

NEVADA DIVISION OF ENVIRONMENTAL PROTECTION
Workshop to Solicit Comments on Proposed Amendments to
NAC 445B: Air Controls

May 23, 2024
1:30 PM

Bonnie B. Bryan Boardroom
1st Floor
901 South Stewart Street
Carson City, NV 89701

Red Rock Conference Room
Suite 200
375 East Warm Springs Road
Las Vegas, NV 89119

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

MEETING NOTES

ATTENDEES:

Workshop Chair:

Andrew Tucker, Chief, BAQP

NDEP Staff:

Jeff Kinder, Deputy Administrator
Jennifer Schumacher, Chief, BAPC
Tanya Soleta, Supervisor, BAPC
Gregg Rosenberg, Supervisor, BAPC
Chad Myers, Supervisor, BAPC
Ken McIntyre, Supervisor, BAQP
Katherine Hansen, Environmental Scientist, BAQP
Nicholas Schlafer, Environmental Scientist, BAQP

Public:

Carson City:

Glenn King- Orla Mining

Las Vegas:

No Attendees

*Virtual*¹:

Connor Welsh	Teresa Conner
Kevin Knachel	Phil Mackey
Scott Kirchoff	Gina Hawkins
Erik Jensen	John
Andrew Ruthenbeck	Sharon's OtterPilot

¹ Participants are listed using their online registration. Last name and/or affiliation may not have been provided.

Chris Peterson
John Bellendir Jr.
Aaron Hatch
Joel Dunkin
Ann Carpenter
Rebecca Choi
Matt Mannens
C.J.
Sharon Smith
Sam Cajandig
John Betz

Jesse Hagan
Griffin Hadlock
Kyle Davis
Carol Adams
Rosa Genine
Jennifer Lipkin
Ross Rivera
Penny Avery
Frederick Parthey
Jessie Barto

CALL TO ORDER

Mr. Tucker called the meeting to order at 1:30 PM and explained the purpose of the Public Workshop. Staff and attendees introduced themselves. Mr. Tucker explained that the names of attendees would be collected for the record and that the meeting was being recorded. Mr. Tucker reviewed the workshop agenda. There were no questions or changes to the agenda. Mr. McIntyre explained that virtual attendees would be muted by the moderator and how they could signal to the moderator that they had a question or comment so they could be unmuted. Mr. McIntyre explained that a copy of the proposed regulations, and State Environmental Commission Forms 1 and 4, could be found on NDEP's website.

Mr. Tucker explained how the regulation adoption process works. The regulation adoption timeline was explained, specifying that the 30-day public comment period began May 17th, prior to the State Environmental Commission (SEC) hearing set for June 18th, 2024. Any information about the hearing can be found on the SEC website. If the regulations are adopted by the SEC, they are submitted to the Legislative Commission. If the Legislative Commission approves the regulations, they are filed with the Secretary of State and become effective. Mr. Tucker paused and asked if there were any questions about the regulation adoption process.

Mr. Tucker moved on to present the petitions.

P2024-01 SUMMARY

Mr. Tucker presented P2024-01, proposed repeal of NAC 445B.326. Mr. Tucker explained that the repeal of the section would remove the provisions for affirmative defense for non-compliance within emission limitations during emergencies. Mr. Tucker explained that currently, NAC 445B.326 allows for a source to assert an affirmative defense if the source notifies NDEP within two days and demonstrates that an emergency occurred and the cause can be identified, the facility was being operated properly at the time and all reasonable steps were taken to minimize excess emissions. A federal regulation by the United States Environmental Protection Agency was published in the Federal Register on July 21, 2023. This regulation requires that states remove emergency affirmative defense provisions from their Title V Operating Permit Programs. States must submit a program revision to EPA by August 21, 2024.

Mr. Tucker paused and asked if there were any questions. He reminded the virtual attendees that they could use the “raise hand” function or send a message in the chat window to ask a question. Mr. Tucker informed the attendees calling in by phone that they would be unmuted if they had any questions.

COMMENTS AND QUESTIONS

Scott Kirchoff: Will only Title V permit holders be impacted by removing the regulation?

Andrew Tucker: We would be removing the regulation and so it would impact both Title V and Non-Title V permits.

There being no other questions or comments, Mr. Tucker moved on to present P2024-05.

