver Peak Operations (A0452)

**WARNING:** This message was sent from an **EXTERNAL** email address. Be cautious of links and attachments, and do not enter your ID or password.  
Report any suspicious content.

Hi Scott,

Thank you for the confirmation and I look forward to speaking with you.

Thank you,  
Michelle Grover  
Enforcement, Supervisor  
NDEP, Bureau of Air Quality Planning  
P: 775-687-9392



**From:** Scott Thibodeaux <[SCOTT.THIBODEAUX@ALBEMARLE.COM](mailto:SCOTT.THIBODEAUX@ALBEMARLE.COM)>

**Sent:** Tuesday, March 18, 2025 10:55 AM

**To:** Michelle Grover <[m.grover@ndep.nv.gov](mailto:m.grover@ndep.nv.gov)>

**Cc:** Danilo Dragoni <[ddragoni@ndep.nv.gov](mailto:ddragoni@ndep.nv.gov)>; Andrew Tucker <[atucker@ndep.nv.gov](mailto:atucker@ndep.nv.gov)>; Jennifer Schumacher <[jschumacher@ndep.nv.gov](mailto:jschumacher@ndep.nv.gov)>; Chad Myers <[cmyers@ndep.nv.gov](mailto:cmyers@ndep.nv.gov)>; Shannon Miller <[s.miller@ndep.nv.gov](mailto:s.miller@ndep.nv.gov)>; Pete Preciado <[PPRECIADO@ndep.nv.gov](mailto:PPRECIADO@ndep.nv.gov)>; Tanya Soleta <[tsoleta@ndep.nv.gov](mailto:tsoleta@ndep.nv.gov)>; Shantell Davis <[shantell.davis@ndep.nv.gov](mailto:shantell.davis@ndep.nv.gov)>; Nathan Rash <[nrash@ndep.nv.gov](mailto:nrash@ndep.nv.gov)>; Leo Drozdoff <[leodrozdoff@att.net](mailto:leodrozdoff@att.net)>; Chase Lenz <[Chase.Lenz@albemarle.com](mailto:Chase.Lenz@albemarle.com)>

**Subject:** RE: Courtesy Email Copy of Letter of Alleged Findings for Silver Peak Operations (A0452)

**WARNING** - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Ms. Grover,

I'm reaching out to confirm receipt of the Letter of Alleged Findings as well as my intent to attend, in person, the Enforcement Conference scheduled March 25, 2025 at 1:30PM. With me I will have Chase Lenz and Leo Drozdoff as additional Albemarle Representatives. We do not intend on bringing any legal counsel to the conference.

We look forward to the opportunity to speak with the Division and provide any additional information /clarification around the items listed within the LOAF.

Thank you  
Scott

**From:** Nathan Rash <[nrash@ndep.nv.gov](mailto:nrash@ndep.nv.gov)>

**Sent:** Friday, March 7, 2025 1:46 PM

**To:** Scott Thibodeaux <[SCOTT.THIBODEAUX@ALBEMARLE.COM](mailto:SCOTT.THIBODEAUX@ALBEMARLE.COM)>

**Cc:** Danilo Dragoni <[ddragoni@ndep.nv.gov](mailto:ddragoni@ndep.nv.gov)>; Andrew Tucker <[atucker@ndep.nv.gov](mailto:atucker@ndep.nv.gov)>; Jennifer Schumacher <[jschumacher@ndep.nv.gov](mailto:jschumacher@ndep.nv.gov)>; Chad Myers <[cmyers@ndep.nv.gov](mailto:cmyers@ndep.nv.gov)>; Shannon Miller <[s.miller@ndep.nv.gov](mailto:s.miller@ndep.nv.gov)>; Pete Preciado <[PPRECIADO@ndep.nv.gov](mailto:PPRECIADO@ndep.nv.gov)>; Tanya Soleta <[tsoleta@ndep.nv.gov](mailto:tsoleta@ndep.nv.gov)>; Michelle Grover <[m.grover@ndep.nv.gov](mailto:m.grover@ndep.nv.gov)>;

Shantell Davis <[shantell.davis@ndep.nv.gov](mailto:shantell.davis@ndep.nv.gov)>

**Subject:** Courtesy Email Copy of Letter of Alleged Findings for Silver Peak Operations (A0452)

**WARNING:** This message was sent from an **EXTERNAL** email address. Be cautious of links and attachments, and do not enter your ID or password. Report any suspicious content.

Good afternoon,

Please find the attached courtesy copy of the Letter of Alleged Findings for the Silver Peak Operations, operated by Albemarle US, Inc.. Accompanying this Letter of Alleged Findings is a corresponding Order to Appear at an Enforcement Conference set for March 25, 2025 at 1:30 pm. An original hard copy of these documents was sent by certified mail on March 4, 2025.

Please feel free to email me with any questions or concerns.

P.s. Please excuse the letter being addressed to Mr. Lary Mester. Our records have been updated showing yourself as the responsible official. That change and the authorship of this letter simply occurred in a similar timeframe.

