

Permanent Regulation – Informational Statement

A Regulation Relating to Air Quality Standards

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

State Environmental Commission (SEC) LCB File No: R054-15

Regulation R054-15:

Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.300 establishes specific authority of the SEC regarding operating permit requirements for sources of air contaminants.

SPECIFIC CHANGES:

The NDEP is adopting a new, voluntary program intended to assist in growth and economic development in areas designated nonattainment for a national ambient air quality standard(s) (NAAQS). The program will provide offsets for a new major stationary source 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 provides 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 allows 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.

1. Need for Regulation:

The U.S. Environmental Protection Agency (USEPA) continues to establish lower NAAQS. Some NDEP-regulated facilities in Clark County currently hold ERCs that were granted in an operating permit; however, there is no mechanism for those ERCs to be used. To provide this mechanism and in preparation of possible future nonattainment area designations in Nevada, there is a clear need for this type of program.

In order for a new major stationary source or major modification to an existing source to locate in a nonattainment area, the USEPA requires emission offsets, or reductions, from the new proposed source or modification, such that there will be reasonable progress toward attainment of the applicable NAAQS. The emissions offsets generated as a result of the ERC program will provide a positive net air quality benefit in the affected area (40 CFR 51, Appendix S, IV.A).

The ERC program will enable the NDEP to implement USEPA's emissions offset rule for those facilities in Clark County that are regulated by the NDEP and in any possible future nonattainment areas in the NDEP's jurisdiction.

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 July 7, 2015 NDEP conducted a public workshop on proposed Regulation R054-15. The workshop was held in Carson City teleconferenced in Las Vegas. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Great Basin Conference Room) and teleconferenced to the NDEP office, located at 2030 East Flamingo Road, Suite 230.

Eight (8) members of the public attended the workshop.

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:
http://www.sec.nv.gov/main/hearing_1015.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 14, 2015 at the Nevada Legislative Building located at 401 South Carson Street, Room 2135. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Department of Wildlife, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R054-15 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Air Quality Planning electronic mailing list.

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://www.sec.nv.gov/main/hearing_1015.htm .

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

- (a) Attended October 14, 2015 hearing: 21 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 1

The name of the person who submitted written comments was not present at the hearing:

Starla Lacy
Nevada Energy
6226 West Sahara Avenue, Las Vegas, Nevada 89146
Nvenergy.com
slacy@nvenergy.com

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 conversations, a public workshop and at the October 14, 2015 SEC 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 with changes that resulted from the comment letter mentioned above. The erratum has been included and SEC approved the modified regulation (see Number 3 above).

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 NDEP has structured fees 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 also important to note that this regulation is a voluntary program and industry can choose whether or not to participate.

Public. The 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.

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

There will be an incremental cost to the agency of implementing this regulation. The changes to the BAPC fee structure (NAC 445B.327) will accommodate these costs.

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 regulation does not overlap 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 address fees; see 6 above. Any fees collected will be used to support the ERC program.