



## Notice of Regulatory Hearing Adoption of Regulations and Other Matters Before the State Environmental Commission

The State Environmental Commission (SEC) will hold a regulatory meeting on Thursday, October 11, 2012 at 9:30 am at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of the following regulatory petitions and related SEC business.

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### Bureau of Air Quality Planning: (For Possible Action)

**R051-12: Air Pollution Control, Best Available Retrofit Technology (BART):** The Nevada Division of Environmental Protection is proposing to revise the best available retrofit technology (BART) requirements for NO<sub>x</sub> for units 1, 2 and 3 at NV Energy's Reid Gardner Generating Station in Southern Nevada. If adopted, this regulation will be sent to the U.S. Environmental Protection Agency for approval into the Nevada state implementation plan.

The proposed regulation will lower the NO<sub>x</sub> emission limit for unit 3 from 0.28 pounds per million Btu on a 12-month rolling average to 0.20 pounds per million Btu on a 30-day rolling average. The averaging time for units 1 and 2 will also change to a 30-day rolling average. The revised emission limit will be averaged across all three units. Additionally, the proposed regulation will revise the control technology for all three units to low NO<sub>x</sub> burners with overfire air and selective non-catalytic reduction. The proposed regulation requires that all BART control measures must be installed and operating on or before April 30, 2016.

Federal regulations require states to establish emission reduction strategies for improving visibility in 156 mandatory Class I national parks and wilderness areas in the United States. One of the strategies required is the application of BART to certain existing sources. Electrical generating units 1, 2 and 3 at NV Energy's power plant are subject to the BART requirement.

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community. NV Energy places the costs of environmental compliance into its rate base. This proposed regulation was developed using cost effective technology choices aimed at achieving optimized environmental benefit. Therefore, the impact on the public is expected to be minimal. There will be no additional costs to the 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 #P2012-05)

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### **Bureau of Water Quality Planning: (For Possible Action)**

**R128-12 – Smoke Creek (NAC 445A.1286), Bronco Creek (NAC 445A.1698) and Gray Creek (NAC 445A.1702)** The proposed regulation revises the dissolved oxygen (DO) standard for Gray Creek and the chloride standards for all three creeks noted above. The State Environmental Commission (SEC) and Legislative Commission's Subcommittee to Review Regulations (Subcommittee) adopted revised water quality standards for Smoke, Bronco and Gray Creeks in 2010. However, the U.S. Environmental Protection Agency (EPA) declined to act on the DO standard for Gray Creek and the chloride standards for all three creeks. EPA's inaction means that the SEC/Subcommittee revisions for these parameters are not applicable for Clean Water Act purposes (i.e. 303(d) listing and NPDES permits). To avoid confusion NDEP is proposing to revise the DO standard to that approved by EPA and to revise the chloride standards to the current recommended EPA toxic criteria for the protection of aquatic life.

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 #P2012-06)

### **Bureau of Water Quality Planning - continued: (For Possible Action)**

**R132-12 – Colorado River Salinity:** This proposed regulation makes administrative changes to NAC 445A.1233 subsection 2 by replacing "2008" with "2011" in reference to the "Review-Water Quality Standards for Salinity, Colorado River System" in accordance with the most recent update adopted by the Colorado River Basin Salinity Control Forum. In addition, "At" will be inserted before Imperial Dam to match the language in the "Review" and "Station" and "Salinity in mg/l" will be added as table headers. No changes to the salinity criteria are proposed.

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 #P2012-07)

### **Bureau of Water Quality Planning - continued: (For Possible Action)**

**R131-12 Statewide Fecal Coliform:** This proposed regulation removes the fecal coliform bacteria numeric criteria protecting contact recreation as the primary beneficial use for most designated waters, and replaces with fecal coliform numeric criteria to protect the primary beneficial uses of irrigation, livestock and wildlife where appropriate.

The water quality standard regulations contain five different types of fecal coliform numeric criteria to protect the primary beneficial use of contact recreation. These are not only confusing, but are also inappropriate. In 2008, the State Environmental Commission and Legislative Commission's Subcommittee to Review Regulations adopted standards for *Escherichia coli* bacteria to protect contact recreation for all designated waters. *E. coli* is a better indicator of threats to public health and is more protective of contact recreation than fecal coliform. Fecal coliform standards are no longer needed to protect contact recreation.

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 #P2012-08)

#### **Bureau of Water Quality Planning - continued: (For Possible Action)**

**R130-12 North Antelope Creek:** The proposed regulation establishes appropriate beneficial uses and site-specific water quality standards for North Antelope Creek. North Antelope Creek is a tributary to Rock Creek in the Humboldt River Basin. North Antelope Creek does not have site-specific water quality standards, but is protected via the Tributary Rule (NAC 445A.1239) with the application of water quality standards established for Rock Creek. However, some of the beneficial uses for Rock Creek are not appropriate for North Antelope Creek, particularly municipal and domestic supply and irrigation. Beneficial uses proposed for North Antelope Creek include aquatic life, wildlife, watering of livestock, contact recreation, noncontact recreation and industrial supply.

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 #P2012-09)

#### **Bureau of Water Quality Planning - continued: (For Possible Action)**

**R129-12 Aquatic Life Toxic Materials:** The proposed regulation updates the numeric criteria for protection of the aquatic life beneficial use contained in

NAC 445A.1236 "Standards for Toxic Materials Applicable to Designated Waters". Nevada relies on the U.S. Environmental Protection Agency (EPA) to develop recommended water quality criteria for the majority of toxic compounds. NDEP has reviewed the most recent toxic criteria published by EPA in 2002 and determined it is appropriate to revise the aquatic life numeric criteria for some metals and organic compounds.

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 #P2012-10)

**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), at the State Library and Archives building in Carson City (100 Stewart Street) and at the Nevada Division of Minerals, 400 W. King Street, Carson City, NV.

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: [http://sec.nv.gov/main/hearing\\_1012.htm](http://sec.nv.gov/main/hearing_1012.htm). All of the proposed regulations denoted in this notice, including previous drafts, are or will be posted on the Legislative Counsel Bureau's website at: <http://www.leg.state.nv.us/register/>.

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 John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on October 3, 2012.