

FORM # 1

FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR
ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS

1. Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249
(775) 687-4670
December 6, 2013


Jasmine Mehta, Chief
Bureau of Air Quality Planning
(775) 687-9495

2. The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is an environmental regulatory agency.
3. 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 proposing to amend NAC 445B.22097, "*Standards of quality for ambient air.*" We are proposing to revise 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.

4. NEED FOR AND PURPOSE:

These amendments are in response to a federal requirement. On September 27, 2012, the U.S. Environmental Protection Agency (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.

5. ECONOMIC EFFECTS:

- (a) Regulated Business/Industry. 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.

- (b) Public. 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.¹ 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.² 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

¹ Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division (Feb. 28, 2013), available at <http://www.epa.gov/ttnecas1/regdata/RIAs/finalria.pdf>. (last viewed Nov. 7, 2013).

² Final Regulatory Impact Analysis (RIA) for the NO₂ National Ambient Air Quality Standards (NAAQS), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impact Division, Air Benefit-Cost Group (January 2010) at 3-5 (available at <http://www.epa.gov/ttnecas1/regdata/RIAs/FinalNO2RIAfulldocument.pdf>) (last viewed Nov. 7, 2013).

**Standards table
P2013-04**

discount rate of 3%.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.⁴

(b) Enforcing Agency. There will be an incremental cost to the agency of implementing the required federal regulations, but such cost is built in to the fee structure of the Bureau of Air Pollution Control.

6. The proposed amendments do not overlap or duplicate any other State or federal regulations.
7. The proposed amendments are no more stringent than what is established by federal law.
8. The proposed amendments do not address fees.

³ *Id.* at 4-12.

⁴ Final Regulatory Impact Analysis (RIA) for the SO₂ National Ambient Air Quality Standards (NAAQS), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Health and Environmental Impact Division, Air Benefit-Cost Group (June 2010) at ES-9 (available at <http://www.epa.gov/ttn/ecas/regdata/RIAs/fso2ria100602full.pdf>) (last viewed Nov. 7, 2013).