

FORM # 1

**FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR
ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS**

1. Nevada Division of Environmental Protection
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2. The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is an environmental regulatory agency.
3. Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.300 establishes specific authority of the SEC regarding the ability to charge appropriate fees to pay the expenses of administering NAC Chapter 445B.

SPECIFIC CHANGES:

The NDEP is proposing a comprehensive amendment to the fee structure in NAC 445B.327 for the Bureaus of Air Pollution Control and Air Quality Planning (Air Program). The amendment seeks to update the Air Program's approach to how fees are assessed to: a) align the revenue generated by the operating permits program with the increasing costs associated with the implementation of the Air Program, and b) redistribute the fee load across the regulated industry to reflect workload and resources required to implement the Air Program.

Specifically, the amendments will:

For fees in general,

- Eliminate annual maintenance fees based on emissions for Class I sources;
- Increase application and maintenance fees for all permit categories with the exception of the Class II General Permit for Stationary Sources; and
- Add definitions for terms used to describe engineering and administrative services provided in the processing of permit applications where appropriate.

For permit application fees,

- Increase the fees for new applications, revisions, and renewals of Class I Operating Permits to Construct and Operating Permits with a Prevention of

- Significant Deterioration (PSD) action;
- Create a tiered fee structure for new applications, revisions, and renewals of Class I Operating Permits to Construct and Operating Permits without a PSD action based on the number of emission units associated with the application;
- Create a tiered fee structure for new applications, revisions, and renewals of Class II Operating Permits based on the number of emission units associated with the application;
- Create a tiered fee structure for Class II Surface Area Disturbance Permits based on the number of acres disturbed; and
- In certain instances create new fees where a fee was not previously charged for engineering and administrative services provided in conjunction with processing permit applications.

For annual maintenance fees,

- Increase the fee for all Class I permits;
- Create a tiered fee structure for Class II Operating Permits based on the potential to emit pollutants, the acreage of surface area disturbances, and the number of emission units; and
- Increase the fees for Class II General Permits and Class II Surface Area Disturbance Permits.

4. NEED FOR AND PURPOSE:

The basic fee structure for the operating permits program has not been altered or amended since 2006. In that time, the state has grown and the size and scope of the air pollution control program has increased. The program is predominantly a fee based program, receiving no general fund revenue to support its mission. Revenues have declined steadily in recent years; for instance, maintenance fees collected from major emission sources, particularly coal-fired power plants, have been significantly reduced as some of those sources have ceased operations. There has not been any significant increase in federal grant funding that NDEP relies on to support the Air Program. At the same time, program operating expenses have steadily increased. Finally, it was recognized that preparation and maintenance of both Class I and Class II permits requires engineering analysis and staff time resulting in costs well in excess of the fee currently being charged. The Air Program has been supplementing the increasing difference between revenues and expenses through their reserve funds. However, as also noted by the Legislative Financial Committee during the 80th Legislative Session, the significant and consistent decline in reserve funds represent an issue that the Air Program must address. Therefore, it is necessary to realign the fee structure and increase operating permit fees to better reflect the expenses of administering the program.

5. ECONOMIC EFFECTS:

- (a) Regulated Business/Industry. These amendments will have an economic effect on the regulated industry, though it is difficult to gauge the degree. Much of the

fee structure associated with the air pollution control operating permit program is being revised. Care was taken to limit fee increases on permits and services affecting small businesses.

- (b) Public. These proposed amendments will have no direct economic effect on the public.
- (c) Enforcing Agency. There will be no additional costs to the agency.

- 6. The proposed amendments do not overlap any other State regulations. They pertain only to fair program fees.
- 7. The proposed amendments are no more stringent than what is established by federal law.
- 8. The regulations propose increased fees and a revised fee structure. The total Air Program budget is estimated at \$8,500,000, with total revenue from fees estimated at \$4,500,000 with the proposed fee structure.

The revenue collected will be used to both administer the current air pollution permit program and air quality planning functions, and to build back a budget reserve that meets Nevada Department of Administration, Budget Division guidelines. Revenue will be used to help fully fund existing staff positions that have at times been left unfilled to help with budget savings, to purchase necessary equipment, and to maintain acceptable levels of staff training and certification. The current air program budget reserve is approximately 20% of annual budget expenditures. An additional goal of the regulation amendment is to build a budget reserve of 100% of annual budget expenditures in a 6 to 7-year time frame.

