

CLARK COUNTY

AIR QUALITY REGULATIONS

SECTION 2 - PROCEDURES FOR ADOPTION AND REVISION OF REGULATIONS AND FOR INCLUSION OF THOSE REGULATIONS IN THE STATE IMPLEMENTATION PLAN

2.1 Purpose.

- (a) The purpose of this regulation is to set forth the general procedural requirements for the adoption and revision of Clark County Air Quality Regulations and for inclusion of certain of those regulations in the State Implementation Plan in accordance with NRS §§ 244.095-.119, NRS §§ 237.030-.110, NRS §§ 445B .215 and .500(2), Section 110 of the Act, and 40 C.F.R. Part 51. The Board of County Commissioners (“BCC”) shall comply with any additional applicable procedural requirements pursuant to federal, state, or local law.

2.2 Procedures for Adoption and Revision of the Air Quality Regulations by Ordinance.

2.2.1 Enactment by Bill; Summary and Title.

- No ordinance shall be adopted by the BCC except by bill. When an ordinance is amended, the section or sections thereof shall be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.
- Every ordinance shall bear a summary, which shall appear before the title and which shall state in brief the subject matter of the ordinance.
- The subject of each ordinance shall be clearly indicated in the title. In any case in which the subject of the ordinance is not described in the title, the ordinance shall be void as to the matter not described.

2.2.2 Notice of Public Hearing; Introduction of Ordinance; Publication of Hearing Procedures for Enactment; Publication of Revised Ordinance.

- (a) Notice of Public Hearing. Notice of the public hearing on an ordinance which is to be considered by the BCC must be given in any newspaper, pursuant to the provisions of chapter 238 of NRS, once a week for three weeks commencing at least 30 days before the hearing. The notice must specify with particularity the reasons for the proposed ordinance and provide other informative details.
- (b) Introduction of Ordinance. All proposed ordinances including ordinances proposed for inclusion in the SIP, when first proposed, must be read by title to the BCC, immediately after which at least one copy of the proposed ordinance must be filed with the County Clerk for public examination in each district in which it will apply.
- (c) Publication of Hearing. Notice of the filing, together with the title and an adequate summary of the ordinance, and the date on which a public hearing will be held, must be published once in a newspaper published in the county at least 10 days before the date set for the hearing.
- (d) Enactment. The BCC shall adopt or reject the ordinance, or the ordinance as amended, within thirty-five (35) days after the date of the close of the final public hearing, except that in cases of emergency, by unanimous consent of the whole BCC, final action may be taken immediately or at a special meeting called for that purpose.
 - (1) After adoption, the ordinance must be:
 - (i) Signed by the chairman of the BCC.
 - (ii) Attested by the County Clerk.
 - (iii) Published by title only, together with the names of the County commissioners voting for or against its passage, in a newspaper published in and having a general circulation in the County, at least once a week for a period of two (2) weeks before it goes into effect. Publication by title must also contain a statement to the effect that typewritten copies of the ordinance are available for inspection at the office of the County Clerk by all interested persons.
- (e) Publication of Revised Ordinance. Whenever a revision is made and the revised ordinances are published in book or pamphlet form by authority of the BCC, no further publication is necessary.
 - (1) Except in an emergency, before acting upon a new or amended ordinance the BCC must hold a hearing at which interested persons may present their views. The public hearing may be held in conjunction with the meeting provided for in subsection 2.2.2(d).

2.2.3 Style of Ordinances.

- (a) The style of the ordinances shall be as described in NRS § 244.110.

2.2.4 Adoption of Ordinances Affecting Businesses; Economic Impact Analysis. The BCC shall comply with the provisions set forth in NRS §§ 237.030 through 237.110.

2.2.5 Variance Between Ordinance and Published Notice of Proposed Ordinance.

- (a) The BCC may not consider an ordinance that is substantially different from the proposed ordinance contained in the notice of proposed rule making filed with the County Clerk pursuant to subsection 2.2.2(b). However, the BCC may terminate a rule making proceeding and commence a new rule making proceeding for the purpose of making a substantially different rule.
- (b) In determining whether an ordinance is substantially different from the published proposed ordinance on which it is required to be based, all of the following must be considered:
 - (1) The extent to which all persons affected by the ordinance should have understood that the published proposed ordinance would affect their interests.
 - (2) The extent to which the subject matter of the ordinance or the issues determined by that ordinance are different from the subject matter or issues involved in the published proposed ordinance.
 - (3) The extent to which the procedure contained in the ordinance or the effects of the ordinance differ from the procedure or effects of the published proposed ordinance if it had been made instead.

2.3 Additional Procedures for the Adoption and Revision of Regulations and Other Materials to be Incorporated in the State Implementation Plan.