Regards,

Nathan Rash  
Environmental Scientist III  
Enforcement Branch, Bureau of Air Quality Planning  
Nevada Division of Environmental Protection  
Department of Conservation and Natural Resources  
901 S. Stewart Street, Suite 4001  
Carson City, NV 89701  
[nrash@ndep.nv.gov](mailto:nrash@ndep.nv.gov)  
(O) 775-687-9486 | (F) 775-687-5856



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**



[www.albemarle.com](http://www.albemarle.com)

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April 21, 2025

Sheryl Fontaine  
Executive Secretary  
Nevada State Environmental Commission  
901 S. Stewart Street, Suite 4001  
Carson City, NV 89701

**RE: Request for Hearing to Consider Administrative Fines for Air Pollution Violations**

Dear Madam Secretary,

The Nevada Division of Environmental Protection (Division), Bureau of Air Quality Planning requests a hearing before the State Environmental Commission (Commission) to consider administrative fines under NRS 445B.640(1) related to the attached Notice of Alleged Violation (NOAV), issued to Drilling Minerals Industries, LLC (DMI).

NOAV 3175 was sent by email and certified mail (9489 0090 0027 6499 2237 97) on April 11, 2025. DMI received the certified mail copy of the NOAV on April 15, 2025.

The Division recommends that the Commission issue an administrative fine for NOAV 3175 in the amount of **\$28,900.00**.

Sincerely,

A handwritten signature in black ink, appearing to read "AT", is written over a horizontal line.

Andrew Tucker  
Chief  
Bureau of Air Quality Planning

enc.: Notice of Alleged Air Quality Violation and Order No. 3175

E-Copy: Jennifer Carr, P.E., Administrator, NDEP  
Jeff Kinder, P.E., Deputy Administrator, NDEP  
Danilo Dragoni, Ph.D., Deputy Administrator, NDEP  
Frederick "Rick" Perdomo, Esq., Deputy Administrator, NDEP  
Jennifer Schumacher, Chief, BAPC  
Andrew Tucker, Chief, BAQP  
Chad Myers, P.E., Compliance Supervisor, BAPC  
Gregg Rosenberg, P.E., Compliance Supervisor, BAPC  
Michelle Grover, Enforcement Supervisor, BAQP  
Nathan Rash, Enforcement Staff, BAQP  
Shannon Miller, Enforcement Staff, BAQP

April 11, 2025

Scot Stretch  
Business Development Manager  
Drilling Minerals Industries, LLC  
700 17<sup>th</sup> St., Ste. 2400  
Denver, CO 80202

**RE: Notice of Alleged Air Quality Violation and Order Nos. 3175, 3177, 3192 and 3193  
Class II Air Quality Operating Permit AP1479-3903 (FIN A1196)**

Dear Scot Stretch:

The Nevada Division of Environmental Protection (Division) alleges that Drilling Minerals Industries, LLC (DMI) has violated one or more conditions of their Class II Air Quality Operating Permit (AQOP) AP1479-3903 last issued on May 25, 2023.

On October 30, 2024, the Division held an enforcement conference with DMI to discuss potential enforcement actions alleged in the Letter of Alleged Findings (LOAF) previously sent to DMI. The conference was held to clarify the circumstances of the potential enforcement actions and provide an opportunity for DMI to provide evidence demonstrating that violations did not occur or that efforts were made to mitigate the violation.

Based on the information provided during the enforcement conference, the Division has determined that issuance of Notice of Alleged Violations (NOAVs) 3175, 3177, 3192, and 3193 are warranted.

The Monitoring, Recordkeeping, and/or Reporting violations alleged, in NOAVs 3177, 3192, and 3193 are minor violations pursuant to NAC 445B.281. The violations in the NOAVs are the first, second, and third offense of Monitoring, Recordkeeping, and/or Reporting violations for DMI in the previous 60 months. The administrative fine for a first, second, and third offense for Monitoring, Recordkeeping, and/or Reporting violation is \$250, \$500, and \$1,000, respectively. The total administrative fine for the violations in NOAVs 3177, 3192, and 3193 is **\$1,750**. Pursuant to NAC 445B.283, the fines for minor violations must be paid or appealed within 10 days of notice of the fines. The fines are payable by cashier's checks, certified checks, money orders, or personal check. The check must be made payable to the State of Nevada and must be sent to the State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, NOAV No. 3175 constitutes a major violation. For major violations, the Division makes penalty recommendations to the Nevada State Environmental Commission (Commission), and the Commission assesses the penalties. Based on the factors considered in the penalty matrix and penalty calculation worksheet, as established with the Commission, the Division has calculated a recommended penalty of **\$28,900** for NOAV No. 3175.

The date for the next Commission hearing for penalties has not been set. Before the hearing for the penalties, the Commission will notify you of the final date and time of the hearing and provide information about how you can participate if you want.

