

**LCB File No. R019-99**

**NEVADA STATE ENVIRONMENTAL COMMISSION  
NOTICE OF PUBLIC HEARING**

The Nevada State Environmental Commission will hold a public hearing beginning at **10:00 a.m. on Thursday, September 9, 1999**, at the Reno City Council Chambers, located at 490 South Center Street, **Reno**, Nevada.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. 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.

Petitions 1999-01, 1999-02, 1999-03, 1999-05, 1999-06, and 1999-07 have been previously adopted as temporary regulations by the Environmental Commission on December 9, 1998 or April 9, 1999. These regulations expire by limitation on November 1, 1999. These temporary regulations are before the Commission for permanent adoption.

**1. Petition 1999-01 (LCB R-017-99)** permanently amends NAC 445A.121, 445A.143, 445A.144, 445A.213 of the water pollution control regulations. The regulations are proposed to be amended to change the reference for limits in drinking water standards from the U.S. Public Health Service to those adopted by the Nevada State Board of Health. NAC 445A.143, the Colorado River salinity standards, is proposed to be amended to include the term "flow weighted average." NAC 445A.213, the minimum quality criteria applicable to interstate waters, is proposed to be repealed. Definitions for "annual mean flow" and "flow weighted annual average," sections 2 and 3 of the regulation, are being added since the adoption of the temporary regulation.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. 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. This regulation does not add a new fee, nor increase an existing fee.

**2. Petition 1999-02 (LCB R-018-99)** is a permanent regulation amending NAC 445A.232 "fees" in the water pollution program by extending the date of expiration from June 30, 1999 to June 30, 2001. The portion of NAC 445A.232 effective from July 1, 1999 to June 30, 2001 is repealed, and that portion of NAC 445A.232 effective on July 1, 2001 is retained. This

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petition affects mining water pollution control discharge fees. This petition amends a 1997 action where the fees were amended with three rolling escalating fee schedules between the time of adoption and the year 2001. Those mining water pollution control fees currently in effect are proposed to be retained until July 1, 2001. The intermediate fee schedule is proposed to be repealed by this action.

## **Page 2 - Notice of Environmental Commission Hearing for September 9, 1999**

The proposed permanent regulation is anticipated to have significant affirmative short or long term economic impact on Nevada businesses. The mining industry will see a decrease in the fees paid regarding mining water pollution control permits. 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. This regulation does not add a new fee, nor increase an existing fee. The regulation decreases fees on the mining industry.

**3. Petition 1999-03 (LCB R-019-99)** is a permanent 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 permanent 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.

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.

**4. Petition 1999-05 (LCB R-020-99)** makes permanent amendments to NAC 445A.228 to 445A.292. The amendments clarify wording, remove outdated language, conforms the water pollution regulations to statutes, addresses who must sign a discharge monitoring permit,

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clarifies establishment of effluent limits and compliance schedules and provides for minor water control discharge permit modifications. The amendments also provide for the transfer of permits to new owners. NAC 445A.105 and 445A.246 are proposed to be repealed.

### **Page 3 - Notice of Environmental Commission Hearing for September 9, 1999**

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. The proposed regulation should make it easier for affected businesses to comply by simplifying the requirements for securing a water pollution control permit. 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. This regulation does not add a new fee, nor increase an existing fee.

**5. Petition 1999-06 (LCB R-021-99)** proposes to permanently amend NAC 444.8901, 444.8906, 445A.347, and 459.9729 by removing the Division of Emergency Management in the Nevada Department of Motor Vehicles & Public Safety from the list of agencies required to be notified of spills and releases pursuant to Nevada's water pollution control regulations. The intent of this regulation is to provide for regulatory relief regarding the disclosure of spills and releases. Other emergency reporting requirements are not affected by this amendment.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. Businesses should find the process of reporting less burdensome. 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. This regulation does not add a new fee, nor increase an existing fee.

