

**ADOPTED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R135-05

Effective February 23, 2006

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

AUTHORITY: §§1-11, NRS 445B.830.

A REGULATION relating to pollution; revising the membership of the Advisory Committee on the Control of Emissions From Motor Vehicles; revising provisions governing grants of money from the Pollution Control Account; and providing other matters properly relating thereto.

Section 1. NAC 445B.853 is hereby amended to read as follows:

445B.853 1. The Advisory Committee on the Control of Emissions From Motor Vehicles is hereby created.

2. The Committee consists of ~~{10}~~ *11* members appointed by the ~~{appropriate deputy director}~~ *Deputy Director* of the Department of Motor Vehicles. The ~~{deputy director}~~ *Deputy Director* shall appoint:

- (a) Two persons who are representatives of the Department of Motor Vehicles;
- (b) Two persons who are representatives of the Division of Environmental Protection;
- (c) *Two persons who are representatives of the Clark County Department of Air Quality and Environmental Management;*
- (d) One person who is a representative of the Department of Transportation;
- ~~{(d) One person who is a representative of the Clark County Health District;}~~
- (e) One person who is a representative of the *State Department of Agriculture;*

(f) *One person who is a representative of the* Washoe County District Health Department;

~~{(f) One person who is a representative of the Clark County Department of Comprehensive Planning;}~~

(g) One person who is a representative of the Truckee Meadows Regional Planning Agency;

(h) One person, as a nonvoting member, who is a representative of the United States Environmental Protection Agency, Region IX; and

(i) One person, as an alternate member, for each person described in paragraphs (a) to (h), inclusive.

3. The ~~{appropriate deputy director}~~ *Deputy Director* of the Department of Motor Vehicles shall:

(a) Appoint the members of the Committee from a list submitted by the chief administrative officer of each agency represented on the Committee.

(b) Designate one of the members of the Committee to act as its Chairman.

Sec. 2. NAC 445B.855 is hereby amended to read as follows:

445B.855 1. Unless he is removed pursuant to the provisions of subsection 3:

(a) The Chairman of the Committee serves in that capacity for a term of not more than 2 years, as determined by the ~~{appropriate deputy director}~~ *Deputy Director* of the Department of Motor Vehicles, and may be reappointed.

(b) Each member and alternate member of the Committee serves a term of 2 years and may be reappointed. Any person appointed to replace a member or alternate member before the expiration of his term serves during the unexpired portion of that term.

2. Members of the Committee serve without salary.

3. Any member or alternate member of the Committee must be removed upon written request for his removal made by the chief administrative officer of the agency he represents. Any such request must be submitted to the ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles.

Sec. 3. NAC 445B.857 is hereby amended to read as follows:

445B.857 1. The Committee shall meet at least quarterly, or more frequently at the call of the Chairman, at the time and place designated by the Chairman.

2. A majority of all appointed members who are eligible to vote constitutes a quorum. The affirmative votes of a majority of the members present are necessary to adopt a recommendation or approve action.

3. The Chairman shall cause written minutes of each meeting to be made and shall forward a copy of the minutes to the ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles and to the Administrator of the Division of Environmental Protection.

Sec. 4. NAC 445B.859 is hereby amended to read as follows:

445B.859 An agency is eligible for a grant from the money allocated for grants in ~~[paragraph (a) of subsection 4]~~ *subsection 6* of NRS 445B.830 if the agency meets the requirements of that subsection and is:

1. Responsible for preparing and submitting an implementation plan pursuant to 42 U.S.C. § 7407; or

2. Responsible for monitoring air pollution and enforcing air pollution control regulations.

Sec. 5. NAC 445B.861 is hereby amended to read as follows:

445B.861 1. An application for a grant must be submitted to the ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles, ~~[and]~~ the Administrator of the

Division of Environmental Protection *and the Chairman of the Committee* not later than April 1 preceding the fiscal year for which the grant is requested.

2. The application must:

(a) Contain the name and address of the agency making the application;

(b) Contain the name and telephone number of any person responsible for coordinating the proposed project or, if there is no such person, the chief administrative officer of the applicant;

(c) ~~Specify whether the grant is requested from dedicated funds or from excess money in the Pollution Control Account;~~

~~(d)~~ Specify the fiscal year for which the grant is requested;

~~(e)~~ (d) State the specific objectives of the ~~project;~~

~~(f)~~ *request;*

(e) Contain a description of the manner in which the ~~project will maintain~~ *request is related to the improvement of* air quality ~~by reducing emissions from motor vehicles;~~

~~(g)~~;

(f) Contain a statement of the work *that is planned* to be performed ~~in connection with the project, with a timetable for completion of the work; and~~

~~(h)~~;

(g) Set forth a *program* budget, ~~for the project,~~ itemized under *applicable* categories of expenditures ~~for~~, *including, without limitation, professional services*, personnel, travel, operating expenses and equipment.