Appeals of NOAV Nos. 3175, 3177, 3192, and 3193 may be requested pursuant to **Nevada Revised Statute (NRS) 445B.360 Appeals to Commission: Appealable matters; action by Commission; regulations** and Commission administrative rules. Appeals must be received within ten (10) days of receipt of this notice, pursuant to **NRS 445B.340 Appeals to Commission: Notice of appeal**. A copy of the Commission's Appeal Form #3 is enclosed and can also be found on the SEC website at: <https://sec.nv.gov/participate/forms-and-documents/>. Appeals are processed through Sheryl Fontaine, the Executive Secretary for the Commission, at 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249. Ms. Fontaine can be reached at (775) 687-9374, or by email at [sfontaine@ndep.nv.gov](mailto:sfontaine@ndep.nv.gov). Please provide me with a copy of any correspondence your company may have with the Commission.

If you have any questions regarding the NOAVs or the fines, please contact me at (775) 687-9392 or by email at [m.grover@ndep.nv.gov](mailto:m.grover@ndep.nv.gov).

Sincerely,



[Michelle Grover \(Apr 8, 2025 16:29 PDT\)](#)

Michelle Grover  
Supervisor, Enforcement Branch  
Bureau of Air Quality Planning

MG/sm

enc.: Notice of Alleged Air Quality Violation Nos. 3175, 3177, 3192, and 3193  
SEC Form 3 – Request an Appeal Hearing  
How to Pay an Administrative Fine Guidance

E-Copy: Andrew Tucker, Chief, BAQP  
Jennifer Schumacher, Chief, BAPC  
Chad Myers, P.E., Compliance Supervisor, BAPC  
Tanya Soleta, P.E., Permitting Supervisor, BAPC  
Jens Christansen, Compliance Staff, BAPC  
Nathan Rash, Enforcement Staff, BAQP  
Scot Stretch, Business Development Manager, DMI

Certified Mail No.: 9489 0090 0027 6499 2237 97

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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249

---

**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3175**

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**Person(s) to Whom Served:** Scot Stretch, Business Development Manager  
**Company Name:** Drilling Minerals Industries, LLC  
**Address:** 700 17<sup>th</sup> St., Ste. 2400  
**Permit Number:** AP1479-3903 **FIN:** A1196  
**Site of Alleged Violation:** 9006 E. Idaho Street, Elko, NV 89801  
**Date of Observation:** June 5-6, 2024

**It is alleged that the following regulation was violated by the person named in this notice:**

**Nevada Administrative Code (NAC) 445B.275 Violations: Acts constituting; notice.**

*1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:*

[...]

*(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;*

[...]

**It is alleged that the following act or practice constitutes the violation:**

Failed Source Test(s)

**Evidence:**

Drilling Minerals Industries, LLC (DMI) currently holds a Class II Air Quality Operating Permit (AQOP) to operate a barite processing facility under the requirements of AQOP No. AP1479-3903, last issued by the Nevada Division of Environmental Protection (Division) on May 25, 2023.

On June 5, 2024, the facility, contracting through a third party, performed source testing on the exhaust stack of System 03 – Mill #1. DMI reported emissions in excess of the permitted emission limits for PM<sub>10</sub> and PM<sub>2.5</sub> (See Table 1).

On June 6, 2024, the facility, contracting through a third party, performed source testing on the exhaust stack of System 06 – Mill #2. The facility began conducting one run of the Initial Performance Test for PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>2</sub>, CO, NO<sub>x</sub>, and VOC. The source testing company informed the facility that run 1 showed emissions in excess of the permitted emission limits for PM<sub>10</sub>, PM<sub>2.5</sub>, CO, and VOC. The facility decided to abandon the source testing during run 1 due to the failing emission results (See Table 2) and not complete the required three test runs.

On October 30, 2024, the Division held an enforcement conference with DMI to determine whether the issuance of Notice of Alleged Air Quality Violation (NOAV) No 3175 was or was not warranted. During the enforcement conference, DMI was unable to provide evidence that the alleged violation did not occur. The Division has subsequently determined that formal issuance of NOAV No. 3175 is warranted.

Based on the factors considered in the penalty matrix and penalty calculation worksheet as established with the State Environmental Commission, the Division calculated a recommended penalty of \$28,900 for NOAV No. 3175.

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*This Notice of Alleged Violation becomes final and the violations stand unless appealed within ten (10) days of this notice. The person named in this Notice may appeal this notice by submitting a written request for a hearing to the Chairman of the Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.*

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**Table 1: Failed Source Test(s)**

Test Date(s)	System Name	System/Emission Unit	Pollutant	Average (lb/hr)	Permit Limit (lb/hr)	% of Limit
6/5/2024	Mill #1	S03.S2.002-S2.007	PM <sub>2.5</sub>	0.033	0.027	125%
			PM <sub>10</sub>	0.033	0.031	106%

**Table 2: Failed Source Test(s) – Failure to Finish Conducting Source Testing once Initiated**

Test Date	System Name	System/Emission Unit	Pollutant	(lb/hr) of Run 1	Permit Limit (lb/hr)	% of Limit
6/5/2024	Mill #2	S06.S2.008-S2.013	PM <sub>2.5</sub>	Recovery not Conducted	0.027	Unknown
			PM <sub>10</sub>	Recovery not Conducted	0.028	Unknown
			CO	0.33	0.29	113%
			VOC	0.24	0.038	631%

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a major violation and DMI has had no previous air quality violation within the last 60 months.