P2024-05 SUMMARY

Mr. Tucker presented P2024-05, the proposal to repeal NAC 445B.038, 445B.260, and 445B.314, and proposal of amendments to NAC 445B.22096, 445B.228 and 445B.3457. These regulations were identified by NDEP for streamlining, clarification or improvement during the review of state regulations called for in Executive Order 2023-03, signed by Governor Lombardo on January 12, 2023. The definition of a Class III source is to be repealed because it is no longer necessary with the Class III permitting program no longer in effect. All Class III sources have either transitioned to Class II permits or were below the Class II threshold. Monitoring systems contracted before 9/11/1974 are also going to be repealed because they are no longer applicable or in operation. Additionally, the method of determining heat input for Class III & IV sources is no longer in effect and can be repealed.

The regulations to be amended are the removal of the regional haze requirements for the Reid Gardner and Mohave Generating Stations, which have been decommissioned. Also amended are exemptions from operating permits and insignificant activities for certain portable and stationary internal combustion engines. This amends the insignificant activity criteria for emergency generators to require the potential to emit be calculated based on a minimum of 100 hours of operation, instead of 500 hours. Lastly, there is an amendment to allow certain changes to Class II Air Quality Operating Permits without having to submit a permit revision application. This only applies to changes that do not increase the emissions of any regulated air pollutants or emission of a pollutant that wasn't previously emitted at the unit or facility level.

Mr. Tucker paused and asked if there were any questions. He reminded the virtual attendees that they could use the “raise hand” function or send a message in the chat window to ask a question. Ms. Tucker informed the attendees calling in by phone that they would be unmuted if they had any questions.

QUESTIONS AND COMMENT

Scott Kirchoff: Can you go back to the slide about the stationary engines? Can you guys explain that one a little bit more, like for example, if we bring a temporary diesel generator on site, how will this change impact what we have to do if we do that?

Jennifer Schumacher: This is still the same regulation that we have right now, most generators are actually on site for more than 12 months. If you are a non-road engine, you are exempt from the subparts of the regulation. If you are a temporary source, you would bring on this portable generator for a short amount of time, then you are likely a non-road engine and those are not subject to permitting at all. If you have a stationary engine, it could be subject to Federal subparts which are the 40 CFRs Part 60, Subparts IIII & JJJJ, and Part 63, Subpart ZZZZ and then you're not allowed to be in any significant activity right now, is how it currently stands. We are mainstreaming and removing obsolete regulations. The regulation was previously set at 500 hours or less, but now has a 100-hour requirement per federal regulations.

Scott Kirchoff: Yes, that definitely helps, thank you. One clarification, for the one-year limit, if your temporary engine is less than one year, you still don't have to report, is that right?

Jennifer Schumacher: Correct, a portable non-road engine becomes stationary if it stays in one location for more than 12 months (or full annual operating period of a seasonal source).

There being no other questions or comments, Ms. Schumacher moved on to present P2024-06.

P2024-06 SUMMARY

Ms. Schumacher explained with Governor Lombardo's Executive Order, NDEP is proposing to repeal NAC 445B.0385, 445B.22057, 445B.2206, 445B.22087, 445B.3526, 445B.3621, 445B.3651, 445B.3653, 445B.3669, and 445B.3673; amend NAC 445B.327 to remove 445B.327(4)(d) and 445B.327(4)(f); and amend NAC 445B.281 to revise the language of NAC 445B.281(3). The proposed repealed regulations are based on the programs no longer being in effect and units which are no longer operational.

Ms. Schumacher explained the current regulations for odor fees and violations, have been shown to have obstacles with enforcement. NDEP is recommending the removal of odor regulations and violation fines. The Voluntary Mercury Reduction Program (VMRP) was a voluntary program that began in 2002 where facilities added mercury controls to some thermal units. The VMRP was superseded by the Nevada Mercury Control Program in 2006. The regulations and references pertaining to VMRP are proposed to be removed as the program no longer exists. This also includes the removal of the Mercury Early Reduction Credit.

Ms. Schumacher paused and asked if there were any questions. She reminded the virtual attendees that they could use the "raise hand" function or send a message in the chat window to ask a question. Ms. Schumacher informed the attendees calling in by phone that they would be unmuted if they had any questions. No questions were asked.

CLOSING REMARKS AND ADJOURNMENT

Andrew Tucker: With there being no more questions or comments this meeting is adjourned at 2:12 PM. Thank you everyone for your time and participation in this public workshop. The 30-day public comment period began May 17th, prior to the State Environmental Commission (SEC) hearing set for June 18th, 2024.