



Public Workshop - Notice to Solicit Comments on Proposed
Regulation Amendments
Proposed Regulation R032-17
Petroleum Fund Program

Public Workshop Transcript

The Nevada Division of Environmental Protection (NDEP) Petroleum Fund Program proposes adoption of permanent regulation, R032-17, amending Chapter 590 of the Nevada Administrative Code (NAC). The proposed revisions to NAC 590 will provide the groundwork for the **administration of a grant program for Underground Storage Tank (UST) owners/operators and will also provide for a technical assistance program for UST owners/operators.** The grant program is to offset costs for UST owner/operators with a financial need who must upgrade his/her UST system to comply with recent UST regulation changes with requirements that go into effect October 2018. Workshops to discuss R032-17 and receive comments were held at the following locations at the date and times indicated.

**Monday August 7, 2017
9:00 AM**

Public Workshop Location
Laxalt Building, 2nd Floor Chambers
401 N. Carson St.
Carson City, NV

**Tuesday August 8, 2017
10:00 AM**

Public Workshop Location
Nannini Administration Building
540 Court St., Ste. 102
Elko, NV

**Thursday August 10, 2017
10:30 AM**

Public Workshop Location
Grant Sawyer Building
555 E. Washington Ave., Ste. 4412
Las Vegas, NV

Attendees of the August 7th, 8th, and 10th, 2017 Public Workshops:

NDEP Staff:

Carson City:

Val King, Petroleum Fund Supervisor, Bureau of Corrective Actions (BCA)
Victoria Joncas, Petroleum Fund Recording Secretary, BCA
Jonathan McRae, USL/LUST Program Supervisor, BCA
Don Warner, Petroleum Fund Program, BCA
Megan Slayden, Petroleum Fund Program, BCA

Las Vegas:

Todd Croft, Remediation Program Supervisor Las Vegas, BCA
Diondrae White, Remediation Program, BCA
Charles Enberg, Remediation Program, BCA
Karen Kovacs, Administrative Branch NDEP

Public:

Carson City:

Peter Krueger, Nevada Petroleum Marketers Association
Bob Hassey, Carson Nugget
Brandon Reiff, Broadbent and Associates

Public:

Elko:

Dennis Riding, Maverik Inc.

Public:

Las Vegas:

Julie Walker, GWE Consulting
Jon Bell, Broadbent and Associates
Kurt Goebel, Converse
Norman Zheng, Miro Development
David Metler, Pit Stop Oil Co.
Darren Zinser, Southern Nevada Health District
Dan Isler, Southern Nevada Health District

Paraphrased Public Questions and Comments from the Public Workshop Held on Monday August 7th, 2017

A Public Workshop was held on August 7th, 2017 in Carson City Nevada. After the Workshop was called to order and the initial question and comment period passed, Ms. Valerie King opened a second public comment period. With there being no further comments during the second public comment period, Ms. King adjourned the Workshop.

Public Comment -

Under number 8, the dispensing location, is that new language?

NDEP Reply -

Yes, that language came about when drafting SB 251 that went through the legislature, and is in reference to a gas station for public use.

Public Comment -

What about a bulk plant or a card lock?

NDEP Reply -

SB 251 states a petroleum dispensing location refers to a facility where a member of the public can obtain petroleum products of the same type as those offered by an owner/operator who has applied for a grant pursuant to Subsection 2. Those type of facilities do not serve the public and are therefore not eligible.

Public Comment -

A card lock is public if a person chooses to join the network and purchase fuel there.

NDEP Reply -

The idea behind SB251 is to assist owner/operators who dispense fuel directly to the public, which a card lock does not.

Public Comment -

Regarding Section 3. No. 1., the fiscal year subsection is extremely restrictive in how the process is intended to work. Also regarding Section 3. No. 2. E., in north central Nevada there are a number of Utah companies considered domiciled in Utah that operate stations in Nevada. If these companies meet all of the other criteria, does it matter where their corporate offices are located?

NDEP Reply -

This workshop is intended to address concerns such as that and NDEP can will look at a modification of the regulations to eliminate that requirement.

Public Comment -

Regarding Section 3. 3., purchase and installation, if a leak or a discharge is detected, what happens to the process?

NDEP Reply -

That event would fall under a discovered release category. A failed test does not indicate a release to the environment. During work when spill buckets or sumps are excavated and contamination is detected the owner/operator will call in a suspected release. That will not affect the grant process.

Public Comment -

Regarding Section 4. I. F., demonstration of financial need, a current balance sheet and income statement in conformity. Will there be a requirement of audited financials?

NDEP Reply -

A current balance sheet and income statement prepared in conformity with generally accepted accounting principles, or containing the unrestricted cash or equivalence, investment securities, outstanding debt; and interest expense and amortization is acceptable

Public Comment -

Regarding Section 4. F. 2. II, a recently filed tax return, federal is does not mentioned. Would a commerce tax be acceptable? What specifically is that section referring to?

NDEP Reply -

NDEP will look closer at that.

