

FORM #4

NEVADA STATE ENVIRONMENTAL COMMISSION  
SMALL BUSINESS IMPACT DISCLOSURE PROCESS  
PURSUANT TO 233B "Nevada Administrative Procedures Act"

**RE:** R042-13. Amendments to NAC 445B.22097, "Standards of quality for ambient air," and NAC 445B.308, "Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan"

**By:** Nevada Division of Environmental Protection (NDEP), Bureaus of Air Pollution Control and Air Quality Planning

The purpose of this Form is to provide a framework pursuant to NRS 233B.0608 to determine whether a small business impact statement is required for submittal of a proposed regulation before the State Environmental Commission.

**Note: Small Business is defined as a "business conducted for profit which employs fewer than 150 full-time or part-time employees" (NRS 233B.0382).**

**Part 1**

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 and simply referred to; and if yes reference the small business impact statement as attached)*

ANSWER: **No.** There will be no added economic impacts to small businesses due to the NDEP's update to the State standards portion of the ambient air quality standards table or the removal of obsolete regulations in NAC 445B.308. See the response to Part 2, question 8.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 and simply referred to; and if yes reference the small business impact statement as attached)*

ANSWER: **No.** Nationally, small businesses have been subject to pollution standards under the Clean Air Act for over 30 years. The NDEP has experienced an increased amount of air quality operating permit activity in recent years due to new and expanded business activity. While pollution standards require consideration in a business model, the NDEP strives to work with industry to encourage economic growth while meeting federally mandated pollution standards

3. If **Yes** to either of questions 1 & 2, the following action must be taken:

A. Was a small business impact statement prepared and was it available at the public

workshop. *(yes or no, attach a copy of the statement or if a statement was not completed please explain)*

ANSWER: Yes. A Small Business Impact Statement was prepared, but it was not required to be available at the public workshop because it was determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.

B. Attach the Small Business Impact Statement as part of Form #4 upon submission of the proposed regulation to the State Environmental Commission when Form #1 (petition to the Commission) is submitted.

ANSWER: Please see the attached document.

**FORM #4**  
**SMALL BUSINESS IMPACT STATEMENT**  
(NRS 233B.0609)

**Part 2**

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets noting which are small businesses.)*

Answer: Comment was solicited through a workshop held in Carson City and video conferenced to Las Vegas on July 25, 2013. Comments were also invited via e-mail and telephone. Additionally, the NDEP performed modeling and emission inventory analyses to assess the impact of revising the Nevada ambient air quality standards and determined that small business would not be affected. Notably, regardless of whether the NDEP adopts the national ambient air quality standards (NAAQS) as part of the state air quality standards, the regulated companies must abide by the federal standards. Because the agency determined that small businesses would not be impacted, questions 2-4 are not applicable.

2. The manner in which the analysis was conducted (if an impact was determined).

Answer: Not applicable (see Part 2 #1).

3. The estimated economic effect of the proposed regulation on small businesses:

- a. Both adverse and beneficial effects
- b. Both direct and indirect effects

Answer: Not applicable (see Part 2 #1).

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses. *(Include a discussion of any considerations of the methods listed below.)*

- A. Simplification of the proposed regulation
- B. Establishment of different standards of compliance for a small business
- C. Modification of fees or other monetary interests that a small business is authorized to pay a lower fee.

Answer: Not applicable (see Part 2 #1).

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

Answer: 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.. If this regulation provides for a new fee or increases an existing fee, the total annual amount the agency expects to collect and manner in which the money will be used.

Answer: The regulation does not address fees.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide an explanation of why the proposed regulation is duplicative or more stringent and why it is necessary.

Answer: The regulation is not duplicative of or more stringent than federal, state or local standards regulating the same activity.

8. The reasons for the conclusions regarding the impact of a regulation on small businesses.

Answer: The regulation amends NAC 445B.22097, "*Standards of quality for ambient air,*" and NAC 445B.308, "*Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.*" The regulation adopts the federal 2008 lead and ozone NAAQS into the Nevada side of the ambient air quality standards table, further aligning the state standards with federal standards.

The NDEP is amending the standards table in response to a rulemaking by the U.S. Environmental Protection Agency (USEPA). On September 27, 2012, USEPA identified deficiencies in Nevada's state implementation plan with respect to Nevada's minor sources permitting program. USEPA determined that Nevada's permitting regulations did not adequately address the 2008 lead and fine particulate matter NAAQS. The NDEP identified a similar deficiency with respect to the 2008 ozone NAAQS.

USEPA's rulemaking triggered an obligation on USEPA "to promulgate a Federal Implementation Plan unless the State of Nevada corrects the deficiencies, and EPA approves the related plan revisions within two years" of the effective date of the rulemaking. 77 FR 59321. Thus, these amendments are necessary in order to avoid a federal plan being imposed on the State.

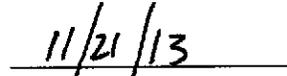
It is important to note that the lead and ozone NAAQS are federal rules with which small business must comply regardless of whether the USEPA or the NDEP implements them. If USEPA must implement the standards, it will do so remotely, in a unilateral manner, with little experience of Nevada's industry and without the NDEP's commitment to support economic development. In contrast, the NDEP has active working relationships with several industry sectors and is well positioned to develop Nevada-specific implementation strategies with industry that are effective and as unobtrusive as possible.

With respect to NAC 445B.308, in accordance with the President's and Governor Sandoval's directives to agencies to streamline regulations and remove unnecessary requirements, the regulation removes an obsolete subsection.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and that the information contained in this statement is accurate.



Colleen Cripps, Ph.D.  
Administrator, NDEP



Date