Sec. 6. NAC 445B.863 is hereby amended to read as follows:

445B.863 1. ~~Each application for a grant that is properly completed and submitted in timely fashion to the appropriate deputy director of the Department of Motor Vehicles must be~~

~~submitted by him to the Committee no~~ *The Chairman of the Committee shall schedule a meeting of the Committee not* later than April 15 preceding the fiscal year for which the grant is requested.

2. ~~After it receives an application, the~~ *The* Committee shall review the application at ~~its next~~ *the* meeting *scheduled pursuant to subsection 1* and determine:

- (a) Whether the applicant is eligible for a grant;
- (b) Whether the ~~project will further the objective of maintaining~~ *request is related to the improvement of* air quality ; ~~by limiting or reducing emissions from motor vehicles;~~
- (c) The merit of the project; and
- (d) The likelihood of success of the project.

3. Based upon its determinations, the Committee shall recommend that the application be approved as submitted, that it be approved with specified changes or that it be denied.

Sec. 7. NAC 445B.865 is hereby amended to read as follows:

445B.865 1. The recommendation of the Committee concerning an application must be transmitted by the Chairman of the Committee to the ~~appropriate deputy director~~ *Deputy Director* of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection ~~not later than 5 working days after the Committee conducted the review of the application pursuant to NRS 445B.863.~~

2. The Administrator of the Division of Environmental Protection shall consider the recommendation of the Committee and shall approve the application, disapprove it or approve it pending revision of the application. The Administrator shall transmit his decision to the ~~appropriate deputy director~~ *Deputy Director* of the Department of Motor Vehicles ~~within~~ *not later than* 10 working days after he receives the recommendation of the Committee.

3. The ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles shall consider the recommendation of the Committee and shall approve the application, disapprove it or approve it pending revision of the application.

4. If both the ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection approve an application, the ~~[deputy director]~~ *Deputy Director* shall cause the proposed grant to be submitted for approval by the Interim Finance Committee.

5. If the Interim Finance Committee approves the grant, the ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles shall enter into an agreement with the recipient of the grant, specifying the terms and conditions under which the grant is made.

Sec. 8. NAC 445B.867 is hereby amended to read as follows:

445B.867 1. A grant must be awarded for a period of ~~[1 fiscal year.]~~ *2 fiscal years.*

2. ~~[If]~~ *Except as otherwise provided in subsection 4, if* any money from a grant remains unexpended at the end of the ~~[fiscal year]~~ *period* for which the grant is made, ~~[the recipient may use the money to continue the project for not more than 1 fiscal year after the termination date set forth in the agreement executed pursuant to NAC 445B.865. At the end of this period.]~~ the recipient shall return any unexpended money to the Department of Motor Vehicles.

3. *Not later than 60 days before the expiration of the period authorized for the expenditure of money from a grant, the recipient of a grant may submit a request in writing to the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection for authorization to expend money from a grant for an additional fiscal year. The request must include:*

(a) The name and address of the recipient submitting the request;

(b) The name and telephone number of any person responsible for coordinating the project or, if there is no such person, the chief administrative officer of the recipient;

(c) The reasons for which the request is submitted;

(d) A statement specifying the fiscal year during which the grant was originally awarded;

(e) A statement specifying the amount of work remaining on the project; and

(f) A statement specifying the amount of money that remains unexpended from the original grant.

4. If both the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection approve a request submitted pursuant to subsection 3, the Deputy Director, the Administrator and the recipient of the grant may enter into a written agreement authorizing the recipient to expend money from a grant for an additional fiscal year.

Sec. 9. NAC 445B.869 is hereby amended to read as follows:

445B.869 1. The recipient of a grant shall, during ~~the~~ *each* fiscal year for which the grant is made, submit to the ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles quarterly reports on the status of the project supported by the grant. These reports are due no later than 45 days after October 1, January 1, April 1 and July 1, respectively.

2. Each report must, for the preceding quarter:

(a) *Contain a statement that sets forth:*

(1) The date on which the request for the grant was approved by the Committee;

(2) The date on which the funding for the grant was approved by the Interim Finance Committee;

(3) The total amount of the money approved for the grant;

(4) The amount of money expended during each quarter since the approval of the grant;
and

(5) The amount of money remaining unexpended from the grant;

(b) Contain a description of progress made toward completion of the stated objectives of the project;

~~(b)~~ (c) Include a narrative summary of noteworthy accomplishments and problems encountered in connection with the project;

~~(e)~~ (d) Contain an itemized list of approved expenditures, shown by budget category, that have been made; and

~~(d)~~ (e) Be accompanied by original invoices or other acceptable evidence of these expenditures.

