

Permanent Regulation - Informational Statement

A Permanent Regulation Relating to the Petroleum Fund Program

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

Nevada Board to Review Claims LCB File No: R032-17

Permanent Regulation R032-17:

Nevada Revised Statutes (NRS) 445C.310 establishes the authority of the Nevada Board to Review Claims (Board) to adopt regulations for the investigation and payment of claims, administration of a grant program and administration of a program of assistance in accordance with Senate Bill No. 251 (2017).

SPECIFIC CHANGES:

Pursuant to Senate Bill No. 251 (2017), the Board to Review Claims is responsible for adopting regulations that allow for NDEP to administer a grant program as well as a program to provide technical assistance to Underground Storage Tank (UST) owners/operators.

The changes include:

1. New definitions
2. Availability of grant funds to applicants, eligibility requirements and use of funds
3. Application requirements
4. Review of application, ranking criteria, limitation of grant funding, reapplication when annual funding is exhausted and limitation of grant awards
5. Grant allocation
6. Duties of a grant recipient
7. Audit and inspection of records
8. Grant repayment
9. Administration of a program to provide technical assistance

1. Need for Regulation:

To comply with the new federal underground storage tank (UST) regulations published on July 15, 2015, the Nevada UST program recently amended regulations NAC 459.9921 through NAC 459.999, inclusive. The amendments will require all UST owners/operators who are currently subject to the 2005 Energy Policy Act and the new UST regulations to implement regularly scheduled leak detection tests on spill buckets and containment sumps beginning October 2018. The testing is anticipated to

detect a large number of non-compliant UST systems that will require upgrades to their spill buckets and containment sumps. The upgrades are costly due to the expense of the equipment as well as the labor and mobilization costs charged by the specialists who must travel to each facility and install the equipment.

Senate Bill No. 251, passed into law in 2017, requires the Board to Review Claims to adopt regulations needed to administer a grant program that will minimize the economic burden of compliance with the new UST regulations for owners/operators who have a financial need. In addition, a technical assistance program will be implemented.

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.

On August 7, 2017, a workshop was conducted in Carson City at the Laxalt Building located at 401 North Carson Street. On August 8, 2017, a workshop was conducted in Elko at the Nannini Administration Building, 540 Court Street, Suite 102. On August 10, 2017, a workshop was conducted in Las Vegas at the Grant Sawyer Building, 555 East Washington Avenue, Suite 4412.

A total of Eleven (11) members of the public attended the workshops.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at:
https://ndep.nv.gov/uploads/env-petro-docs/Workshop_Mtg_Minutes_August_7,_8__10_2017.pdf

Following the workshop, the Board held a formal regulatory hearing on December 14, 2017 at the Legislative Building, Room 2134, located at 401 South Carson Street and video-conferenced in Las Vegas at the Grant Sawyer Building, Room 4401, located at 555 East Washington Ave. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at NDEP in Las Vegas, at the State Fire Marshal's Office in Carson City, at the Clark County Manager's Office, on the LCB website, on the Division of Administration website and on the Petroleum Fund website.

Copies of the agenda, the public notice, and the proposed permanent regulation R032-17 were also made available at all public libraries throughout the state as well as to individuals on the Certified Environmental Manager email list and the Owner/Operator email list. The agenda was posted pursuant to the Open Meeting Law.

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

(a) Attended December 14, 2017 hearing: 8 (approximately)

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

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(c) Submitted to the agency written comments: 0

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, three public workshops and at the December 14, 2017 Board to Review Claims 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 changes because there were no negative comments received by NDEP and no testimony in opposition to the regulatory changes during the hearing.

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

Regulated Business/Industry. The proposed amendments will have a positive economic impact on business and industry. The newly adopted UST regulations that specifically address petroleum release prevention from spill buckets and containment sumps will result in many UST owners/operators being forced to upgrade their systems. These proposed regulations will provide NDEP the tools to administer a grant program that will offset costs of the required system upgrades. In addition, free technical assistance will be provided to all UST owners/operators.

Public. The proposed amendments are not expected to have an economic effect on the public.

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

Enforcing Agency. The proposed amendments will have no economic effect on the agency. A new database has been developed that has created an approximately 30% efficiency in the Petroleum Fund program, which will more than facilitate the

administration of the grant process. There may be a cost of approximately \$3,500 for the modification.

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.

The amendments do not duplicate any other State regulations.

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 no more stringent than what is established by federal law.

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 new fees.