

# Notice Of Intent To Act Upon Regulations

## Notice of Hearing for the Adoption of Regulations of the State Environmental Commission

The State Environmental Commission (SEC) will hold a public hearing at 10:00 a.m. on March 08, 2006 at the Washoe County Commission Chambers located at 1001 E. Ninth Street, Building A Reno, NV 89512.

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. If a person that may be directly affected by a proposed action does not appear and request time to make an oral presentation at the above referenced hearing, the SEC may proceed immediately to act upon any of the following regulatory petitions or other written submissions described in this notice.

The following regulatory petitions will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

### Waste Management

**1) Regulation R175-05: Adoption of Federal Regulations by Reference Governing Hazardous Waste Management.** This proposed regulation is needed to incorporate changes to the federal hazardous waste regulations that are currently in conflict with Nevada's existing State regulations. The regulation will revise State regulations to be more consistent with federal regulations.

The regulation will amend Chapter 444 of the Nevada Administrative Code (NAC). The proposed amendments will update Nevada's adoption of federal regulations by reference by modifying NAC 444.8427, 84275, 850, 8688, 8871, 8881, 8926, 8931, 8941, 9006, 9011 and 9452 to refer to the federal regulations as they existed on July 1, 2005. The regulation will further modify NAC 444.8632 to adopt federal regulations 40 CFR Parts 2, Subpart A, 124, Subparts A and B, Parts 260 to 270, inclusive, and Part 279 as those parts existed on July 1, 2005. The regulation also updates NAC 444.8618, 86334, 8951 and 8996 to account for the address change regarding the recent move of the Nevada Division of Environmental Protection (NDEP) into the Bryan State Office Building located at 901 South Stewart Street, Suite 4001, Carson City, NV 89701-5249.

Corresponding changes to NAC 444.86325 and 8633 are further proposed to continue to exclude federal provisions previously not adopted and to provide for standard word substitutions to insure that NDEP and the US Environmental Protection Agency (US EPA) are properly referenced in the NACs.

As way of background, the federal regulatory changes adopted by US EPA (between July 1, 2003 and July 1, 2005) include clarification of the used oil management standards, revisions to the National Performance Track Program, new listing of hazardous wastes from the dye and pigment industries and revisions to related land disposal restrictions. The regulatory changes also include standardization of the Uniform Hazardous Waste Manifest and updates to the analytical and sampling methods approved for use in complying with Resource Conservation and Recovery Act (RCRA) regulations.

This regulation will not have an immediate or long-term adverse effect on business or the public. In fact, adoption of the federal regulations by reference is not anticipated to have any significant

economic impact on Nevada businesses, but conversely should make it easier for affected businesses to comply by simplifying the requirements. In addition, Nevada is required to adopt these federal regulations to maintain State authorization for the RCRA Hazardous Waste Program. Authorization allows the State to implement the RCRA program in lieu of the federal government, eliminating duplicative regulatory authority. There will be no additional cost to the agency for enforcement of the proposed regulation and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The amended regulation is no more stringent than what is established by federal law and it will not increase fees. ( SEC reference # P2005-08)

### **Waste Management - continued**

**2) Regulation R176-05: Procedures For Grants To Enhance Solid Waste Management Systems And Promote The Efficient Use Of Resources.** This regulation proposes adoption of several new sections in Chapter 444A of the Nevada Administrative Code (NAC). The new regulation would establish procedures for the Division to award grants to municipalities, educational institutions, and nonprofit organizations for projects that enhance solid waste management systems and promote the efficient use of resources.

In the 2005 legislative session, SB 396 modified NRS 444A.110 by authorizing the Division to award grants for the above referenced activities. It also required the State Environmental Commission (SEC) to adopt regulations governing the administration of the grants. This petition seeks to carry out this requirement. It outlines grant application requirements, eligibility determination, evaluation criteria, grant agreements, and procedures for disbursement of funds, grant termination, etc.

The Division currently has a program to provide public education and support of recycling programs in Nevada through contracts. The grants program, which has now been authorized in legislation, is better suited for carrying out this function. The new regulation would also broaden the range of qualifying projects from recycling public education and support, to projects that enhance solid waste management systems and promote the efficient use of resources. The Division would still utilize recycling contracts as necessary for entities that are not eligible to receive grants under the statute.

Local governments, nonprofit organizations and educational institutions may see beneficial economic effects, both short and long term, if they become grant recipients. Similarly, businesses that provide services in support of grant projects may have modest beneficial effects. Modest economic benefits may accrue to the public due to improvements in waste management and recycling services. Implementation of the grants procedures will not cause agency costs to increase.

No new revenue source is provided for this program. Funds available for grants would be a portion of those that the Division previously used for recycling contracts. This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law. (SEC reference # P2005-09)

### **Air Pollution Control / Air Quality Planning**

**3) Regulation R206-05: Adoption By Reference of Federal New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPs):** The Nevada Division of Environmental Protection (NDEP) is proposing to adopt into State regulation federal New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPs) that have been promulgated by the U.S. EPA since July 1, 2004. The NDEP is delegated the implementation of the federal NSPS and NESHAPs programs

relevant in Nevada, however, it is necessary to keep the State's "adoption by reference" regulation (NAC 445B.221) up to date so that EPA can continue to delegate the implementation of new rules to the State.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law. (SEC reference # P2006-08)

**4) Regulation R189-05: Mercury Air Emission Permitting Program For Precious Metal Mining Facilities:** Between 2002 and 2005 the Nevada Voluntary Mercury Reduction Program, a joint effort of the NDEP, the U.S. EPA and four Nevada mining companies, achieved significant and rapid mercury emission reductions from thermal processes used in metal mining. Subsequent to this voluntary program, the NDEP has determined that it is necessary and appropriate to expand the coverage of the program to all metal mining operations in Nevada. Therefore, the NDEP is proposing regulations to require mercury air emission controls at precious metal mining facilities through a new mercury permitting program, as an adjunct to the current operating permit to construct program. The new program will apply to precious metals mining facilities that process mercury-containing ore and use thermal treatment processes that have the potential for liberating mercury into the atmosphere.

The new regulation will have an economic impact on precious metals mining companies that process mercury-containing ore and use thermal treatment processes that have the potential for liberating mercury into the atmosphere. These companies will be subject to the Mercury Permitting Program and applicable fees. The proposed regulation will have no economic effect on the public. Additional cost to the agency for enforcement of the proposed regulation would be covered by permitting fees assessed to metals mining companies. The regulation would not overlap or duplicate any regulations of other state, federal, or local agencies and the regulation would not be more stringent than what is established by federal law. (SEC reference # P2006-07)

**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 1771 E. Flamingo, Suite 121-A.

In addition, copies of this public notice and the accompanying regulations have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are available on the [State Environmental Commission's](http://www.sec.nv.gov) website at ([SEC.nv.gov](http://www.sec.nv.gov)). All of the proposed regulations denoted in this notice, including previous drafts are posted on 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 February 28, 2006.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this public notice has been posted at the following locations: the Nevada Department of Wildlife building in Reno, the Grant Sawyer Office Building in Las Vegas, and the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the SEC, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.