Signature  \_\_\_\_\_

Issued by: Andrew Tucker  
Chief  
Bureau of Air Quality Planning

Phone: 775-687-9340 Date: Apr 08, 2025

AT/MG/sm

Certified Mail No.: 9489 0090 0027 6499 2237 97

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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249  
**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3177**

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**Person(s) to Whom Served:** Scot Stretch, Business Development Manager  
**Company Name:** Drilling Minerals Industries, LLC  
**Address:** 700 17<sup>th</sup> St., Ste. 2400  
**Permit Number:** AP1479-3903 **FIN:** A1196  
**Site of Alleged Violation:** 9006 E. Idaho Street, Elko, NV 89801  
**Date of Observation:** August 1, 2023

**It is alleged that the following regulation was violated by the person named in this notice:**

**NAC 445B.275 Violations: Acts constituting; notice.**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.390, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

[...]

(e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit.

[...]

**It is alleged that the following act or practice constitutes the violation:**

Failure to Conduct Required Monitoring, Recordkeeping, or Reporting as required by the Nevada Administrative Code and the Air Quality Operating Permit.

**Evidence:**

Drilling Minerals Industries, LLC (DMI) currently holds a Class II Air Quality Operating Permit (AQOP) to operate a barite processing facility under the requirements of AQOP AP1479-3903, last issued by the Nevada Division of Environmental Protection (Division) on May 25, 2023.

Division staff conducted an on-site inspection of the facility on August 1, 2023. During the inspection, staff conducted a review of facility records for the period of May 2023 to August 2023. During this review it was noted that the facility could not provide records of Visible Emissions Observation (VEO) for Systems 01, 02, 03, 07, 08, 10, 11, and 12 for the entire review period. The permit requires the facility to conduct these observations on a monthly basis for each system.

On October 30, 2024, the Division held an enforcement conference with DMI. During the enforcement conference DMI was unable to provide evidence that the alleged violation did not occur. The Division has determined that issuance of NOAV 3177 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a minor violation and DMI has had no previous air quality violation within the last 60 months.



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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249  
**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3192**

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**Person(s) to Whom Served:** Scot Stretch, Business Development Manager  
**Company Name:** Drilling Minerals Industries, LLC  
**Address:** 700 17<sup>th</sup> St., Ste. 2400  
**Permit Number:** AP1479-3903 **FIN:** A1196  
**Site of Alleged Violation:** 9006 E. Idaho Street, Elko, NV 89801  
**Date of Observation:** August 1, 2023

**It is alleged that the following regulation was violated by the person named in this notice:**

**NAC 445B.275 Violations: Acts constituting; notice.**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.390, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

- [...]  
(e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit.  
[...]

**It is alleged that the following act or practice constitutes the violation:**

Failure to Conduct Required Monitoring, Recordkeeping, or Reporting as required by the Nevada Administrative Code and the Air Quality Operating Permit.

**Evidence:**

Drilling Minerals Industries, LLC (DMI) currently holds a Class II Air Quality Operating Permit (AQOP) to operate a barite processing facility under the requirements of AQOP AP1479-3903, last issued by the Nevada Division of Environmental Protection (Division) on May 25, 2023.

Division staff conducted an on-site inspection of the facility on August 1, 2023. During the inspection, staff conducted a review of facility records for the period of May 2023 to August 2023. During this review, it was noted that the facility could not provide records of Water Spray Inspections for Systems 01 and 02 for the entire review period. The permit requires the facility to conduct these inspections on a monthly basis for each system.

On October 30, 2024, the Division held an enforcement conference with DMI. During the enforcement conference DMI was unable to provide evidence that the alleged violation did not occur. The Division has determined that issuance of NOAV No. 3192 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a minor violation and DMI has had no previous air quality violation within the last 60 months



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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL PROTECTION  
BUREAU OF AIR QUALITY PLANNING  
901 SOUTH STEWART ST., SUITE 4001  
CARSON CITY, NEVADA 89701-5249  
**NOTICE OF ALLEGED AIR QUALITY VIOLATION NO. 3193**

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**Person(s) to Whom Served:** Scot Stretch, Business Development Manager  
**Company Name:** Drilling Minerals Industries, LLC  
**Address:** 700 17<sup>th</sup> St., Ste. 2400  
**Permit Number:** AP1479-3903 **FIN:** A1196  
**Site of Alleged Violation:** 9006 E. Idaho Street, Elko, NV 89801  
**Date of Observation:** August 1, 2023

**It is alleged that the following regulation was violated by the person named in this notice:**

***NAC 445B.275 Violations: Acts constituting; notice.***

1. *Failure to comply with any requirement of NAC 445B.001 to 445B.390, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:*

- [...]  
*(e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit.*  
[...]