3. Each report may be accompanied by:

(a) Graphic or tabular displays;

(b) Media reports concerning the project; or

(c) Other related materials related to the project, such as papers prepared for professional meetings, published articles or brochures.

Sec. 10. NAC 445B.871 is hereby amended to read as follows:

445B.871 1. The ~~[appropriate deputy director]~~ *Deputy Director* of the Department of Motor Vehicles may terminate a grant or suspend payments of money pursuant to the grant for any of the following reasons, among others:

(a) Failure or refusal of the recipient of the grant to submit any report required by NAC 445B.869;

(b) Failure or refusal of the recipient to provide any information or assistance required in connection with any audit; or

(c) Misuse or use for a nonapproved purpose of any money from the grant.

2. The ~~{appropriate deputy director}~~ *Deputy Director* of the Department of Motor Vehicles may deny or refuse to consider an application for a grant made by a person who has previously violated any term or condition of a grant or of the provisions of NAC 445B.850 to 445B.871, inclusive.

Sec. 11. NAC 445B.873 is hereby amended to read as follows:

445B.873 1. Except as otherwise provided in subsection 2, the Department of Motor Vehicles shall award grants from the Pollution Control Account in accordance with subsection ~~{4}~~ 6 of NRS 445B.830 if the Account contains sufficient money for this purpose.

2. The Department of Motor Vehicles shall not award a grant from the Pollution Control Account for a proposed project or program unless the project or program is designed to improve or maintain the quality of air . ~~{by limiting or reducing the emissions from motor vehicles.}~~

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R135-05**

The Department of Motor Vehicles submits the following statement. The Department adopted regulations assigned LCB File R135-05, which pertain to Chapter 445B of the Nevada Administrative Code, a regulation relating to pollution; revising the membership of the Advisory Committee on the Control of Emissions From Motor Vehicles; revising provisions governing grants of money from the Pollution Control Account;

Notice date: 08/30/2005

Workshop dates:	Tuesday, September 20, 2005	Friday, September 23, 2005
	10:30 AM	10:30 AM
	Washoe Co Library	Clark Co Library
	Northwest Branch	Spring Valley Branch
	2325 Robb Drive	4280 S. Jones Blvd
	Reno, Nevada	Las Vegas, NV

Hearing dates:	Thursday, September 29, 2005	Friday, September 30, 2005
	10:30 AM	10:30 AM
	Washoe Co Library	Clark Co Library
	Northwest Branch	Spring Valley Branch
	2325 Robb Drive	4280 S. Jones Blvd
	Reno, Nevada	Las Vegas, NV

Date of adoption by agency: January 4, 2006

Filing date: 2/23/2006

INFORMATIONAL STATEMENT

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

The Department of Motor Vehicles noticed public workshops for LCB File R135-05 on 08/30/2005 by posting at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. In counties where the Department does not maintain an office, the notice was posted at the main office of the public libraries. Special notice was also mailed to those persons who have requested to be placed on a special notice mailing list. A copy of written comments may be obtained by calling the Nevada Department of Motor Vehicles at (775) 684-4805, or by writing the Department's Compliance Enforcement Division at 555 Wright Way, Carson City, NV. 89711. No comment or testimony was given by any member of the public at the Public Workshops and Public Hearings. No written comments by any member of the public were submitted to the Department.

2. The number of persons who:

(a) Attended each workshop:

Tuesday, September 20, 2005	Friday, September 23, 2005
10:30 AM	10:30 AM
Washoe Co Library	Clark Co Library
Northwest Branch	Spring Valley Branch
2325 Robb Drive	4280 S. Jones Blvd
Reno, Nevada	Las Vegas, NV
12 persons attended	25 persons attended

(b) Attended each hearing:

Thursday, September 29, 2005	Friday, September 30, 2005
10:30 AM	10:30 AM
Washoe Co Library	Clark Co Library
Northwest Branch	Spring Valley Branch
2325 Robb Drive	4280 S. Jones Blvd
Reno, Nevada	Las Vegas, NV
03 persons attended	15 persons attended

(c) **Testified at each hearing:** Andrew Goodrich, Director of the Washoe County Air Quality Management Division, Washoe County Health Department testified at the September 20th, 2005 Public Workshop in Reno, held at 10:30 AM at the Washoe County Library Northwest Branch, located at 2325 Robb Drive. Robert Tekniepe, representing the Clark County Department of Air Quality & Environmental Management testified at the September 30th, 2005 Public Hearing in Las Vegas, held at 10:30 AM at the Clark County Spring Valley Branch Library, located at 4280 South Jones Blvd.

