



State of Nevada

Dept. of Conservation & Natural Resources

**State Environmental Commission** SEC.nv.gov

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

## Agenda

### SEC Meeting - October 8, 2014

The State Environmental Commission (SEC) will hold a meeting on Wednesday, October 8, 2014 at 9:00 am in Carson City. The meeting location in Carson City is the Bryan Building, located at 901 South Stewart Street (2nd floor, Tahoe Room). The meeting will also be teleconferenced in Las Vegas at the Nevada Division of Environmental Protection office located at 2030 E. Flamingo Rd., Suite 230. The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this agenda.

The following items may be taken out of order and/or items may be combined for consideration. Items may also be removed from the agenda or the SEC may delay discussion relating to an item on the agenda at any time. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the SEC may refuse to consider public comment. See NRS 233B.126

#### 1) Public Comments: (Discussion)

Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson.

#### 2) Approval of the Agenda: (For Possible Action)

#### 3) Approval of Meeting Minutes: May 2, 2014 (For Possible Action)

#### 4) Recognition of Service: Pete Anderson (Discussion)

#### 5) Petition for Variance: Clark County School District: (For Possible Action)

NDEP has reviewed the petition and does not object to Clark County School District's request for a variance, pursuant to NAC 486A.200, from NAC 486A.160 and NAC 486A.180.

Pursuant to NAC 486A.200, on June 12, 2012, the SEC approved a two year variance for Clark County School District (CCSD) from NAC 486A.160, use of alternative fuel for its gasoline-powered support fleet vehicles and from NAC

486.180, the requirement to purchase non-alternative fuel vehicles for its support fleet.

CCSD is requesting an additional two year variance from NAC 486A.160 and NAC 486A.180.

In approving variances, the Commission may consider whether compliance with NRS 486A/NAC 486A would: (1) void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component; (2) result in financial hardship to the owner or operator of a fleet; (3) be impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or any other reason which the Commission determines is appropriate.

In making application to the Commission for a variance, the CCSD has completed SEC Form #6 (Variance for Alternative Fueled Vehicles). In its application, CCSD cites financial hardship as the principal reason for the requested variance and states that biodiesel alternative fuel will continue to be used in the school bus fleet.

#### **6) Penalty Assessments for Air Quality Violations: (For Possible Action)**

- A. **Q&D Construction, Inc.** – Penalty Assessment, NOAV No. 2477, alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit. The recommended penalty amount is \$3,960.00.
- B. **Modern Concrete, Inc.** - Penalty Assessment, NOAV Nos. 2478 and 2479 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit. The total recommended penalty amount is \$2,400.00.
- C. **Jetcrete North America** – Penalty Assessment, NOAV Nos. 2481 and 2482 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit. The recommended penalty amount is \$9,600.00.
- D. **Golden Gate/ S.E.T. Petroleum Partners of Nevada** – Penalty Assessment, NOAV No. 2484 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit. The recommended penalty amount is \$1,200.00.
- E. **Cind-R-Lite, Cinder Cone Mine** – Penalty Assessment, NOAV No. 2498 for alleged failure to apply for and obtain an operating permit. The recommended penalty amount is \$34,650.00.

- F. **Barrick Turquoise Ridge, Inc.** – Penalty Assessment, NOAV Nos. 2489, 2490 and 2491 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit and also for the alleged failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit. The recommended penalty amount is \$9,000.00.
- G. **Waterton Global Mining Company, LLC** – Penalty Assessment, NOAV No. 2508 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit. The recommended penalty amount is \$15,000.00.

**7) RE: R037-13: Solid Waste Regulation**

**Approve and adopt regulatory petition R037-13, as proposed, or take other action as appropriate. (For Possible Action)**

The NDEP Bureau of Waste Management Solid Waste Branch has been funded by Tire fees (\$1.00 per tire sold) since 1993. Tire fees are currently not related to the regulatory workload of the Solid Waste program; while the number and complexity of regulated facilities has increased, tires fees have remained flat and are no longer adequate to support program needs. The proposed schedule of permit fees will provide a supplemental source of revenue that is directly tied to the regulatory workload. In addition, the proposed fees will enable the Division to offset certain expenses currently funded with hazardous waste fees to help address revenue shortfalls in the Hazardous Waste Management Fund.

The proposed fees would apply to small number of landfill disposal facilities. There will be no significant economic impact on the public if the proposed fee schedule is adopted. If the fees applicable to municipal landfills are passed on to customers, the amount will be insignificant. There will be no additional cost to the agency for implementing the proposed fee schedule. The regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation.

