

## **Permanent Regulation – Informational Statement**

### **A Regulation Relating to Air Pollution Control**

Legislative Review of Adopted Regulations as Required  
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

### **State Environmental Commission (SEC) LCB File No: R145-13**

#### **Regulation R145-13:**

The SEC has adopted an amendment to NAC 445B.22097, “*Standards of quality for ambient air*,” and NAC 445B.311, “*Environmental evaluation: Contents; consideration of good engineering practice stack height*.” The Nevada side of the ambient air quality standards table in NAC 445B.22097 was modified to further align it with the national ambient air quality standards (NAAQS) currently in effect. Specifically, the regulation revises the nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>) and fine particulate matter (PM<sub>2.5</sub>) standards in the Nevada side of the ambient air quality standards table. The revision to NAC 445B.311 modifies the environmental evaluation requirements for conducting an air dispersion analysis. In accordance with NAC 445B.311, an existing facility is not required to model if it has the potential to emit less than 25 tons per year for each pollutant standard. The amendment increases that threshold for the 2010 1-hour SO<sub>2</sub> and NO<sub>2</sub> NAAQS to 40 tons per year. As a service to regulated industries, the Nevada Division of Environmental Protection (NDEP) conducts modeling for facilities below the 25 tons per year threshold and will continue to do so for facilities below the new thresholds.

#### **1. Need for Regulation:**

These amendments are in response to a federal requirement. When the U.S. Environmental Protection Agency (USEPA) promulgates a new or revised NAAQS, states must submit a plan which provides for implementation, maintenance and enforcement of the standard pursuant to Clean Air Act § 110(a)(1). The amendment addresses the implementation of the 2006 PM<sub>2.5</sub>, 2010 SO<sub>2</sub> and 2010 NO<sub>2</sub> NAAQS.

#### **2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.**

A stakeholder meeting was held on November 6, 2013 to solicit comments and input regarding potential ways to implement the federal NAAQS. A subsequent workshop on the proposed regulatory amendments was held on November 26, 2013. As a result of public comments, the NDEP revised the proposed regulations. On March 20, 2014, the NDEP conducted another public workshop on LCB’s Revised Proposed Draft Regulation, R145-13. Both workshops were held in Carson City and video conferenced to Las Vegas. The meeting location in Carson City was the Nevada Department of Transportation, 1263 S. Stewart Street (3<sup>rd</sup> Floor Conference Room). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

Sixteen (16) people attended the stakeholder meeting; thirty-three (33) people attended the November 26, 2013 workshop; and twelve (12) people attended the March 20, 2014 workshop. At the November workshop, industry representatives made several suggested changes and the NDEP subsequently revised the proposed regulation. At the March workshop there was discussion regarding the proposed regulation modifications, but no one opposed or suggested changes to the second revision of the draft regulation.

Summary minutes of both workshops are posted on the SEC website at:  
[http://sec.nv.gov/docs/R145\\_13\\_Wrkshp\\_Minutes\\_Nov.pdf](http://sec.nv.gov/docs/R145_13_Wrkshp_Minutes_Nov.pdf)  
[http://sec.nv.gov/docs/R145-13\\_Workshop\\_Minutes.pdf](http://sec.nv.gov/docs/R145-13_Workshop_Minutes.pdf)

Following the workshops, the SEC held a formal regulatory hearing on May 2, 2014 at the Nevada Department of Conservation and Natural Resources on Stewart Street in Carson City, Nevada. A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of NDEP in Las Vegas, at the Division of Minerals in Carson City, at the Department of Wildlife in Reno, on the LCB website, the Department of Administration website and was also sent to the SEC mailing list.

The public notice and the proposed permanent regulation, R145-13, were posted at the locations noted above, and additionally, were made available at county libraries throughout the state.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: [http://sec.nv.gov/main/hearing\\_0514.htm](http://sec.nv.gov/main/hearing_0514.htm).

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

(a) Attended May 2, 2014 hearing: 25 (approximately)

(b) Testified on this Petition at the hearing: 1

Allen Biaggi  
Nevada Mining Association  
201 W. Liberty Street, Suite 300  
Reno, Nevada 89501  
Phone: 775-829-2121

Mr. Biaggi spoke in support of the adoption of R145-13

(c) Submitted to the agency written comments: 1

Mark McSwain  
Foreland Refining Corporation  
1582 West 2600 South  
Woods Cross, Utah 84087  
Business Phone: (801) 298-9866

Mr. McSwain's concerns regarding the proposed regulation changes were resolved by addressing his individual permit, as opposed to the proposed regulation.

**4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses through e-mail, telephone, the stakeholder meeting, two public workshops and at the May 2nd Commission hearing as noted in number 2 above.

**5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted without change as a result of the NDEP having revised the proposed regulation in response to stakeholder comments and conducting a second public workshop. No significant comments were received at the second workshop or at the SEC hearing that would cause a need for change.

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

- (a) Regulated Business/Industry. The economic effect of this regulation can only be determined on a case-by-case basis for each affected business. If the environmental evaluation shows that the emissions from a business are expected to exceed the air quality standards, the business must revise its operating procedures or install controls to reduce emissions. The cost will range from no cost to the cost of installing emission controls appropriate to the individual situation.

It is important to note that the new NO<sub>2</sub>, SO<sub>2</sub>, and PM<sub>2.5</sub> standards are federal standards which industry must comply with regardless of whether the USEPA or the NDEP implements them.

- (b) Public. The proposed regulation will have beneficial effects in terms of improved health and welfare. The NAAQS are established to protect against adverse effects of polluted air on human health. The cleaner the emissions, the less health effects will be experienced by those persons downwind of the facility. In addition, the emissions reductions will also benefit public welfare. Such benefits include improved visibility and less damage to materials and ecosystems.

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

There will be an incremental cost to the NDEP for implementing the required federal regulations; however, that cost is built into the fee structure of the Bureau of Air Pollution Control.

**8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication**

**or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

This regulation does not duplicate any other federal, state or local regulation.

**9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.**

The regulation is not more stringent than any federal regulation or guidance.

**10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation does not address specific fees.