

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R037-05

Effective October 31, 2005

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 the State Environmental Commission; revising the provisions governing the adoption by reference of certain federal regulations by the Commission; and providing other matters properly relating thereto.

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(hh) to 51.100(kk), inclusive, 51.100(nn) and 51.165, and Appendix S and Appendix W of Title 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2002.

2. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, 2003.

3. ~~[The]~~ *Except as otherwise provided in subsection 4, the* following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, ~~[2003:]~~ **2004:**

(a) Subpart A, except §§ 60.4, 60.8(b)(3) and 60.11(e) ~~[:]~~; *and*

(b) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, 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, WW, XX, ~~[AAA:]~~ BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW and AAAA.

4. *The amendments to subpart GG of Title 40 C.F.R. Part 60 set forth in Volume 69 of the Federal Register at pages 41346 et seq., July 8, 2004, are hereby adopted by reference.*

5. Subparts A, B, C, D, E, F, H, I, J, K, L, ~~[M,]~~ N, O, P, Q, R, T, V, W, Y, BB and FF of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 2003.

~~[5.—Subparts]~~

6. *Except as otherwise provided in subsection 7, the following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference:*

(a) A, B, F, G, H, I, J, 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, **EEEE**, GGGG, HHHH, JJJJ, **KKKK**, **MMMM**, NNNN, OOOO, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, **YYYY**, **ZZZZ**, **AAAAA**, BBBBB, CCCCC, FFFFF, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ and SSSSS, ~~[of Title 40 C.F.R. Part 63 are hereby adopted by reference]~~ as they existed on July 1, ~~[2003.~~

~~6.] 2004; and~~

(b) *Subpart DDDDD as set forth in Volume 69 of the Federal Register at pages 55218 et seq., September 13, 2004.*

7. *The amendments to subpart YYYY of Title 40 C.F.R. Part 63 set forth in Volume 69 of the Federal Register at pages 51184 et seq., August 18, 2004, are hereby adopted by reference.*

8. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2003. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, the provisions of 40 C.F.R. Part 72 apply.

~~[7.]~~ 9. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2003. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, the provisions of 40 C.F.R. Part 76 apply.

~~18.~~ **10.** Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, and the amendments to section 7412 contained in 40 C.F.R. Part 63, Subpart C, are hereby adopted by reference as they existed on July 1, 2003.

~~19.~~ **11.** 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 may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the price of \$40.

~~10.~~ **12.** A copy of the publications which contain these provisions may be obtained from the:

- (a) Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

The price is:

(1) For the volume containing §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, 51.100(nn) and 51.165 and Appendices S and W of Part 51 \$44	\$10
(2) For § 52.21	58
(3) For Part 60 (Sections 60.1 to end)	58
(4) For Part 60 (Appendices).....	51 57
(5) For Parts 61 - 62	43
(6) For Part 63 (Sections 63.1 to 63.599).....	58
(7) For Part 63 (Sections 63.600 to 63.1199).....	50
(8) For Part 63 (Sections 63.1200 to 63.1439).....	50
(9) For Part 63 (Sections 63.1440 to end) 63.8830	64
(10) For Part 63 (Sections 63.8980 to end)	35
(11) For the volume containing Parts 72 and 76	61

(b) Division of State Library and Archives of the Department of Cultural Affairs for ~~15~~ 10 cents per page.

(c) Internet at the following website: <<http://www.gpoaccess.gov/nara/index.html>>.

~~11~~ 13. For the purposes of the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

~~12~~ 14. Except as otherwise provided in subsections ~~6 and 7~~ 8 and 9, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3497, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~13~~ 15. For the purposes of this section, “administrator” as used in the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the Director.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R037-05**

The State Environmental Commission adopted regulations assigned LCB File No. R037-05 which pertain to chapter 445B of the Nevada Administrative Code on October 14, 2005.

Notice date: 8/30/2005
Hearing date: 10/4/2005

Date of adoption by agency: 10/14/2005
Filing date: 10/31/2005

INFORMATIONAL STATEMENT

The Nevada Division of Environmental Protection (NDEP) is delegated implementation and enforcement of those federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) rules requested by Nevada. This regulation is necessary to keep the State's "**adoption by reference of provisions of federal law and regulations**" (NAC 445B.221) up to date so that EPA can continue to delegate new rules to the State of Nevada.

This regulation remove two rules that are not delegated from the State list of adopted federal rules. The rules that are being removed are Title 40 C.F.R. Part 60 Subpart AAA, New Residential Wood Heaters, and Title 40 C.F.R. Part 61 Subpart M, Asbestos.

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.

The Nevada Division of Environmental Protection (NDEP), Bureau of Air Quality Planning (BAQP) held a workshop on the above referenced regulation at the following location. Workshop announcements were mailed to all air quality permit holders in Nevada.

Carson City

Wednesday, November 3, 2004
9:30 am - 11:00 am
Western Nevada Community College
Room 103, Reynolds Building
2201 West College Parkway
Carson City NV

The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates (September 05, 19, 26, 2005). The public was subsequently mailed a public notice and meeting agenda for the SEC regulatory hearing, which was held in Reno on October 04, 2005; the SEC mailing list was used for both mailings.

At the SEC hearing, there were no public comments received by the Commission during the adoption of the referenced regulation.

2. The number persons who:

- (a) Attended October 04, 2005 hearing; 18
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: (none)

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

Comments were solicited from affected businesses by the notice in the newspapers, as outlined in #1 above and by direct mail to interested persons subscribing to the SEC electronic mailing list. The public notice for the referenced SEC meeting was also sent to county libraries throughout the state and the proposed regulation was made available for public inspection in libraries in Clark and Washoe Counties, at the State Library in Carson City, and at the offices of the Nevada Division of Environmental Protection in Carson City and Las Vegas. The regulation, public notice and meeting agenda were also made available on SEC Website

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.

No changes were proposed at the State Environmental Commission Hearing, either by NDEP staff, the public or the Commission. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

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

No anticipated economic effects will result from adoption of this regulation.

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

There will be no additional costs to the Nevada Division of Environmental Protection for implementing this regulation.

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 regulation does not overlap or duplicate any regulations of other state, federal or local agencies. The proposed amendments adopt by reference federal regulations from 40 CFR Parts 60 and 63.

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 regulation is no more stringent than what is established by federal law.

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.

This regulation does not address fees changes.