**It is alleged that the following act or practice constitutes the violation:**

Failure to Conduct Required Monitoring, Recordkeeping, or Reporting as required by the Nevada Administrative Code and the Air Quality Operating Permit.

**Evidence:**

Drilling Minerals Industries, LLC (DMI) currently holds a Class II Air Quality Operating Permit (AQOP) to operate a barite processing facility under the requirements of AQOP AP1479-3903, last issued by the Nevada Division of Environmental Protection (Division) on May 25, 2023.

Division staff conducted an on-site inspection of the facility on August 1, 2023. During the inspection, staff conducted a review of facility records for the period of May 2023 to August 2023. During this review, it was noted that the facility could not provide records of Vent Filter Inspections for Systems 07, 08, 11, and 12 for the entire review period. The permit requires the facility to conduct these inspections on a monthly basis for each system.

On October 30, 2024, the Division held an enforcement conference with DMI. During the enforcement conference DMI was unable to provide evidence that the alleged violation did not occur. The Division has determined that issuance of NOAV 3193 is warranted.

In accordance with **NAC 445B.281 Violations: Classification; administrative fines**, the alleged violation constitutes a minor violation and DMI has had no previous air quality violation within the last 60 months.



# DMI Osino Final NOAV Package

Final Audit Report

2025-04-08

Created:	2025-04-08
By:	Michelle Grover (m.grover@ndep.nv.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA0M7gNhMiWiQR6rbiHOL7CtJI2THICGS

## "DMI Osino Final NOAV Package" History

-  Document created by Michelle Grover (m.grover@ndep.nv.gov)  
2025-04-08 - 11:28:22 PM GMT
-  Document emailed to Michelle Grover (m.grover@ndep.nv.gov) for signature  
2025-04-08 - 11:28:27 PM GMT
-  Document emailed to Andrew Tucker (atucker@ndep.nv.gov) for signature  
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-  Email viewed by Michelle Grover (m.grover@ndep.nv.gov)  
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-  Email viewed by Andrew Tucker (atucker@ndep.nv.gov)  
2025-04-08 - 11:28:33 PM GMT
-  Document e-signed by Michelle Grover (m.grover@ndep.nv.gov)  
Signature Date: 2025-04-08 - 11:29:24 PM GMT - Time Source: server
-  Document e-signed by Andrew Tucker (atucker@ndep.nv.gov)  
Signature Date: 2025-04-08 - 11:58:06 PM GMT - Time Source: server
-  Agreement completed.  
2025-04-08 - 11:58:06 PM GMT

# **Attachment 2**

**PowerPoint Regulatory Petition**

**R077-24P**

# Nevada Division of Environmental Protection

Nevada Administrative Code  
Chapter 445B – Air Controls

May 28, 2025

Presented by

**Jeffrey Kinder, Deputy Administrator**  
**Jennifer Schumacher, BAPC Chief**  
**Ken McIntyre, BAQP Supervisor**



NEVADA DIVISION OF  
**ENVIRONMENTAL  
PROTECTION**



The NDEP is proposing to amend Nevada Administrative Code (NAC) 445B through Regulatory Petition R077-24. These proposed amendments to NAC 445B will repeal the odor regulations and amend and repeal portions of the Nevada Mercury Control Program as identified as part of the regulatory review pursuant to Executive Order (EO) 2023-003.



# EXECUTIVE ORDER 2023-003

WHEREAS, Nevada's current regulatory structure is too often unfocused and inefficient, contains regulations that are obsolete and includes regulations that are unnecessarily onerous, thereby limiting the economic potential of the State...

Every executive branch department, agency, board and commission shall undertake a comprehensive review of the regulations subject to its enforcement. On or before, May 1, 2023, each department, agency, board and commission shall provide a report to the Governor's office detailing how the regulation subject to its enforcement can be streamlined, clarified, reduced or otherwise improved to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth.

# Odor Regulatory Changes

The odor regulations are proposed to be repealed because techniques used to measure odors are generally considered inadequate for regulatory purposes, thus it is very difficult to associate any specific health or welfare effect to a given “odor concentration”.

Repealing these regulations will allow NDEP to focus our limited resources on implementation of the federal Clean Air Act on behalf of the State of Nevada and continue to utilize the tools that are available to us and have proven effective to address air quality concerns.





# Mercury Regulatory Changes

The regulations under the Nevada Mercury Control Program that are being repealed or amended directly pertain to historical aspects of the Voluntary Mercury Program and the initial phase of the program that are no longer applicable because they are superseded by the secondary and final phase of the program. We will discuss this in greater detail later in the testimony.



# Clean Air Act

The Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationary and mobile sources. Among other things, this law authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants.