**8) R038-13 - Bureau of Waste Management - Hazardous Waste Regulation**

**Approve and adopt Regulatory Petition R038-13, as proposed, or take other action as appropriate (For Possible Action)**

Nevada Revised Statutes (NRS) 459.500 and 459.510 establishes the authority of the SEC to adopt fees related to regulation of hazardous waste management facilities. The proposed regulation revises existing fees applicable to facilities

that treat, store or dispose of hazardous waste. Permit review fees that are charged on an hourly basis for renewal or modification of an existing permit are replaced with a flat fee structure. The structure of annual permit fees is also revised and fees are increased. The regulation is further clarified to indicate that annual permit fees are applicable to facilities where a remedial action plan has been permitted pursuant to 40 CFR Part 270 Subpart H. Various fees applicable to the volume of waste disposed or treated by a permitted facility are also revised.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. While the regulation does address fees, each of the affected facility owners were contacted individually regarding the impact of proposed fee increases, and all of the facility owners were accepting of the proposed fee increases and none indicated adverse impacts to their business operations. Finally, the proposed regulation does not include provisions which are more stringent than a federal regulation.

**9) R099-14 - Bureau of Administrative Services - Drinking Water State Revolving Fund**

**Approve and adopt Regulatory Petition R099-14, as proposed, or take other action as appropriate (For Possible Action)**

The Nevada Revised Statutes (NRS) 445A.270 establishes the authority of the State Environmental Commission to adopt regulations as necessary to carry out the provisions of the account for the revolving fund and the account for the set-aside program. The proposed regulation changes provide for general updates, language clarification, streamlining, organization, and cleanup. Proposed changes include added factors to the priority list ranking (NAC 445A.67569). Some of the additional factors will encourage sustainability by awarding additional project points for capacity development. Other additions will better outline project types.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

**10) R102-14 - Bureau of Water Quality Planning - Upper Humboldt Class Waters, Water Quality Standards Revision**

**Approve and adopt Regulatory Petition R102-14, as proposed, or take other action as appropriate (For Possible Action)**

State law (NRS 445A.520) requires that standards be set at levels designed to protect beneficial uses for surface waters of the state. Nevada has been delegated authority to set water quality standards under the Clean Water act and federal regulations (40CFR 131.20) require states to periodically review their water quality standards, and as appropriate update those standards. The proposed regulation changes the Nevada Administrative Code (NAC) revising the Nevada water quality regulations for the former "Class Waters" located in the Upper Humboldt River Basin. Revisions include the addition of numeric criteria for nitrate, nitrite, total suspended solids, turbidity, color, chloride, sulfate and alkalinity based upon guidance published by the U.S. Environmental Protection Agency (EPA). These additions were deemed necessary to protect the beneficial uses.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to the State for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The proposed regulation does not include provisions which are more stringent than a federal regulation. The proposed regulation does not address fees and it is essential to the functions and operations of NDEP.

**11) Administrator's Briefing to the Commission: (For Discussion)**

NDEP Administrator, Dr. Colleen Cripps, will brief the SEC on major federal rulemaking currently underway, submitted Bill Draft Requests which may have an impact on NDEP, the status of Nevada's hydraulic fracturing regulations and staff changes.

**12) Public Comment (For Discussion)**

Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson. (See Nevada Open Meeting Law Manual - Page 58 and 81)

### 13) Adjournment

#### **Additional Information:**

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this agenda was posted no later than three working days prior to the hearing at the following locations:

- Nevada State Library & Archives, 100 N. Stewart St., Carson City, NV;
  - Dept. of Conservation & Natural Resources, 901 South Stewart Street, Carson City, NV;
  - Nevada Division of Minerals, 400 W. King Street, Carson City, NV;
  - Nevada Dept. of Wildlife, 1100 Valley Road, Reno, NV
  - Nevada Division of Environmental Protection, 2030 E. Flamingo Rd, Las Vegas;
- Members of the public can inspect copies of the regulation to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

This agenda and the text of the proposed regulation, including previous drafts, are or will be posted on the on the Legislative Counsel Bureau's website at: <http://www.leg.state.nv.us/Register/>.

This agenda and supporting material for the above referenced meeting are posted on the State Environmental Commission's website at: [http://sec.nv.gov/main/hearing\\_1014.htm](http://sec.nv.gov/main/hearing_1014.htm). Supporting material is also available at the office of the State Environmental Commission, 901 South Stewart St., Suite 4001, Carson City, NV. Anyone desiring supporting material or additional information is invited to contact Valerie King at (775) 687-9374.

Persons wishing to comment on the proposed actions of the SEC may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of Valerie King, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9374, no later than 5:00 p.m., October 3,

2014.