Public Comment -

Regarding Section 4. F. 2. II, please clarify the reference to three credit reports. Will three credit reports be generated with the two-highest ratings considered?

NDEP Reply -

Section 4.F.2.II is a subjective part of the application and will not be entered into a database as a ranked numeric value. This requirement is to subjectively assist NDEP in confirmation of the rankings when viewed in the database.

Public Comment -

Who will be reviewing the information provided by owner/operators? Will the Board to review claims ultimately approve an application of will they be approved strictly by NDEP staff?

NDEP Reply -

The regulations are being developed for adoption by the Board to instruct NDEP on ranking applications as they are submitted. The Board will be notified on a quarterly basis of those owner/operators who receive grants and of the dollar amount disbursed

Public Comment -

Regarding Section 4. 2. J., total number of employees, is that in reference to all full-time, part-time, and or seasonal staff? How will this information assist NDEP in the decision making process when awarding grants?

NDEP Reply -

This language is taken from the definition of a small business referred to in NRS 233B.

Public Comment -

What constitutes a small business?

NDEP Reply -

According to Nevada Administrative Procedures Act, the State of Nevada defines a small business as one comprised of up to 150 employees.

Public Comment -

Regarding Section 4. 2. K, volume of fuel, is that in reference to only gasoline, or both gasoline and diesel? What about heating and lube oils? What is NDEP referring to when stating fuel?

NDEP Reply -

Section 4.2.K., volume of fuel, refers to fuel sold to the public for profit. This is a ranking element that was presented and testified on at the Legislature.

Public Comment -

Regarding Section 5, confidentiality, how are applicants assured their confidential information would not be found on the internet?

NDEP Reply -

NDEP acknowledges that confidentiality is to be taken into consideration and as such, the application will state the process is kept confidential. It is possible to further address confidentiality in the regulations if deemed necessary.

Public Comment -

Regarding Section 5. 2, a petroleum dispensing location may be awarded \$38,000, \$64,000, or \$90,000. How did NDEP arrive at these specific amounts?

NDEP Reply -

NDEP worked with tank handlers to arrive at an average cost for an STP sump, spill bucket and mobilization costs. When everything was added it worked out to \$38,000, \$64,000 and \$90,000 for one, two and three systems.

Public Comment -

Regarding Section 5. 4, grant recipients may receive only one grant allocation per petroleum dispensing location. It is unrealistic that an applicant would apply separately for multiple tanks.

NDEP Reply -

Knowing that the upgrades must occur, owners/operators recognize each tank system should be addressed at the same time.

Public Comment -

Will NDEP's recordkeeping be feasible?

NDEP Reply-

In accordance with State Library and Archives requirements, NDEP has record keeping retention schedule procedures in place. NDEP will be able to assist small businesses in obtaining copies of NDEP public records should the need arise.

Public Comment -

What is the outreach program in Section 9 referring to?

NDEP Reply -

Section 9 is in reference to a Technical Assistance Program for UST owners/operators. We have observed the technical assistance program used by NDEP's Bureau of Waste Management prove to be beneficial in gaining industry compliance by providing an unbiased 3rd party that industry may contact for assistance without fear of penalty. The program would be contracted to a company or group with experience and knowledge that is capable of assisting owner/operators. They would also create outreach materials with information to assist owner/operators with understanding the new grant program.

Public Comment -

Does the neutral 3rd party mentioned above work well for the Bureau of Waste Management?

NDEP Reply -

The Bureau of Waste Management has found use of a 3rd party contractor beneficial to their program.

Public Comment -

Nevada is behind other states, like Utah, in getting financial assistance to UST owners/operators.

NDEP Reply -

NDEP will be a national leader if these regulations for a grant program are adopted. Utah has a loan program, not a grant program, and Nevada will be one of the very few states to have a grant program for this purpose.

Paraphrased Public Questions and Comments from the Public Workshop Held on Tuesday August 8th, 2017

A Public Workshop was held on August 8th, 2017 in Elko Nevada. The Workshop was called to order and after the initial question and comment period was opened to the public, the single attendee, posed questions specifically regarding the UST program directly to Mr. Jonathan McRae, Supervisor of the UST/LUST program. There being no further comments during the second public comment period, Ms. Valerie King adjourned the Workshop.

Public Comment -

Is a small business defined as less than 150 employees across the state, or just the operation area?

NDEP Reply -

A small business is defined as the organization itself as a whole and is defined in NRS 233B.

Paraphrased Public Questions and Comments from the Public Workshop Held on Thursday August 10th, 2017

A Public Workshop was held on August 10th, 2017 in Las Vegas. After the Workshop was called to order and the initial question and comment period passed, Ms. Valerie King opened a second public comment period. With there being no further comments during the second public comment period, Ms. King adjourned the Workshop.

Public Comment -

There were several questions asking for clarification of the proposed regulations but no comments were provided regarding the proposed regulatory petition.

NDEP Reply -

Provided clarification in response to the individual questions.