

CLARK COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM

Petitioner: Marci Henson, Director, Department of Environment and Sustainability

Recommendation:

Introduce an ordinance to amend Clark County Air Quality Regulations Section 12.0, "Applicability and General Requirements for Permitting Stationary Sources," to remove applicability language and edit formatting; to create a new Section 131, "VOC Emissions Control for Emulsified Asphalt," as a contingency measure for the 2015 ozone standards to regulate owners or operators that may cause or contribute to the emissions of volatile organic compounds (VOC) by implementing VOC content limits, container labeling, registration, recordkeeping, and compliance requirements; and providing for other matters properly related thereto; and set a public hearing. (For possible action)

FISCAL IMPACT:

Fund #:	N/A	Fund Name:	N/A
Fund Center:	N/A	Funded PGM/Grant:	N/A
Amount:	N/A		
Description:	N/A		
Additional Comments:	N/A		

BACKGROUND:

The proposed ordinance amends AQR 12.0 by removing the applicability summaries for the permitting regulations, since each individual AQR contains its own comprehensive applicability section. These amendments were initiated after the U.S. Environmental Protection Agency (EPA) provided feedback. The applicability language in AQR 12.0, adopted more than 15 years ago, has become outdated. Regulated sources have been relying on the current, section-specific applicability provisions, making the summaries in AQR 12.0 unnecessary. Removing this outdated language will reduce potential conflicts and inconsistencies with other AQRs. In addition, the proposed ordinance includes a nonsubstantive editorial revision to Section 12.0.5, replacing the section symbol (§) with the word "Part" for consistency in citation style.

The proposed ordinance creates AQR 131, which establishes VOC limits for emulsified asphalt operations as a contingency measure (under Clean Air Act Sections 172(c)(9) and 182(c)(9)) for the 2015 Ozone National Ambient Air Quality Standards (NAAQS). The EPA revised the 8-hour ozone NAAQS on October 26, 2015, lowering the standard from 0.075 to 0.070 parts per million. The Las Vegas Valley (Hydrographic Area (HA) 212) was initially designated as a marginal nonattainment area, but was reclassified to moderate nonattainment on January 5, 2023 (88 FR 775), requiring attainment by August 3, 2024, based on 2021–2023 data. The Department of Environment and Sustainability (DES) submitted an attainment plan in November 2024 to fulfill those requirements. However, on December 19, 2025, EPA reclassified the Las Vegas Valley as a serious nonattainment area for the 2015 ozone standard, effective January 21, 2025 (89 FR 103657), requiring DES to prepare a new attainment plan addressing the more stringent planning requirements under Clean Air Act Section 182(c).

Cleared for Agenda

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As part of these requirements, the serious ozone attainment plan must include contingency measures to achieve additional emissions reductions if the area fails to attain the standard or meet reasonable further progress milestones, with such measures required to be implemented promptly upon a determination of failure. EPA defined these milestones in 40 CFR Part 51.1310(c) of its Ozone Implementation Rule. AQR 131 follows approaches used in other jurisdictions to reduce ozone precursor emissions from emulsified asphalt manufacturing and use. If HA 212 fails to meet a milestone, as defined by EPA's Ozone Implementation Rule, then AQR 131 will be implemented and the Control Officer will provide written notice to affected owners and operators of emulsified asphalt operations that AQR 131 is in effect.

AQR 131 fulfills attainment plan requirements by regulating emulsified asphalt operations that may cause or contribute to VOC emissions within HA 212. The rule establishes emissions standards, along with labeling, registration, and recordkeeping requirements, to minimize VOC emissions from manufacturing and application activities.

Once the Control Officer notifies owners and operators of the rule's applicability, the rule restricts the manufacturing, selling, offering for sale, mixing, storing, use, or supply of emulsified asphalt materials for use within the ozone nonattainment area. AQR 131 establishes a maximum allowable VOC content of 3% by volume.

The registration requirements in Section 131.7 enable DES to identify affected owners and operators and improve compliance tracking and enforcement. Recordkeeping requirements in Section 131.8 impose minimal burdens by relying on existing business records while ensuring information is available for enforcement purposes. Owners and operators must maintain records for five years, consistent with permitting requirements for stationary sources.

Section 131.6 establishes labeling requirements for small containers (5 gallons or less) to ensure VOC content is readily identifiable by owners, operators, and field inspectors. Larger containers are subject to the recordkeeping requirements in Section 131.8(c) instead of the small-container labeling provisions.

Owners and operators must comply with the rule within 180 days of the Control Officer's applicability notice.

Staff recommends that a public hearing be set for March 17, 2026, at 10:00 a.m.