**6. Petition 1999-07 (LCB R-022-99)** proposes to permanently amend NAC 445B.001 to 445B.395, the air pollution control regulations. Amendments are proposed to NAC 445.221 to update the reference to the Code of Federal Regulations from 1997 to 1998. The amendments to 445B.300 extends the expiration of an operating permit from one year to 18 months. NAC 445B.362 and 445B.373 are proposed to be amended to correct equation errors and add the term "maximum." NAC 445B.383 is amended to correct the references from cubic feet to yards.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. Businesses should find the process of reporting less burdensome. The adoption of this regulation is not anticipated to have a direct

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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. The proposed amendments will make the Nevada air pollution control regulations consistent with the federal air pollution control rules. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

#### **Page 4 - Notice of Environmental Commission Hearing for September 9, 1999**

**7. Petition 1999-08 (R-070-99)** is a permanent regulation amending NAC 445A.055 through 445A.067, the laboratory certification program. The existing regulations are proposed to be repealed and supplanted with the standards of the National Environmental Laboratory Accreditation Program. The amended regulations provide for definitions, scope of accreditation, categories of certification, laboratory certification criteria, certification requirements, and proficiency testing requirements. The regulation adopts by reference many of the provisions that have been listed. Fees in NAC 445A.066 are retained and amended to reduce the fee for toxicity bioassays from \$ 400 to \$ 125. All other provisions from NAC 445A.055 to 445A.067 are proposed to be repealed.

The proposed permanent regulation is not anticipated to have any significant adverse short or long term economic impact on Nevada businesses. Businesses should find the process of water quality laboratory certifications to open competition in other states where the national standards have been adopted. Since these regulations provide for reciprocity with other states, Nevada businesses will see reduced costs in working in other states, and in securing federal contracts. The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public. The changes will be beneficial to the public since water quality measurements that affect the public health and environment will be more trustworthy. 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. The regulations will complement Safe Drinking Water Act regulations for laboratory certification. There is no additional cost to the agency for enforcement. This regulation does not add a new fee, nor increase an existing fee.

The State Environmental Commission will be hearing a **variance** request to NAC 445B, the air pollution control regulations, from the U.S. Department of Energy, Albuquerque Office for the fire experiment facility at the U.S. Air Force's Tonopah Test Range in south central Nevada. The variance relates to NAC 445B.354 (opacity) and 445B.362 (particulate emissions).

Pursuant to NRS 233B.0603(c) the provisions of NRS 233B.064 (2) is hereby provided:

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“Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption.”

Persons wishing to comment upon the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least five days before the scheduled public hearing.

#### **Page 5 - Notice of Environmental Commission Hearing for September 9, 1999**

A copy of the regulations to be adopted or amended will be on file at the State Library, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notice have been deposited at major library branches in each county in Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at <http://www.leg.state.nv.us>. In addition, the State Environmental Commission maintains an Internet site at <http://www.state.nv.us/ndep/admin/envir01.htm>. This site contains the public notice, agenda, codified regulations, and petitions for pending and past commission actions.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of David Cowperthwaite, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-4670 Extension 3118, no later than 5:00 p.m. on **September 2, 1999**.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas; Reno City Council Chambers and Washoe County Library in Reno; and Division of Environmental Protection and Department of Museums, Library and Arts in Carson City.

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# PROPOSED REGULATION OF THE 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**

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(b) Significant revision of a Class I operating permit .....	<del>7,500</del>	20,000
(c) Minor revision of a Class I operating permit .....	<del>1,500</del>	5,000
(d) Renewal of a Class I operating permit .....	5,000	
(e) Class II operating permit .....	<del>1,800</del>	3,000
(f) Revision of a Class II operating permit .....	<del>900</del>	2,000
(g) Renewal of a Class II operating permit .....	<del>700</del>	2,000
(h) Class II general permit .....	<del>100</del>	400
(i) <i>Administrative amendment of an operating permit</i> .....		200
(j) <i>Prevention of Significant Deterioration (PSD) permit</i> .....		50,000
(k) <i>Major modification of a PSD permit</i> .....		50,000

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 calendar 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 emission 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:

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**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.

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