## Four Strategies

- National Ambient Air Quality Standards (NAAQS)
- New Source Performance Standards (NSPS)
- National Emission Standards for Hazardous Air Pollutants (NESHAP)
- Motor Vehicle Emission Standards

# ODOR Regulations – NAC 445B.22087 and Violation Fine – NAC 445B.281(3)

1. No person may discharge or cause to be discharged, from any stationary source, any material or regulated air pollutant which is or tends to be offensive to the senses, injurious or detrimental to health and safety, or which in any way interferes with or prevents comfortable enjoyment of life or property.
2. The Director shall investigate an odor when **30 percent or more of a sample** of the people exposed to it believe it to be objectionable in usual places of occupancy. The sample must be **at least 20 people or 75 percent of those exposed if fewer than 20 people are exposed.**
3. The Director shall deem the odor to be a violation if he or she is able to make two odor measurements within a period of **1 hour**. These measurements must be separated by **at least 15 minutes**. An odor measurement consists of a detectable odor after the **odorous air has been diluted with eight or more volumes of odor-free air**

Violation Fine – First offense: \$250, Second offense: \$500, Third offense: \$1,000

# ODORS – Obstacles to Enforcement

- The Clean Air Act does not regulate odors; unambiguous evidence demonstrating adverse health effects of odors has not been established.
- Subjective reactions to odors vary between both individuals and communities and are highly dependent upon the context in which the odor is perceived.
- Odors usually last for only a short period of time.
- Odors can be sporadic (irregular times and different locations). Wind direction can change.
- Difficult for NDEP to confirm, especially when complaint is in a distant county (i.e., Public can't take a picture or video of an odor).
- Odors are most often not detectable after odorous air has been diluted with eight or more volumes of odor-free air as required by the regulation.
- Two odor measurements are required, 15 minutes apart, within a period of 1 hour. Odor may not be present at time of second measurement.

# Research and Outreach

## NDEP Odor History

Throughout the last 15 years, NDEP has had challenges with identifying odor violations (e.g., physical sample methods or nasal ranger).

Additionally, no other alternative acceptable methods for enforcing odor regulations as been identified through research and collaboration with other States and local Counties.

- 2011 – Oil Refinery
- 2017 – SEC Overview
- 2017 – Implement Nasal Ranger
- 2021 – Outreach w/Counties
- 2024 – Participation in Minnesota Pollution Control Agency Study
- 2024 – Additional Outreach w/Counties



