

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R038-13

**Notice of Regulatory Hearing
Adoption of Regulations and Other Matters Before the
State Environmental Commission**

The State Environmental Commission (SEC) will hold a meeting on Wednesday February 12, 2014 at 10:00 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 purpose of the meeting is to receive comments from all interested persons regarding the information listed on this agenda.

Nevada Division of Environmental Protection: (For Possible Action)

R145-13: Air Quality; revising provisions governing ambient air quality standards and providing other matters properly relating thereto:

The Nevada Division of Environmental Protection (NDEP) is proposing to amend NAC 445B.22097, "*Standards of quality for ambient air.*" Proposed is the revision to the Nevada side of the ambient air quality standards table in NAC 445B.22097 to further align it with the national ambient air quality standards (NAAQS) currently in effect. The proposed regulation revises the nitrogen dioxide (NO₂), sulfur dioxide (SO₂) and fine particulate matter (PM_{2.5}) standards in the Nevada side of the ambient air quality standards table.

These amendments are in response to a federal requirement. If adopted, these amendments will be submitted to the U.S. EPA (USEPA) as a revision to Nevada's state implementation plan. On September 27, 2012, the USEPA made a formal determination that the NDEP is deficient in its implementation of the 2006 PM_{2.5} NAAQS. The NDEP has two years to address the deficiency or be subject to a federal implementation plan. 77 FR 59321. The USEPA has also put the NDEP on notice that it must address the 2010 1-hour NO₂ and SO₂ standards, as well. 77 FR 38564. The deficiencies identified by USEPA apply to the NDEP Bureau of Air Pollution Control's (BAPC) minor NSR permitting program. That program includes all BAPC permit actions except Prevention of Significant Deterioration (PSD) permit actions.

The economic effect of this regulation can only be determined on a case-by-case basis for each affected business. If the environmental analysis 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 proposed NO₂, SO₂, and PM_{2.5} standards are federal standards with which industry must comply regardless of whether the USEPA or the NDEP implements them. If

USEPA must implement the standards, it will do so remotely, in a unilateral manner, with little experience of Nevada's industry and without the NDEP's commitment to support economic development. In contrast, the NDEP has active working relationships with the regulated industry and is well positioned to develop Nevada-specific implementation strategies with industry that are effective and as unobtrusive as possible.

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 are, 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. In California, for example, which is nonattainment for PM_{2.5}, the costs of installing controls and changing operating procedures is estimated to be between \$53 million and \$350 million, while the corresponding benefits (decreased mortality rates, fewer hospital admissions) are estimated to be \$3.6 billion to \$8.2 billion. For NO₂, the USEPA estimated that the annualized average cost to install controls sufficient to go from nonattainment to attainment was in the range of \$3,000 to \$6,000 per ton of NO₂ removed. The USEPA was unable to determine direct health benefits, but it did analyze the co-benefits derived from reducing NO₂ as a precursor to the formation of PM_{2.5}. The USEPA estimates that the benefit-per-ton removed ranges from \$5,200-\$13,000/ton based on a discount rate of 3%. The USEPA performed a similar analysis for the 1-hour SO₂ standard, which shows a range of control costs and health benefits depending on the level of attainment achieved by the state.

This regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP.

R038-13: Hazardous Waste; Revising Provisions Governing the Regulation of Facilities for the Management of Hazardous Waste: 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.

Additional Information: 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 can inspect copies of the regulations 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.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, the public notice for this hearing was posted at the following locations: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (2030 E. Flamingo Rd. Suite 230), at the State Library and Archives building in Carson City (100 Stewart Street) and at the Nevada Division of Minerals, 400 W. King Street, Carson City, NV.

In addition, copies of this notice have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are also available on the SEC's website at: http://sec.nv.gov/main/hearing_0214.htm . The proposed regulation denoted in this notice, including previous drafts, is or will be posted on the Legislative Counsel Bureau's website at: <http://www.leg.state.nv.us/register/> .

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 4:00 p.m. on February 7, 2014.