

LCB File No. T030-98

**TEMPORARY REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

(Petition 1999-03 amending chapter 445B of NAC)

**NOTICE OF HEARING
NOTICE OF INTENT TO ACT UPON REGULATIONS
NEVADA STATE ENVIRONMENTAL COMMISSION**

The Nevada State Environmental Commission will hold a public hearing beginning at **8:30 a.m. on Wednesday, December 9, 1998, at the Grant Sawyer State Office Building, Room 4401, 555 East Washington Ave., Las Vegas, Nevada.**

The Environmental Commission will hear non regulatory business items on **Tuesday, December 8, 1998, at the above location beginning at 2:00 p.m.** Those items will include air quality ratifications, variance requests and other non regulatory petitions pending before the Commission. The non regulatory items includes a petition by the Clark County Health District regarding MTBE. Business not heard on December 8th will be carried forward to the next day.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of permanent regulations in Nevada Administrative Code (NAC) Chapters (NAC) 445A, 445B, and 459. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

Petition 1999-03 is a temporary amendment to NAC 445B. The regulation amends NAC 445B.319, 445B.327 and 445B.331 by increasing air quality operating permit fees for administrative amendments, Class I and II operating permits and change of location permits. The regulation adds new fees for Prevention of Significant Deterioration (PSD) permits and major revisions to PSD permits. The regulation increases the annual emission fees and annual maintenance fees for all stationary sources.

The proposed temporary regulation is anticipated to have a significant economic impact on businesses in Nevada. The proposed fees will increase annual cost for all stationary sources regulated by the state by approximately \$ 1.1 million. The impact on each stationary source will vary widely depending upon the number of tons of air pollutants emitted by the sources. One stationary source will realize a substantial increase in annual fees due to the volume of their emissions. Fees for applications will also substantially increase. The fee structure will generate approximately \$ 1.9 million.

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Agency Draft of T030-98

Petition 1999-03 was submitted to the State Environmental Commission (SEC) on October 26, 1998, for adoption as a temporary regulation. Petition 1999-03 will come before the SEC on December 9, 1998.

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The proposed regulations do not overlap or duplicate any regulations of another state or local governmental agency. The regulations are no more stringent than federal regulations. There is no additional cost to the agency for enforcement of the regulation. Fees will pay for the State's air pollution control program, including staffing and operating costs.

ADOPTED TEMPORARY REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

Petition 1999-03

Explanation: Matter in *italics* is new language. Matter in [] is material to be omitted.

AUTHORITY: NRS 445B.210 and NRS 445B.300

Section 1: NAC 445B.319 is hereby amended to read as follows:

445B.319 Operating permits; Administrative amendment. (NRS 445B.210, 445B.300)

1. The holder of an operating permit may request or the director may initiate an administrative amendment of an operating permit to:
 - (a) Correct typographical errors;
 - (b) Identify a change in the name, address or telephone number of any person identified in the operating permit, or provide a similar minor administrative change at the stationary source.
 - (c) Require more frequent monitoring or reporting by the holder of the operating permit;

(d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or revision of the operating permit; or

(e) Allow for a change in ownership or operational control of a stationary source if the director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the director a written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

2. A holder of an operating permit must request an administrative amendment on an application provided by the director. The application must be accompanied by a fee of [~~\$25~~ \$200.00].

3. The director shall:

(a) Issue or deny an application for an administrative amendment within 30 days after receipt of the application.

(b) Send a copy of the administrative amendment to the administrator.

Section 2: NAC 445B.327 is hereby amended to read as follows:

445B.327 Operating permits: Fees. (NRS 445B.210, 445B.300)

1. The fees for an operating permit are as follows:

(a) Class I operating permit	[\$14,500]	\$30,000
(b) Significant revision of a Class I operating permit ..	[7,500]	20,000
(c) Minor revision of a Class I operating permit	[1,500]	5,000

(d) Renewal of a Class I operating permit	5,000	
(e) Class II operating permit	[1,800]	<i>3,000</i>
(f) Revision of a Class II operating permit	[900]	<i>2,000</i>
(g) Renewal of a Class II operating permit.....	[700]	<i>2,000</i>
(h) Class II general permit	[100]	<i>400</i>
<i>(i) Administrative amendment of an operating permit..</i>	<i>200</i>	
<i>(j) Prevention of Significant Deterioration (PSD) permit.</i>	<i>50,000</i>	
<i>(k) Major revision of a PSD permit.....</i>	<i>50,000</i>	

An applicant must pay the entire fee when he submits an application to the director.

