Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection
Bureaus of Air Quality Planning and Air Pollution Control

Air Pollution Control Permitting Program: Fees

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

State Environmental Commission (SEC)
Petition 2006-10 – LCB File No. R154-06

This permanent regulation amends the fee structure in NAC 445B.327 to make the revenue generated by the air pollution control operating permits program more commensurate with the expense of administering the program. The air pollution control program is predominantly a fee based program, receiving no general fund revenue to support its efforts. These fees had not been significantly increased in ten years, whereas the size and scope of the program have increased due primarily to new federal mandates. Furthermore, a significant source of revenue, the Southern California Edison's Mohave Generating Station (Mohave), shut down at the end of 2005, and federal grant funding was reduced. Therefore, it was necessary to increase operating permit fees to pay the expenses of administering the program.

1. 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.

NDEP's Bureau of Air Pollution Control held two public workshops on the above referenced regulation at the following locations.

ELKO	RENO
Tuesday, August 8, 2006	**Thursday, August 10, 2006**
11:00 AM to 1:00 PM	**9:30 AM to 11:30 AM**
Community Center Social Room	**Conference Room A**
Great Basin College	**Nevada Division of Wildlife**
1500 College Parkway	**1100 Valley Road**

The workshop notice was sent by direct mail to every permitted facility in Nevada – over 600 – and to all interested persons on the Air Quality ground-based and electronic mailing lists. The workshop in Elko was attended by three persons; the Carson City workshop was attended by five persons. No adverse comments were received.

The State Environmental Commission (SEC) held a public hearing to consider this regulation on September 6, 2006 at the Nevada Division of Wildlife in Reno, Nevada.

The hearing agenda was posted at the following locations: the Nevada Department of Wildlife building in Reno, the Grant Sawyer Office Building in Las Vegas, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed regulation noted above were made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice for the hearing was published on August 15, 2006, August 22, 2006 and August 29, 2006 in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at http://sec.nv.gov/main/hearing_0906.htm.

2. The number persons who attended the SEC Regulatory Hearing:

(a) Attended September 6, 2006 hearing; 70
(b) Testified on this Petition at the hearing: 1 (NDEP Staff)
(c) Submitted to the agency written comments: -0-

3. 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 facilities as indicated in number 1 above. In addition to the public workshop and the SEC regulatory hearing, the NDEP held numerous meetings with representatives from the affected industry during regulation development and incorporated stakeholder comments into the regulation as it was drafted.

4. 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 State Environmental Commission adopted the regulation without change on September 6, 2006. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

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

Regulated Business/Industry. These amendments will have an economic effect on the regulated industry. Specifically, the amendments:

- For application fees, (1) increase the fee for a Class II general permit and a surface area disturbance from $400 to $500; and (2) clarify that the first year's annual maintenance fee for a new source is included in the application fee.

- For annual fees based on emissions, (1) increase the fee for Class I sources to $16 per ton for each regulated pollutant; (2) repeal the fee for Class II sources; and (3) add an inflationary adjustment factor of 2 percent compounded annually.

- For annual fees based on maintenance, (1) increase the fee for all Class I sources, adding a tiered structure; (2) add a 4th tier to the Class II fee structure; (3) increase the fee from $250 to $500 for Class II sources with a potential to emit less than 25 tons per year; (4) increase the fee for surface area disturbances, adding a tiered structure based on acreage permitted; and (5) add an inflationary adjustment factor of 2 percent compounded annually.

- Provide sources with an opportunity to request a pre-application review by the agency for a fee.

Public. The amendments will have no direct economic effect on the public.

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

There will be no additional costs to the agency.

7. 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 or duplicate any regulations of other state or government agencies.

8. 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.

9. 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. The existing fee structure has been generating approximately $1,350,000 to 1,400,000, annually. The closure of Mohave (see introduction) will create an annual loss of approximately $366,000, and the anticipated cutback in federal funding will further reduce annual income by approximately $120,000.

The new fee structure is projected to generate approximately $1,927,000. Together with application fees, which are basically being left unchanged, total revenue from fees under the new structure will be approximately $2,377,000 annually. The revenue collected will be used to administer the growing air pollution permit program, to help

fund three new positions for an Emissions Review and Auditing Branch in the Bureau of Air Pollution Control and to purchase necessary equipment.