

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

LCB File No. R027-15

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, October 14, 2015 at 9:00 am in Carson City. The meeting location is the Nevada Legislative Building located at 401 South Carson Street, Room 2135. The purpose of the meeting is to receive comments from all interested persons regarding the information listed on this notice and the meeting agenda.

Nevada Division of Environmental Protection: (For Possible Action)

R020-15: Bureau of Safe Drinking Water – Subdivision Process Amendment

The proposed amendment addresses NAC Chapter 278. Prior to adoption of the Temporary Amendments on May 6, 2015, the existing regulation prohibited any construction from occurring at a proposed subdivision until a Final Map was approved. An alternative was requested by interested parties to consider allowing mass grading of a proposed subdivision earlier in the review and approval process. The Temporary Amendments were crafted to ensure the protection of public health and maintain a mechanism to ensure that land grading will not negatively impact the engineering design of water and wastewater infrastructure. The proposed Permanent Amendments will permit grading and construction to begin upon Agency review and approval of water and wastewater utility engineering design “plans for improvement” prior to Final Map approval.

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 is essential to the functions and operations of NDEP.

R027-15 - Bureau of Air Quality Planning – Ambient Air Quality Standards

The NDEP is proposing to amend NAC 445B.22097, “Standards of quality for ambient air,” to further align it with the national ambient air quality standards (NAAQS) currently in effect. The proposed regulation revises the annual fine particulate matter (PM_{2.5}) standard in both the Nevada side and the federal side of the standards table from 15.0 to 12.0 micrograms per cubic meter and removes the annual PM₁₀ standard. New definitions for PM_{2.5} and PM₁₀ are also

proposed to clarify that direct gaseous emissions from a source that condense to form particulate matter at ambient temperatures are included in those terms, as required by federal regulation. The amendments are in response to a federal requirement. When the USEPA promulgates a new or revised NAAQS, states must submit a plan which provides for implementation, maintenance and enforcement of such standard, Clean Air Act § 110(a)(1). The proposed amendments address the implementation of the USEPA's December 14, 2012 PM2.5 NAAQS revision, as well as clarify and simplify the particulate matter regulations.

It is important to note that the proposed PM2.5 standard is already a federal standard that industry must comply with regardless of whether the USEPA or the NDEP implements it. If USEPA implements the standard, it will do so remotely and unilaterally, 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.

There will be an incremental cost to the agency for implementation of the required federal regulation, but such cost is built into the current fee structure of the BAPC. 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, does not address fees and is essential to the functions and operations of NDEP.

R028-15 - Bureau of Air Quality Planning – Adopt by Reference

The NDEP is proposing to amend NAC 445B.221, Adoption by reference and applicability of certain provisions of federal law and regulations, to adopt applicable federal rules promulgated since the State regulation was last updated as of July 1, 2013. The update includes rulemakings under 40 CFR Part 51, "Requirements for preparation, adoption, and submittal of implementation plans", Part 60, "Standards of performance for new stationary sources" (NSPS), Part 61, "National emission standards for hazardous air pollutants" (NESHAP), and Part 63, "National emission standards for hazardous air pollutants for source categories" (NESHAP).

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.

R054-15 - Bureau of Air Quality Planning – Voluntary Emission Reduction Credits Program

The NDEP is proposing a new, voluntary program intended to assist in growth and economic development in areas designated as nonattainment for a national ambient air quality standard(s) (NAAQS). The program will provide offsets for new, major stationary sources wishing to locate in a nonattainment area or for an existing facility to make a major modification, while at the

same time providing air quality benefits. This program will provide for the creation, banking, transfer and use of Emission Reduction Credits (ERCs). In a nonattainment area, if a facility reduces emissions through an operational change, a reconfiguration or a shutdown, the program will allow the facility to request credit for the reductions and bank a reduced portion of the credit for future use or sale. The emission reductions used to generate an ERC must be surplus, permanent, quantifiable and federally enforceable.

A fee is proposed for the ERC program commensurate with the level of effort currently required by the NDEP in its review of operating permit applications from the regulated community. It is important to note that this proposed regulation is a voluntary program and industry may participate only if it chooses to. The proposed regulation will have beneficial effects in terms of improved health and welfare. Due to the automatic reduction in the allowable emissions from the ERC program, the public will benefit from cleaner air.

There will be an incremental cost to the agency for implementing this regulation. The proposed changes to the BAPC fee structure (NAC 445B.327) will accommodate these costs. The proposed amendments do not overlap any other State regulations and are not more stringent than what is established by federal law. The proposed regulatory petition does address fees. All fees collected will be used to support the ERC program.

R052-15 - Bureau of Mining Regulation and Reclamation – Reclamation

The NDEP is proposing to amend Chapter 519A of the NAC to include a new section which defines “mine impacted waters.” NAC 519A.270 and NAC 519A.345 are revised to require a reclamation plan that describes the measures which may be required to stabilize, manage, control, or treat mine impacted waters from waste and development rock piles, open pit mines and underground mines. NAC 519A.360 is amended to require the costs for stabilization, management, control and treatment of mine impacted waters to be included in the reclamation project bond. It also provides authority for the NDEP to bond for long-term fluid management costs such as perpetual treatment of mine impacted waters. Clarification is provided in NAC 519A.350 to include cash deposits as an acceptable reclamation surety.

This regulation may result in operators of mining operations having to submit a higher reclamation project bond to cover costs associated with stabilization, management, control or treatment of mine impacted waters. This would currently only apply to projects located on private land, as the Bureau of Land Management (BLM) has the bonding authority for projects on public land. This regulation will not have an immediate or long-term adverse economic impact on the public. 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, does not impose a fee change and is essential to the functions and operations of NDEP.

R063-15 - Bureau of Corrective Actions – Spill Reporting Hotline

The NDEP is proposing to amend Chapter 445A of the NAC to allow for online reporting of non-significant releases to the environment. Currently, all releases must be reported verbally. Online reporting of non-significant incidents and releases will provide a more streamlined, efficient, and effective reporting system for the Division and for Users. The Division identified less than 10% of the 514 reported incidents or releases of regulated substances in 2014 as significant. Online submission is more efficient: once the User completes and submits the online report form, it is automatically emailed directly to the Duty Officer and Program Manager who will be able to route it to the appropriate agency and directly upload the information into the current database. This system of first person reporting will result in more accurate spill reports.

Online reporting will also fulfill the online reporting requirement set forth in Senate Bill No. 236:

An ACT relating to governmental administration; requiring a state agency to make available on an Internet website maintained by the state agency certain forms of the state agency in a format which allows the form to be completed, downloaded and saved electronically and submitted securely to the state agency via the Internet; authorizing a state agency to provide a copy of certain records to any other state agency upon request; and providing other matters properly relating thereto.

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, does not address fees and is essential to the functions and operations of NDEP.

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://www.sec.nv.gov/main/hearing_1015.htm . The proposed regulations denoted in this notice, including previous drafts, are, or will be, posted on the Legislative Counsel Bureau's website at <http://www.leg.state.nv.us/register/> and also the Department of Administration's website at <https://notice.nv.gov/> .

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 October 12, 2015.