

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Workshop to Solicit Comments on Proposed Amendments to
NAC 459: Regulation of Highly Hazardous Substances and Explosives

September 6, 2022
9:00 AM

Great Basin Conference Room
4th Floor
901 South Stewart Street
Carson City

The Workshop was also held virtually
and was publicly accessible by video
conference or phone

MEETING NOTES

ATTENDEES:

Workshop Chair:

Jeffrey Kinder, Deputy Administrator, NDEP

NDEP Staff:

Jennifer Schumacher, Chief, NDEP - BAPC
Kelly Thomas, CAPP Supervisor, NDEP – BAPC
Jessica Purcell, CAPP Staff, NDEP - BAPC
Andrew Tucker, Planning Supervisor, NDEP – BAQP

Public:

Carson City:

Nathan Garner – Environmental Compliance Manager – Ormat, Inc.

Virtual¹:

Candice Payette – VP EHS – Ormat, Inc.
Cody Pritchett – Compliance Specialist – Ormat
Daren Daters – Enel North America – USA
Jalin Klaff (Borman)
Karen Luna
Sonia Lewandowski – Environmental Manager - EMD Acquisitions/Borman Materials
Erika A Lomeli-Uribe
Marcus Malbroux
Nick Marquart

¹ Participants are listed using their online registration name and their affiliation where provided.

Phone²:

X-XXX-XXXX-2228

X-XXX-XXXX-1819

CALL TO ORDER

Mr. Kinder explained that the Workshop would be recorded to review all public comments made and to make the workshop recording available to anyone who is interested. The Workshop was called to order at 9:04 am on September 6, 2022. Mr. Kinder introduced NDEP Staff and asked attendees to introduced themselves in-person or in the Teams chat and noted that the names of attendees joining in-person and remotely would be collected for the record. A brief summary of how attendees could make comments was given.

The purpose of the public workshop was to discuss the proposed regulatory amendments for the Chemical Accident Prevention Program (CAPP) under R103-22 and that the proposed regulation will be taken to the State Environmental Commission (SEC) hearing on September 20, 2022, for adoption. It was noted that the 30-day public comment period for the regulation started on August 19, 2022, and that the SEC will consider the proposed regulations. If adopted, the regulations will be reviewed by the legislative commission and may become effective after approval by the legislative commission and filing with the Secretary of State.

A brief summary of the agenda was given before going through a brief presentation about the proposed changes to the regulations. A summary of the history of funding for CAPP, noting that fees for CAPP have not been significantly amended in 17 years and the fee increases are to make the program sustainable and ensure timely processing of permit applications. The functions of the program and why the functions of the program are important for public safety.

R103-22 SUMMARY

Mr. Kinder summarized significant proposed changes to Nevada Administrative Code (NAC) 459 under the proposed amendments. The proposed rule would increase annual registration fees, permitting hourly fees, and investigation fees to account for inflation using the consumer price index. The fee increase would be phased in over two years and add an optional 2% annual increase to these fees is being proposed to prevent large jumps in fees in the future. New fees for change of ownership and confidentiality determinations. A unit of explosive was defined for fee purposes.

Mr. Kinder provided a brief summary of why the CAPP program was created and explained that we do not have delegation for the U.S. Environmental Protection Agency's (EPA) Risk Management Program (RMP), but we work with the U.S. EPA for NDEP to be the primary regulator for compliance and enforcement with both programs.

Mrs. Schumacher explained that the annual registration fees cover the costs of administrative services, compliance activities, and information services. The permitting fees for CAPP's permit to construct and permit to operate programs were discussed and the elimination of the fee cap for

² Only the last 4 digits of the phone numbers of callers participating by phone are listed.

permitting based on the number of Piping and Instrument Diagram (P&ID). The increases to the investigation fees and the addition of the confidentiality and change of ownership fees were discussed. Updates to addresses referenced in NAC 459 were briefly mentioned.

Mrs. Schumacher went through questions and comments that had been received during the informal outreach to regulated entities. NDEP's in depth responses to these questions can be obtained by contacting Jenn Schumacher. It was clarified that no new positions would be created at this time and the fee increases are about making the program sustainable. Efficiency in permitting and the overlap with the U.S. EPA's Risk Management Program were discussed, as well as the proposed changes with the initial fee increases being phased in over two years and the proposed optional 2% annual increase to fees going forward to avoid large increases in fees.

Mrs. Schumacher opened the meeting to public comments.

COMMENTS AND QUESTIONS

Nathan Garner: Mentioned that he had a question about Owner/Operator changes, but that it had been addressed in the presentation.

Jeff Kinder and Jenn Schumacher: Thanked Mr. Garner for the comment.

Sonia Lewandowski: Had a question but mentioned that her question had been answered.

Jeff Kinder and Jenn Schumacher: Thanked Mr. Garner for the comment.

Karen Luna (Teams Chat): Note that other regulations such as Clark County air permit fees are adjusted annually per consumer price index and not a flat increase. The national average CPI increase over the last 10 years was 1.88%. We would not oppose a fee increase schedule consistent with CPI.

Jeff Kinder: We appreciate the comment, and we see if instead of the 2% increase we could tie it to the CPI. We'll take a look at this and have a response to comments that we post on our website.

CLOSING REMARKS AND ADJOURNMENT

Mr. Kinder began to close out the meeting after not seeing any more comments. Contact information for Jenn Schumacher and Kelly Thomas was provided on-screen if anyone wanted to reach out with additional comments or questions. The meeting was adjourned at 9:21 am.