2.3.1 Applicability. To the extent an air quality regulation is also to be submitted to the Nevada Division of Environmental Protection (“NDEP”) for inclusion in the SIP under § 110 of the Act, the procedures described in this section 2.3 shall be followed. These procedures shall apply to submission of:

- (a) Any revision to the SIP described by 40 C.F.R. § 51.104(a).
- (b) Any individual compliance schedule under 40 C.F.R. § 51.260.

- (c) Any other SIP revision submitted to NDEP pursuant to 40 C.F.R. § 51.104(d).

2.3.2 Additional Procedural Requirements.

- (a) Public Notice. Any notice required by subsection 2.2.2(a) will also include notice to:
 - (1) The Administrator (through the appropriate regional office).
 - (2) Notification to each local air pollution control agency and tribal government which will be significantly impacted by such plan, schedule or revision;
 - (3) In the case of an interstate region, notification to any other States included, in whole or in part, in the regions which are significantly impacted by such plan or schedule or revision.
 - (4) In addition to the public notice requirements provided herein, the BCC may require that notice be given in an alternate publication or forum.
- (b) Public hearings.
 - (1) Separate hearings may be held for plans to implement primary and secondary standards.
 - (2) No hearing will be required for any change to an increment of progress to an approved individual source compliance schedule unless that change is likely to cause the source to be unable to comply with the final compliance date in the schedule.
- (c) Recording-keeping and Certification of Public Hearing.
 - (1) The Department of Air Quality and Environmental Management (“DAQEM”), on behalf of the BCC, shall prepare and retain, for inspection by the Administrator upon request, a record of each hearing and each written comment. The hearing record must contain, at a minimum, a list of commenters together with the content of each presentation.
 - (2) The BCC shall submit to NDEP with the plan, revision, or schedule a certification that the hearing required by 40 C.F.R. § 51.102(a) was held in accordance with the notice required by 40 C.F.R. § 51.102(d).

2.3.3 Submission of Plans; Preliminary Review of Plans.

- (a) The following items shall be included with ordinances, compliance plans or other SIP components to be submitted to NDEP for transmittal to EPA:
 - (1) SIP administrative materials:
 - (i) Evidence that the BCC has adopted the SIP in accordance with applicable state and local law or issued the permit, order, consent agreement or other SIP component in final form in accordance with 40 C.F.R. Part 51. That evidence must include the date of adoption or final issuance as well as the effective date of the revision or other component, if different from the adoption/issuance date.
 - (ii) Evidence that the BCC has the necessary legal authority to adopt and implement the SIP.
 - (iii) A copy of the actual ordinance, or document submitted for approval and incorporation by reference into the SIP, including indication of the changes made to the existing approved SIP, where applicable. The submittal may be a copy of the official ordinance/document signed, stamped, dated by the appropriate BCC official indicating that it is fully enforceable by the BCC. The effective date of the ordinance/document must, whenever possible, be indicated in the document itself.
 - (iv) Evidence that public notice was given of the proposed change consistent with EPA procedures, including the date of publication of that notice.
 - (v) Certification that public hearing(s) were held in accordance with information provided in the public notice and applicable state and local law, if required.
 - (vi) Compilation of public comments and the BCC's response.
 - (2) Technical Support.
 - (i) Identification of all regulated pollutants affected by the ordinance, compliance plan or other SIP component.
 - (ii) Identification of the locations of affected sources.
 - (iii) Quantification of the changes in SIP allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of

changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.

- (iv) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.
 - (v) Evidence that the plan contains emission limitations, work practice standards and record-keeping/reporting requirements, where necessary, to ensure compliance with emission levels.
 - (vi) Compliance/enforcement strategies, including how compliance will be determined in practice.
- (b) The BCC, through its submission to NDEP for transmittal to the Administrator, may submit those elements of the SIP awaiting formal adoption for EPA's comment prior to adoption under the "parallel processing" procedures of 40 C.F.R. Part 51, § 51.103(b), Appendix V, Section 2.3.1. SIP provisions undergoing parallel processing are not subject to the requirements of subsection 2.3.3(a)(1) but must meet all requirements of subsection 2.3.3(a)(2). The following requirements apply to plans submitted for parallel processing:
- (1) A letter requesting that EPA propose approval of the proposed plan by parallel processing.
 - (2) In lieu of subsection 2.3.3(a)(1)(i), the BCC shall submit a schedule for final adoption or issuance of the plan.
 - (3) In lieu of subsection 2.3.3(a)(1)(iii), the submission shall include a copy of the proposed/draft regulation or document, including indication of the proposed changes to be made to the existing approved plan, where applicable.
 - (4) The requirements of subsections 2.3.3(a)(1)(v)-(vi) do not apply to plans submitted for parallel processing.
- (c) Parallel Processing applies only to EPA's determination of proposed action. The BCC must meet all requirements of subsection 2.3.3(a)(2) prior to publication of EPA's final determination of plan approvability.

History: Amended: November 18, 1993; December 19, 1996; February 20, 2001; June 3, 2003; July 1, 2004; December 20, 2005.