

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R028-15

Effective October 27, 2015

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 445B.210.

A REGULATION relating to air pollution; adopting by reference certain provisions of federal regulations relating to air quality; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution and to establish standards for air quality. (NRS 445B.210) This regulation revises provisions governing the adoption by reference of certain provisions of federal regulations relating to air quality by the Commission.

Section 1. NAC 445B.221 is hereby amended to read as follows:

- 445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~2013.~~ *2014.*
2. Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, 2002.
3. Appendices M and W of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~2013.~~ *2014.*
4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, ~~2013.~~ *2014.*
5. Appendix E of 40 C.F.R. Part 52 is hereby adopted by reference as it existed on July 1, ~~2013.~~ *2014.*
6. The following subparts of 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3), 60.8(g) and 60.11(e), as it existed on July 1, ~~2013;~~ 2014;

(b) Section 60.21 of Subpart B, as it existed on July 1, ~~2013; and~~ 2014;

(c) Subparts C, Cb, Cc, Cd, Ce, D, ~~Da;~~ Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, ~~DD;~~ EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, JJJJ ~~and~~ KKKK ~~and OOOO~~ as they existed on July 1, ~~2013;~~ 2014;

(d) Subpart Da as it existed on July 1, 2013;

(e) Subpart OOOO as it existed on December 31, 2014; and

(f) Subpart DD as it existed on March 18, 2015.

7. Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, ~~2013;~~ 2014.

8. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, ~~2013;~~ 2014.

9. Appendix B of 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, ~~2013;~~ 2014.

10. *The following subparts of 40 C.F.R. Part 63 are hereby adopted by reference:*

(a) Subparts A, B, C, F, G, H, I, ~~II;~~ L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, ~~YY;~~ CCC, DDD, EEE, GGG, HHH, ~~III;~~ JJJ, LLL, MMM, NNN, ~~OOO;~~ PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM,

NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWW, XXXX, YYYYY, ZZZZ, AAAAA, BBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHH, JJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPP, QQQQ, SSSS, ~~UUUU,~~ WWW, YYYYY, ZZZZ, BBBB, CCCCC, ~~DDDDD,~~ EEEEE, FFFFF, GGGGG, HHHH, JJJJ, LLLLL, MMMMM, NNNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, VVVV, WWW, XXXX, ZZZZ, AAAAA, BBBB, CCCCC, EEEEE and HHHH ~~of 40 C.F.R. Part 63 are hereby adopted by reference~~ as they existed on July 1, ~~2013,~~ 2014;

(b) Subpart III as it existed on August 15, 2014;

(c) Subparts YY and OOO as they existed on October 8, 2014;

(d) Subpart UUUU as it existed on July 1, 2013; and

(e) Subpart DDDDD as it existed on March 30, 2015.

11. Appendix A of 40 C.F.R. Part 63 is hereby adopted by reference as it existed on July 1, ~~2013,~~ 2014.

12. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~2013,~~ 2014. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 72 apply.

13. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, ~~2013,~~ 2014. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 76 apply.

14. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on October 1, 1993.

15. The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual is available from the National Technical Information Service of the United States Department of Commerce at the Internet address <http://www.ntis.gov>, for the price of \$42.

16. A copy of the publications which contain the provisions adopted by reference in subsections 1 to 14, inclusive, may be obtained from the:

(a) Division of State Library, ~~and~~ Archives *and Public Records* of the Department of Administration for 10 cents per page.

(b) Government Printing Office, free of charge, at the Internet address <http://www.gpo.gov/fdsys/>.

