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Cary Richardson  
 Carson City

**COUNSEL**

Rose Marie Reynolds  
 Deputy Attorney  
 General  
 Las Vegas

**SEC Regulatory Meeting 10/09/13**

The State Environmental Commission (SEC) will hold a meeting on Wednesday October 9, 2013 at 10:00 am in Carson City.

The meeting location is in Carson City at the [Bryan Building](#) located at 901 South Stewart Street (2nd floor, Tahoe Room).



**1) Public Comments:** Members of the public are invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself had been included on an agenda as an item for possible action. Public comment will be limited to ten minutes per person at the discretion of the chairperson. **(For Discussion)**

**2) Approval of the Agenda:** [Agenda](#) **(For Possible Action)**

**3) Approval of the Meeting Minutes**

(A) [Read /Download the June 12<sup>th</sup> 2013 summary meeting minutes \[11 Pages \]](#) or [listen to the verbatim audio file](#) **(For Possible Action)**

**4) Variance for Alternative Fueled Vehicles — Clark County Department of Finance (Automotive Services) : (For Possible Action)**

The County of Clark Department of Finance (Automotive Services) has requested a one year variance from the Alternative Fuel Program. The County is requesting to use regular Ultra Low Sulphur Diesel #2 instead of GDiesel. According to the County, GDiesel will not be available in southern Nevada for the next 12 months. The variance requested is for the time period of July 1, 2013 through June 30, 2014. Of note, Clark County currently has 683 diesel vehicles that are governed under the State's alternative fuel program, and according to the County, if GDiesel became available sooner than the 12 month variance period, the County's fleet will immediately reverts back to GDiesel.

As way of background, since January 2011, Clark County has been using GDiesel refined by Advanced Refining Concepts (ARC) located in Sparks Nevada. To date Clark County has consumed over 3 Million gallons of GDiesel which has been designated an alternative fuel by the Nevada Division of Environmental Protection.

On July 1, 2013, Clark County was advised by ARC that the company could no longer afford to transport GDiesel to Southern Nevada due to rising transportation costs and

the added expense of building a refinery in Southern Nevada. Of interest, ARC has advised Clark County that a new refinery for GDiesel will be available in Southern Nevada within 12 months.

In terms of potential impacts to local air quality, attached is a letter from the Director of Clark County Department of Air Quality stating that the variance request would not have a significant adverse impact on the State Implementation Plan Control Strategy in Clark County.

In making application to the Commission for a variance, Clark County has completed SEC Form #6 (Variance for Alternative Fueled Vehicles). In its application, the County cites lack of available alternative fuel as the principal reason for the requested variance.

- [Read/Download Variance \[4 Page PDF\]](#)

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### 5) Variance for Alternative Fueled Vehicles — City of Henderson Nevada (For Possible Action)

The City of Henderson has requested a one year variance from NDEP's Alternative Fuel Program. The City is requesting to use regular Ultra Low Sulphur Diesel #2 instead of GDiesel. According to the City, GDiesel will not be available in southern Nevada for the next 12 months. The variance requested is for the time period of July 1, 2013 through June 30, 2014.

As noted in the City's request, on July 1st of this year the provider of Gdiesel [Advanced Refining Concepts (ARC) of Sparks Nevada] advised the city that Gdiesel would no longer be available in Southern Nevada; ARC sited the shortage was due to rising transportation costs and the added expense of building a refinery in Southern Nevada. Of interest, ARC advised the City that a new refinery for GDiesel will be available in Southern Nevada within 12 months.

In terms of potential impacts to local air quality, attached is a letter from the Director of Clark County Department of Air Quality stating that the variance request would not have a significant adverse impact on the State Implementation Plan Control Strategy in Henderson, Nevada.

In making application to the Commission for a variance, the City of Henderson has completed SEC Form #6 (Variance for Alternative Fueled Vehicles). In its application, the City cites lack of available alternative fuel as the principal reason for the requested variance.