2. Except as otherwise provided in this subsection, the annual fee based on emissions for any stationary source is **[\$3.75]** *\$5.60* per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding year. If a stationary source emitted less than 25 tons of all regulated air pollutants combined, except carbon monoxide, during the preceding calendar year, the holder of the operating permit is exempt from the fee required by this subsection for that stationary source.

3. To determine the fee set forth in subsection 2:

(a) Emissions must be calculated using:

(1) The emission unit's actual operating hours, rates of production and in-place control equipment;

(2) The types of materials processed, stored or combusted; and

(3) Data from:

(I) A test for emissions compliance;

(II) A continuous emission monitor;

(III) The most recently published issue of "Compilation of Air Pollutant Emission Factors,"

EPA Publication No. AP-42; or

(IV) Other emission factors or methods which the director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

4. The annual maintenance fee for a stationary source is:

(a) \$12,500 for a Class I Source;

(b) \$ 3,000 for a Class II source that has a potential to emit of 50 tons per year or greater of any one regulated air pollutant except CO (carbon monoxide);

(c) \$1,000 for a Class II source that has a potential to emit of 25 tons per year or greater and less than 50 tons per year for any one regulated air pollutant except CO;

(d) \$ 250 for a Class II source that has a potential to emit of less than 25 tons per year for any one regulated air pollutant except CO.

[4.] 5. The department shall collect all fees required by subsection 2 *and subsection 4* no later than July 1 of each year. *For fees due in 1999 the department may allow stationary sources to pay 1/2 of fees due by July 1, 1999, and the remainder by January 30, 2000.*

[5.] 6. The [fee] *fees* required by subsection 2 *and subsection 4* is *are* due and payable to the "Nevada State Treasurer, Environmental Protection" within 45 days after the date of the invoice.

Section 3. NAC 445B.331 is hereby amended to read as follows:

445B.331 Fees: Replacement of lost or damaged operating permit; request for change of location of emission unit.

1. The fee for the replacement of a lost or damaged operating permit is \$200.
2. The fee for a request for a change of the location of an emission unit is [~~\$50~~] **\$100**. Such a request must be made in writing to the director and submitted with the fee for each operating permit at least 10 days before the commencement of the operation of the emission unit at the new location. An owner or operator must not operate the emission unit at the new location until the director approves the location.

End of Temporary Petition 1999-03

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
TEMPORARY PETITION 1999-03
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B. This temporary regulation deals with amendments to the air quality operating permit program fees.

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

Petition 1999-03, was noticed three (3) times: November 10th, 17th and 24th, 1998 as a temporary regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. Regulatory workshops were held on October 28, 1998 in Reno, October 29, 1998 in Las Vegas and November 9, 1998 in Elko. The regulation was adopted on December 9, 1998 by the State Environmental Commission. No public oral testimony was received on this regulation. No written comments were received from at the public hearing during adoption of the regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing:	38
(b)	Testified at each hearing:	8
(c)	Submitted to the agency written comments:	10

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

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices. Extensive comments regarding the fee structure were received during the public workshops. Issues at the workshop were addressed by modification to the regulations. Oral testimony in support of the regulation was received from the Nevada Mining Association, the Nevada Manufacturers Association and Southern California Edison. Written testimony supportive of the regulation was received from Newmont Gold Company, Nevada Mining Association, Placer Dome U.S. Inc., Sierra Pacific Power Company, Southern California Edison, Associated General Contractors, Gopher Construction and Nevada Power Company. Opposition was expressed by Nevada Cement Company. Concern focused on the necessity for an equitable fee structure and to move towards a fee

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structure based on billing based on an hourly rate. Other concerns including the need for a stable fee structure. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. 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 permanent regulation was adopted by the state Environmental Commission on December 9, 1998 with amendment to the regulation in response to public concerns.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

The proposed temporary regulation is anticipated to have any significant economic impact on businesses in Nevada. The proposed fees will increase annual cost for all stationary sources regulated by the state by approximately \$1.1 million. The impact on each stationary source will vary widely depending upon the number of tons of air pollutants emitted by the sources. One stationary source will realize a substantial increase in annual fees due to the volume of their emissions. Fees for applications will also substantially increase. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

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

There is no additional cost to the agency for enforcement.

7. 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 regulations do not overlap or duplicate any regulations of another state or local governmental agency.

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

The regulations are no more stringent than federal regulation.

9. 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 increases air quality operating permit fees. The fees will pay for the State's air pollution control program, including staffing and operating costs. The fee structure will generate approximately \$1.9 million. The fees will financially support the Bureau of Air Quality in the 2000-2001 biennium.