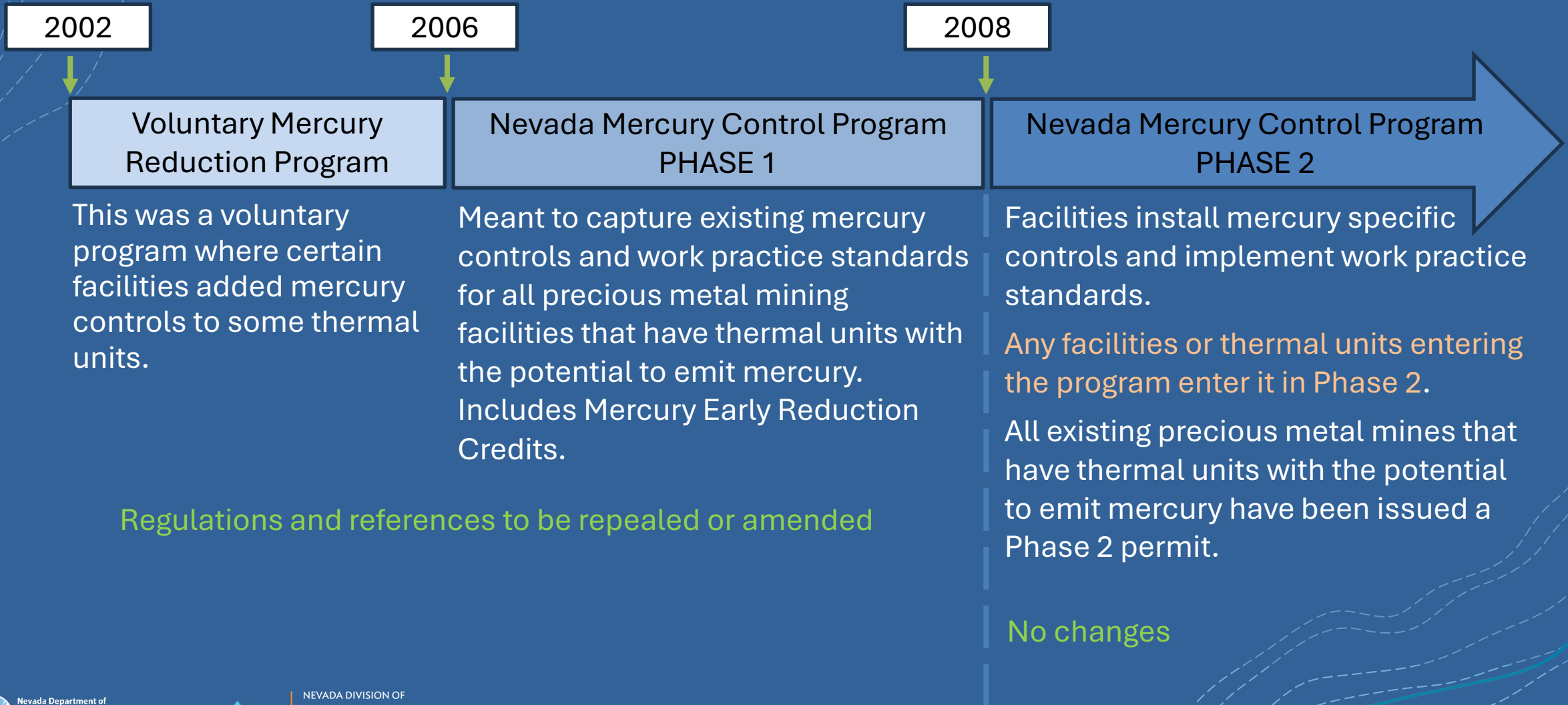
# Odors

## Workshop Comments & Questions



- Why is there not a replacement or other plan for addressing Odors in Nevada?
- Does the removal of odors from the regulation impact any enforcement related issues?
- Why is there a problem if the regulations are left as they are?

# Mercury Regulations



# Mercury Regulations Mercury Early Reduction Credit

- As part of their Phase – 1 application existing facilities could propose additional mercury controls they would install.
- If the director agreed with the proposed controls, they would be written into the Phase – 1 permit.
- The facility would then have 48 months to implement those controls as opposed to the 24 months they would be granted if they waited until Phase – 2 to propose the controls.
- The deadline to submit Phase 1 applications was October 31, 2006.
- **Regulations and references pertaining to the Mercury Early Reduction Credit are proposed to be removed as they are no longer relevant to the NMCP program.**

# Mercury Regulations

## Workshop Comments & Questions



- What is the reasoning for removing the provisions of the Nevada Mercury Control Program?
- Are the facilities that were in Tier 1 moving into Tier 2 category?
- Can conditions be added about mercury collection, storing, and transportation?
- Requested to evaluate effectiveness of carbamate chemical mercury precipitant when added to process solutions.
- Requested annual Hg reporting numbers be on our website.

# Thank You

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**Air Programs (BAPC and BAQP)**  
Nevada Division of Environmental Protection

Contact:

Jennifer Schumacher

Phone: 775-687-9551

Email: [jschumacher@ndep.nv.gov](mailto:jschumacher@ndep.nv.gov)



## Proposed Regulation R077-24: Repeal

- NAC 445B.22087 - Odor Regulations
- NAC 445B.3621 - Definition of "mercury early reduction credit"
- NAC 445B.3639 - Definition of "Presumptive Nevada maximum achievable control technology" and "presumptive NvMACT"
- NAC 445B.3645 - Definition of "Tier-1 thermal unit that emits mercury"
- NAC 445B.3651 - (Identification of technologies that constitute presumptive NvMACT) - No longer applicable to the Nevada Mercury Control Program (NMCP)



## Proposed Regulation R077-24: Repeal

- NAC 445B.3653 - (Identification of tier-1 thermal units that emit mercury) - No longer applicable to the NMCP
- NAC 445B.3669 - (Existing thermal units that emits mercury; Submission of phase-1 application following determination of de minimis mercury emissions) - No longer applicable to the NMCP
- NAC 445B.3673 - (Existing thermal unit that emits mercury: Contents of Phase-1 application; sampling and testing for tier-1 thermal unit) - No longer applicable to the NMCP

# Proposed Regulation R077-24: Amend

- 445B.281 - References 445B.22087 (removal of odors)
- 445B.3633 - Removal of reference to 445B.3673
- 445B.3647 - Removal of “tier 1 thermal units that emits mercury”, no longer applicable
- 445B.3659 - Removal of “tier 1 thermal units that emits mercury”, no longer applicable
- 445B.3663 - Removal of “tier 1 thermal units that emits mercury”, no longer applicable
- 445B.3667 - Removal of “tier 1 thermal units that emits mercury and presumptive NvMACT”, no longer applicable



# Proposed Regulation R077-24: Amend

- 445B.3671 - Removal of “tier 1 thermal units that emits mercury”, no longer applicable and references mercury early reduction credit
- 445B.3675 - Removal of “tier 1 thermal units that emits mercury”, no longer applicable
- 445B.3677 - Removal of “tier 1 thermal units that emits mercury”, no longer applicable
- 445B.3679 - Removal of “tier 1 thermal units that emits mercury”, no longer applicable



# **Attachment 3**

**Language Access Plan**

Joe Lombardo  
Governor



STATE OF NEVADA  
**STATE ENVIRONMENTAL COMMISSION**

901 South Stewart Street, Suite 4001  
Carson City, Nevada 89701-5249  
Telephone (775) 687-9374  
Fax (775) 687-5856  
[www.sec.nv.gov](http://www.sec.nv.gov)

James Settelmeier  
Director



CHAIRMAN

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Reno, NV

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Department of  
Agriculture

Robert Ghiglieri  
Administrator,  
Division of Minerals  
Commission on  
Mineral Resources