17. The following standards of ASTM International are hereby adopted by reference:

(a) ASTM D5504-08, "Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence," set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D5504-08 is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~1~~~~\$50.40.~~ *\$52.80.*

(b) ASTM D2234/D2234M-07, "Standard Practice for Collection of a Gross Sample of Coal," set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2234/D2234M-07 is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~1~~~~\$50.40.~~ *\$52.80.*

(c) ASTM D2013-07, “Standard Practice for Preparing Coal Samples for Analysis,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2013-07 is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~+\$57.60.†~~ **\$60.**

(d) ASTM D6784-02(2008), “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” set forth in Volume 11.07 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D6784-02(2008) is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~+\$48.†~~ **\$50.**

(e) ASTM D2015, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter,” dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Standards Store, 15 Inverness Way East, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~+\$58.†~~ **\$61.**

(f) ASTM D3286, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter,” dated July 10, 1996. A copy of ASTM D3286 is available for purchase at the IHS Standards Store, 15 Inverness Way East, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~+\$58.†~~ **\$61.**

(g) ASTM D1989, “Standard Test Method for Gross Calorific Value of Coal and Coke by Microprocessor Controlled Isoperibol Calorimeters,” dated July 10, 1997. A copy of ASTM D1989 is available for purchase at the IHS Standards Store, 15 Inverness Way East, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~+\$58.†~~ **\$61.**

18. For the purposes of the provisions of 40 C.F.R. Parts 60, 61 and 63, adopted by reference pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

19. Except as otherwise provided in subsections 12 and 13, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3689, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

20. For the purposes of this section, “administrator” as used in the provisions of 40 C.F.R. Part 60, except Subpart B § 60.21, and Parts 61 and 63, adopted by reference pursuant to this section, means the Director.

Permanent Regulation – Informational Statement

A Regulation Relating to Air Quality Standards

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

State Environmental Commission (SEC) LCB File No: R028-15

Regulation R028-15:

Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution.

SPECIFIC CHANGES:

The NDEP is proposing to amend NAC 445B.221, *Adoption by reference and applicability of certain provisions of federal law and regulations*, to adopt applicable federal rules promulgated since the State regulation was last updated as of July 1, 2013. The update includes rulemakings under 40 CFR Part 51, “Requirements for preparation, adoption, and submittal of implementation plans”, Part 60, “Standards of performance for new stationary sources” (NSPS), Part 61, “National emission standards for hazardous air pollutants” (NESHAP), and Part 63, “National emission standards for hazardous air pollutants for source categories” (NESHAP).

1. Need for Regulation:

The NDEP is delegated the implementation of the federal NSPS and NESHAP rules that apply in Nevada. The proposed amendments update the State’s “adoption by reference” regulation, so that Nevada can request delegation for the implementation of new and revised NSPS and NESHAP promulgated after the last update. This will allow the regulated industry to continue to work with the State rather than the EPA.

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.

On June 10, 2015 NDEP conducted a public workshop on proposed Regulation R028-15. The workshop was held in Carson City teleconferenced in Las Vegas. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Great Basin Conference Room) and teleconferenced to the NDEP office located at 2030 East Flamingo Road, Suite 230.

Fifteen (15) members of the public attended the workshop.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at:
http://www.sec.nv.gov/main/hearing_1015.htm .

Following the workshop, the SEC held a formal regulatory hearing on October 14, 2015 at the Nevada Legislative Building located at 401 South Carson Street, Room 2135. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Department of Wildlife, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R028-15 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Air Quality Planning electronic mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1015.htm .

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

- (a) Attended October 14, 2015 hearing: 21 (approximately)
- (b) Testified on this Petition at the hearing: 0
- (c) Submitted to the agency written comments: 0

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 the public workshop and at the October 14, 2015 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.

The regulation was adopted without change because the public was satisfied with the proposed amendments.

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

Regulated Business/Industry. The NSPS, NESHAP and other rules adopted in the regulation are federal rules, and the regulated business/industry must comply with them regardless of whether USEPA or the NDEP implements them. Therefore, there will be no added economic impacts on

the regulated industry due to the NDEP's adopt-by-reference regulation update. In fact, industry prefers that the NDEP implement the federal rules.

Public. The regulation will have no economic effect on the public.

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

The regulation will have no economic effect on the agency.

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 regulation adopts EPA's federal regulations from 40 CFR Parts 51, 60, 61 and 63 in order to allow the NDEP to implement them in Nevada.

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 regulation is 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.

The regulation does not address fees.