

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

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

State Environmental Commission Permanent No: R103-22P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

R103-22 proposes updates to increase the fees for the Division to ensure the CAPP can continue to perform its statutory requirements including permitting, inspection and compliance of facilities, and appropriate staffing and staff development. The need for the proposed regulatory amendment is to offset inflation and ensure the agency is able to continue to effectively serve the regulated community and the public. Agency costs have increased due to inflation and legislatively mandated personnel costs while fees have remained unchanged for 17 years. Staff time and resources necessary to review permit applications and inspect facilities have increased substantially due to increased projects and project complexity. The agency needs the current number of staff to keep up with demand of the regulated community. At this time, without this regulatory amendment, the agency projects fee income vs. budgeted expenditures to result in a shortfall of roughly \$200,000 for each fiscal year 2023 and 2024, which, while the agency holds modest a reserve, is not sustainable long-term.

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.

The Division held one hybrid (in-person and virtual) public workshop for R103-22P on September 6, 2022. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Twelve members of the public and regulated industry attended the workshop either in-person or virtually.

The Legislative Counsel Bureau published its draft, R103-22P, in the Nevada Register on August 12, 2022. The Division accepted written comments on R103-22I and R103-22P up to September 6, 2022. The Division received eight written comments and/or questions concerning R103-22I and/or R103-22P. Those comments are attached as a pdf.

The SEC held a hybrid regulatory hearing on September 20, 2022, to consider possible action on R103-22P. The SEC posted its public notice, which included a link¹ and instructions to access R103-22P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting.

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

(a) Attended September 20, 2022 hearing: 24 (approximately)

(b) Testified on this Petition at the hearing: 2

1. Jeffrey Kinder, on behalf of the Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, Nevada 89701
(775) 687-9307
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2. Jennifer Schumacher, on behalf of the Nevada Division of Environmental Protection
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(c) Submitted to the agency written comments: 8 (attached)

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 one public workshop and at the September 20, 2022 SEC hearing as noted in number 2 above.

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-september-20-2022>

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 Commissioners unanimously adopted R103-22P without change because the public and the SEC were satisfied with the proposed regulation.

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

Regulated Business/Industry. Increased application fees for new facilities and modifications to existing facilities will depend on how long a permit application takes to process because there is an initial fee and an hourly fee. If a project is not very complex or extensive in nature, there will be a smaller increased fee. If a permit takes longer to process, there will be larger fees associated with that permit. Annual fees will affect all facilities subject to CAPP registration. All fee increases are based upon applying the Consumer Price Index (CPI) to the fees last updated in 2005.

Public. The regulatory amendments in R103-22P are expected to have no economic impact on the public.

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

Enforcing Agency. The regulatory amendments proposed in R103-22P are not expected to result in any additional costs to the Division.

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 proposed amendments in R103-22P do not overlap or duplicate other state or government agencies.

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 regulatory amendments in R103-22P are 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.

NDEP estimates that in the first full fiscal year that the amendment takes effect (FY 2024) the agency will collect an additional \$200,000. The fees will be used to support CAPP activities and current staffing.