

Permanent Regulation - Informational Statement

A Permanent Regulation Related to Environmental Programs

Legislative Review of Adopted Permanent Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission Permanent No: R075-24P

The Nevada State Environmental Commission (SEC) offers the following informational statement in compliance with Nevada Revised Statute (NRS) 233B.066.

1. Need for Regulation

The U.S Environmental Protection Agency has adopted federal regulations that remove the affirmative defense provisions from the Title V program regulations because these provisions are inconsistent with the EPA's interpretation of the enforcement structure of the Clean Air Act. The regulations require that states remove affirmative defense provision from their regulations by August 21, 2024, to comply with Clean Air Act requirements.

R075-24 removes the ability for facilities to use affirmative defense for an action brought for noncompliance with a technology-based emission limitation contained in the operating permit.

2. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

The Division held one hybrid (in-person and virtual) public workshop for R075-24P on May 23, 2024. The public was invited to participate in person in the Bryan Building at 901 South Stewart Street in Carson City, Nevada. The workshop was held to present the substance of, and receive public comment on, the proposed regulation. Thirty-two members of the public and regulated industry attended the workshop either in-person or virtually.

The Legislative Counsel Bureau published its draft, R075-24P, in the Nevada Register on May 13, 2024. The Division accepted written comments on R075-24I and R075-24P for 30 days beginning on May 17, 2024. The Division received one verbal question concerning R075-24I and/or R075-24P during the public workshop. The question was addressed by bureau staff. A summary of the workshop, including public comment and bureau response, is included on the NDEP website as well as the SEC website.

The SEC held a hybrid regulatory hearing on June 18, 2024, to consider possible action on R075-24P. The SEC posted its public notice, which included a link¹ and instructions to access R075-24P and pertinent documents and information supporting the regulation, for the regulatory meeting at the State Library in Carson City, at Division offices located in both Carson City and Las Vegas, at all county libraries throughout the state, and to the SEC email distribution list. The SEC also posted the public notice at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website, and on the SEC website.

The SEC also published the public notice in the Las Vegas Review Journal and Reno Gazette Journal newspapers once per week for three consecutive weeks prior to the SEC regulatory meeting.

3. The number of persons who attended the SEC Regulatory Hearing:

- (a) Attended June 18, 2024, hearing: 36 (approximately)
- (b) Testified on this Petition at the hearing: 2

1. Andrew Tucker, on behalf of the Nevada Division of Environmental Protection
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- (c) Submitted to the agency written comments: none

4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses through one public workshop and at the June 18, 2024, SEC hearing as noted in number 2 above.

5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

¹ <https://sec.nv.gov/meetings/sec-regulatory-meeting-june-18-2024>

The Commissioners unanimously adopted R075-24P without change because the public and the SEC were satisfied with the proposed regulation.

6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

Regulated Business/Industry: There are no adverse or beneficial economic impacts associated with this action, in the short- or long-term. The removal of the provisions does not have a material impact on the obligation for sources to comply with current existing standards, or the ability of the NDEP to enforce standards.

Public: There are no adverse or economic impacts on the public associated with this action, in the short- or long-term.

7. The estimated cost to the agency for enforcement of the adopted regulation.

Enforcing Agency. The regulation does not impose functions on the agency that it does not already provide as a matter of policy, so no additional costs beyond what the agency would normally incur are expected.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed amendments in R075-24P do not overlap or duplicate other state or government agencies.

9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulatory amendments in R075-24P are no more stringent than what is established by federal law.

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

R075-24P does not address fees.