Alan Jenne,  
Director  
Department of  
Wildlife

Adam Sullivan,  
P.E.  
State Engineer,  
Division of Water  
Resources

Kathryn Landreth  
Reno, NV

Tina Mudd,  
Reno, NV

Fred Reeder  
Carson City, NV

Tom Smith  
State Board of  
Health  
Las Vegas, NV

COUNSEL

Todd Weiss, *acting*

## LANGUAGE ACCESS PLAN

**NRS 232.0081**

### **Purpose and Authority for the Language Access Plan**

The Nevada State Environmental Commission (SEC) is required to comply with Nevada Revised Statutes (NRS) 232.0081 and Title VI of the Civil Rights Act of 1964. The purpose of this Language Access Plan (LAP) is to establish protocol that the SEC will follow when providing services for individuals with limited English proficiency (LEP).

### **General Policy**

The SEC recognizes that the population eligible to receive its services may include LEP individuals. It is the policy of the SEC to ensure meaningful access to LEP individuals. The SEC will adopt the following policies and procedures to ensure that LEP individuals have equal access to the services the SEC provides and regulates.

It is Nevada's policy to grant access to services or programs to every person regardless of their ability to speak, understand, read, or write English. The SEC intends to take all reasonable steps to provide LEP individuals with meaningful access to its services and programs. The SEC seeks to reduce barriers by increasing its capacity to deliver services and benefits to people in their preferred languages.

The SEC endorses the following policies:

- The SEC is committed to equity and will take all reasonable steps to provide LEP individuals with meaningful access to all its services, programs, and activities.
- The SEC, rather than the LEP individual, bears the responsibility for providing appropriate language services, regardless of the LEP individual's preferred language, at no cost to the LEP individual.
- SEC staff at the initial points of contact have the specific duty to identify and record language needs.
- The use of informal interpreters such as family, friends of the person seeking service, or other customers is not allowed. Minor children are prohibited from acting as interpreters.
- SEC staff may not suggest or require that an LEP individual provide an interpreter in order to receive SEC services.

The Language Access Coordinator shall be the SEC Executive Secretary: Sheryl Fontaine [sfontaine@ndep.nv.gov](mailto:sfontaine@ndep.nv.gov) 775-687-9374

STAFF  
Sheryl Fontaine  
Executive  
Secretary

Destiney Fitch  
Recording  
Secretary

## **Profile of Clients of the SEC**

Our preliminary assessment is that the SEC has an unknown LEP constituency. Our primary “service” is:

- The SEC is responsible for facilitating the efforts of the Nevada Division of Environmental Protection to implement specific regulatory programs by adopting regulations, conducting appeal hearings, establishing air penalties, approving variances and, on extremely rare occasions, establishing a declaratory order or an advisory opinion. (NRS 445B.200).

The SEC is committed to tracking the languages preferred for communication among the individuals with LEP whom the SEC serves, so that the SEC can better provide meaningful, timely access to the SEC’s services without regard to any language impediments.

The most common methods for the public to access services are through the SEC website and email communication.

## **Language Access Services and Procedures**

The SEC does not have staff who can provide language assistance services.

The SEC does not serve any known LEP populations. Currently, it is unknown whether any meeting or hearing participants identify as indigenous or refugee. The SEC has never received a request for translation or American Sign Language Services from LEP participants or the public.

Language access needs will be addressed in the following manner:

- The SEC will use one of the active statewide contracts for translation and interpreter services offered by the state, which can be found here:

[https://purchasing.nv.gov/Contracts/Documents/Translation\\_ Interpretation/](https://purchasing.nv.gov/Contracts/Documents/Translation_ Interpretation/)

All SEC staff will be made aware of appropriate Language Assistance Services. Those seeking services may also request language assistance by contacting the SEC staff by email, which is posted on the SEC’s website, or to [sfontaine@ndep.nv.gov](mailto:sfontaine@ndep.nv.gov).

## **Implementation of the Language Access Services**

The Language Access Coordinator will provide SEC staff with the necessary training to ensure that staff are familiar with the Language Access Plan and its related policies.

This training will include:

- How to respond to LEP individuals via phone, writing, or in person.
- How to seek assistance with internal or state sanctioned language access resources.
- How to document the mode of communication and preferred language of an LEP individual to better understand the needs of those accessing services and ensure that equitable access is available throughout the duration of their interactions with the SEC.
- How to report these interactions to the Language Access Coordinator.
- In addition to staff training, the SEC will use the internal and state authorized resources to provide information in languages other than English.

## **Evaluation of and Recommendations for the Language Access Plan**

The SEC is committed to providing our limited English proficient individuals

full access to our services and is committed to monitoring the policies and procedures stated above to ensure that LEP Nevadans are receiving equitable access to SEC services. The Language Access Coordinator will continue to develop and monitor this plan, and update it biennially based on applicant data and language accommodation requests documented by staff and demographic data obtained through surveys. We will also track any costs we may incur by using state sanctioned resources. All expenses are paid from fees received from grant applicants or bond proceeds. A summary of expenses will be included in SEC updates provided by staff.