FORM #4

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

RE: P2015-01. Amendments to NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations"

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 federal rules adopted by reference in NAC 445B.221. The rules are federal requirements that the regulated business/industry must comply with regardless of whether the U.S. Environmental Protection Agency (USEPA) or the NDEP implements them. Therefore, there will be no added economic impacts on the regulated industry due to this update. In fact, industry prefers that NDEP implement the federal rules; the NDEP has an active working relationship with industry and will implement the federal regulations in as effective and efficient manner as possible.

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.** Although 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, a Small Business Impact Statement was prepared. It was made available at the public workshop. .

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 June 10, 2015. Notices of the workshop and an invitation for comments were posted in all county public libraries, the NDEP buildings in Carson City and Las Vegas, the NDEP website, the Legislative Council Bureau's website, and the official State website. Comments were also invited via e-mail and telephone. A summary of the workshop will be posted on the SEC web site at http://sec.nv.gov/main/hear0000.htm under the heading for the October 7, 2015 SEC Hearing.

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

Answer: The agency determined that small businesses would not be impacted (*see* Part 1, #s 1 and 2). Notably, regardless of whether the NDEP adopts federal rules by reference into the state regulation, 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 (NRS 233B.0608).

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, #2).

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, #2).

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 into the current 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 updates 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 July 1, 2013. The update includes rulemakings under Title 40 of the Code of Federal Regulations Part 51, "Requirements for preparation, adoption, and submittal of implementation plans", related to the definition of volatile organic compounds (VOCs), Part 60, "Standards of performance for new stationary sources" (NSPS), Part 61, "National emission standards for hazardous air pollutants" (NESHAP) and Part 63, "National emission standards for hazardous air pollutants for source categories" (NESHAP).

The Part 51 rule revises the definition of volatile organic carbon to remove unnecessary and burdensome requirements. Therefore, small businesses will benefit from that update. The NSPS and NESHAP rules regulate emissions of air pollutants and apply variously to large and/or small businesses. The NDEP is delegated the implementation of the federal NSPS and NESHAP rules that apply in Nevada. The proposed amendments update the State's "adoption by reference" regulation so that Nevada can request delegation for the implementation of new and revised NSPS and NESHAP promulgated since the last update. This will allow the regulated industry to continue to apply for permits from the State rather than from the USEPA. If the USEPA were the primary permitting authority, the permitting processing would likely take longer, and stationary sources would not be able to realize their business plans as efficiently or effectively.

The rules that we are proposing to adopt are federal rules, and the regulated business/industry must comply with them regardless of whether USEPA or NDEP implements them. Therefore, there will be no added economic impacts on the regulated industry due to NDEP's proposed adopt-by-reference regulation update. Because the NDEP has an effective, co-operative established working relationship with industry in Nevada, industry prefers that the NDEP implement the federal rules.

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

5/19/15
Date