- [Read/Download Variance \[4 Page PDF\]](#)

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### 6) Penalty Assessments for Air Quality Violations: [Summary Table](#)

- A. **NV Energy, Reid Gardner Generating Station, Clark County** — Penalty Assessments NOAV No. 2452 for alleged failure to comply with a permitted emission limit during a compliance source test (Emission Unit: Unit #4 Steam Boile) The Recommended penalty amount is \$11,255.00 (For Possible Action)
  - ◆ [SEC Notification](#)
  - ◆ [Background NDEP NOAV](#)

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B. **Western States Gypsum** — Penalty Assessments NOAV No. 2450 for alleged failure to construct or operate a stationary source in accordance with any condition of an operating permit. The Recommended penalty amount is \$22,520.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

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C. **Queenstake Resources USA, Inc., Elko County** — Penalty Assessments NOAV No. 2431 for alleged failure to comply with a permitted emission limit during a compliance source test . The Recommended penalty amount is \$67,500.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

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D. **Agri America, Inc. Lyon County** — Penalty Assessments NOAV No. 2439 for alleged failure to apply for and obtain an operating permit. The Recommended penalty amount is \$16,800.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

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E. **Nevada Rae Gold, Inc. Lander County** — Penalty Assessments NOAV No. 2445 - 2448 for alleged failure to comply with a requirement of the permit, i.e., failure to keep a hard copy of the air quality operating permit on site. The Recommended penalty amount is \$600.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

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F. **Crockett Enterprises, Inc. Douglas County** — Penalty Assessments NOAV No. 2437 for alleged failure to apply for and obtain an operating permit. The Recommended penalty amount is \$950.00 (For Possible Action)

- ◆ SEC Notification
- ◆ Background NDEP NOAV

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## 7) Motions to Dismiss Appeals of Air Quality Violations:

A. Pursuant to NAC 445B.894(4), the SEC will consider NDEP's motion to dismiss the appeals from the renewal of the Class II Air Quality Operating Permit to Bango Oil, LLC (Bango).

- ◆ SEC Notification Letter
- ◆ NDEP's Motion to Dismiss Appeal for Want of Prosecution [3 Pages]

B. Pursuant to NAC 445B.894(4), the SEC will consider NDEP's request to dismiss an appeal filed by El Sueno Resort and Casino concerning NOAV 2165

- ◆ SEC Notification Letter
- ◆ NDEP/BAPC - NOAV 2165
- ◆ Office Of the Attorney General, Request to Dismiss Appeal

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## NDEP Regulatory Petitions

### Bureau of Air Quality Planning

#### **8) R041-13 — Air Quality, Adoption by Reference of Certain Federal Regulations:** (For Possible Action)

The Nevada Division of Environmental Protection (NDEP) is proposing to amend NAC 445B.221, Adoption by reference and applicability of certain provisions of federal law and regulations, to adopt applicable federal rules promulgated since the State regulation was last updated as of January 1, 2012. The update includes rulemakings under 40 CFR Part 52.21, "Prevention of significant deterioration of air quality" (PSD), related to the regulation of greenhouse gases, Part 60, "Standards of performance for new stationary sources" (NSPS), and Part 63, "National emission standards for hazardous air pollutants for source categories" (NESHAP).

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to NDEP for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP. (SEC #P2013-01)

#### Documents in Adobe PDF File Format

- **July 10, 2013** — Workshop Notice & Agenda
- **July 22, 2013** — Agency Draft Regulation [3 pages]
- **July 22, 2013** — SEC Form 1 [2 Pages]
- **July 22, 2013** — SEC Form 4 [1 Pages]
- **July 22** — LCB Transmittal Letter
- **July 25, 2013** — Workshop Summary Minutes [6 Pages]
- **August 21, 2013** — LCB Draft Regulation [6 Pages]
- **Date** — SEC Filing Statement Cover Letter to LCB
- **Date** — Filing Statement [X Pages]
- **Date** — Filing Form
- **Date** — LCB Adopted Regulation [X Pages]
- **Date** — Regulation Transmittal Letter — State Library & Archives

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### Continued -- Bureau of Air Quality Planning

#### **9) R042-13 — Standards of Quality for Ambient Air, Prerequisites & Conditions for Operating Permits; and Compliance with Applicable State Implementation Plan** (For Possible Action)

The Nevada Division of Environmental Protection (NDEP) is proposing to amend 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 agency is proposing to revise the Nevada side of the ambient air quality standards table in NAC 445B.22097 to further align it with the federal standards currently in effect. The proposed regulation also revises the 2008 lead and ozone standards in the Nevada side of the ambient air quality standards table. Additionally, it adds an explanatory note regarding implementation of the federal fine particles standard in Nevada.

NDEP is proposing this action in response to a rulemaking by the USEPA, which identified deficiencies in Nevada’s state implementation plan (SIP) with respect to Nevada’s minor sources permitting program. USEPA determined that Nevada’s permitting regulations did not adequately address the 2006 fine particulate or the 2008 lead NAAQS. The NDEP identified a similar deficiency with respect to the 2008 ozone NAAQS. If adopted, these amendments will be submitted to the U.S. Environmental Protection Agency as part of a SIP revision. Finally, the proposed regulation removes an obsolete subsection from NAC 445B.308 in accordance with Governor Sandoval’s directive to agencies to streamline regulations, use clear and concise language, and remove unnecessary requirements.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. There will be no additional costs to NDEP for enforcement of the proposed regulation and the regulation does not overlap, duplicate or conflict with any regulations of other government agencies. The regulation does not address fees and it is essential to the functions and operations of NDEP. (SEC #P2013-02)

#### Documents in Adobe PDF File Format

- **July 10, 2013** — Workshop Notice & Agenda
- **July 22, 2013** Agency Draft Regulation [6 pages]
- **July 22, 2013** — SEC Form 1 [2 Pages]
- **July 22, 2013** — SEC Form 4 [1 Pages]
- **July 22, 2013** — LCB Transmittal Letter
- **July 25, 2013** — Workshop Summary Minutes [6 Pages]
- **August 19, 2013** — LCB Draft Regulation [13 Pages]
- **Date** — SEC Filing Statement Cover Letter to LCB
- **Date** — Filing Statement [X Pages]
- **Date** — Filing Form
- **Date** — LCB Adopted Regulation [X Pages]
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**10) Public Comment (For Discussion)** Members of the public will be invited to speak before the SEC; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to ten minutes per person at the discretion of the chairperson. (See Nevada Open Meeting Law Manual - Page 58 and 81)

#### **11) Adjournment**

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#### **Additional Information**

Persons wishing to comment on the proposed actions of the State Environmental Commission (SEC) may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

The SEC must receive written submissions at least five days before the scheduled public hearing.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 2030 E. Flamingo Rd. Suite 230.

As required by the provisions of chapters [233B](#) and [241](#) of Nevada Revised Statutes, the [public notice for this hearing](#) was posted at the following locations: the Bryan Building (901 South Stewart Street, Carson City, Nevada); the offices of the Division of Environmental Protection in Las Vegas (2030 E. Flamingo Rd. Suite 230), the Nevada Division of Minerals, 400 W. King Street, Carson City, NV and at the Nevada Department of Wildlife (1100 Valley Road, Reno, Nevada).

In addition, copies of this notice have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are also available on the State Environmental Commission's website at: [SEC.NV.GOV](http://SEC.NV.GOV). All of the proposed regulations denoted in this notice, including previous drafts, are or will be posted on the [Legislative Counsel Bureau's website](#)

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of Valerie King, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-93748, no later than 5:00 p.m. on October 2<sup>th</sup>, 2013.

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