(d) **Submitted to the agency written comments:** Dennis Ransel, Planning Manager with the Clark County Department of Air Quality and Environmental Management submitted a letter to Department of Motor Vehicles Deputy Director Clay Thomas regarding several portions of the Proposed Language found in LCB File No R135-05.

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 businesses through postings as outlined in question one, and by direct mail to the Departments interested parties' list.

A letter dated September 14th, 2005 was submitted by Dennis Ransel, Planning Manager with the Clark County Department of Air Quality and Environmental Management to the Department of Motor Vehicles Deputy Director, Clay Thomas. Mr. Ransel addressed a number of issues in his letter with regards to the Proposed Draft Language found in LCB File No R135-05.

- 1) Withdraw proposed revisions to Nevada Administrative Code 445B.861 through 445B.867 from the September Workshops and Hearings until the Advisory Committee on

the Control of Emissions From Motor Vehicle had an opportunity to review and make recommendations to the proposed regulations.

- 2) Draft proposed regulations for Chapter 445B which provides process and procedures for local governmental air quality agencies to request funding from the Air Pollution Control Account pursuant to Nevada Revised Statute 445B.830(2d).
- 3) Draft proposed regulations for Chapter 445B which would provide further clarification for distributing funds quarterly to local governmental agencies in non-attainment or maintenance areas, pursuant to Senate Bill 26.
- 4) Revise Chapter 445B regulations for length of intra-local agreements and time extensions which would take into account fund distribution cycles.
- 5) Add "Professional Services" as a category within Nevada Administrative Code 445B.861, subsection 2(h).

A Public Workshop was held, starting at 10:30 a.m. in Reno on September 20th, 2005 at the Washoe County Library, Northwest Branch, located at 2325 Robb Drive in Reno. Andrew Goodrich, Director of the Washoe County Division of Air Quality, District Health Department testified in support of the items found in the September 14th, 2005 letter that was submitted to Department of Motor Vehicles Deputy Director Clay Thomas by Mr. Dennis Ransel, of the Clark County Department of Air Quality and Environmental Management.

A Public Workshop was held, starting at 10:30 a.m. in Las Vegas on September 23rd, 2005 at the Clark County Library, Spring Valley Branch, located at 4280 S. Jones Blvd in Las Vegas. There were no comments or testimony related to LCB File No R135-05 at this Workshop from either the general public, emission testing industry or governmental air quality agencies.

A Public Hearing was held starting at 10:30 a.m. in Reno on September 29th, 2005 at the Washoe County Library, Northwest Branch, located at 2325 Robb Drive in Reno. No comments or questions were received from either the general public, governmental air quality agencies or emission testing industry at this Public Hearing.

A Public Hearing was held starting at 10:30 a.m. in Las Vegas on September 30th, 2005 at the Clark County Library, Spring Valley Branch, located at 4280 S. Jones Blvd in Las Vegas. Robert Tekniepe, representing the Clark County Department of Air Quality & Environmental Management provided testimony, reiterating the recommendations found in the September 14th, 2005 letter submitted to Department of Motor Vehicles Deputy Director Clay Thomas by Mr. Dennis Ransel, of the Clark County Department of Air Quality and Environmental Management.

The summary of responses obtained at each public hearing held may be obtained by contacting the Nevada Department of Motor Vehicles at (775) 684-4805, or by writing the Department's Compliance Enforcement Division at 555 Wright Way, Carson City, NV. 89711.

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 Department of Motor Vehicles evaluated all of the recommendations submitted in Mr. Dennis Ransel's letter, which were supported by Mr. Andrew Goodrich of the Washoe County Division of Air Quality Management at the Workshop held in Reno on September 20th, 2005. The Department determined authority does not exist within the Nevada Revised Statutes to develop regulations for local governmental air quality agencies to request funding from the Air Pollution Control Account pursuant to Nevada Revised Statute 445B.830(2d), or for providing further clarification by regulation for distributing funds quarterly to local governmental agencies in non-attainment or maintenance areas, pursuant to Senate Bill 26. Careful review of Nevada Revised Statute 445B.830 found that language clearly provides the scope of authority for areas which the Department of Motor Vehicles may establish regulations for regarding distribution of funds to local governmental agencies. Subsection 4 of Nevada Revised Statute states that The Department of Motor Vehicles shall **by regulation** establish a program to award **grants** of money in the Pollution Control Account to local governmental agencies in non-attainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air. Subsection 5 of the Nevada Revised Statute states that any **regulations** adopted pursuant to subsection 4 must provide for the creation of an advisory committee consisting of representatives of state and local agencies involved in the control of emissions from motor vehicles. The committee shall:

- (a) Review applications for grants and make recommendations for their approval, rejection or modification;
- (b) Establish goals and objectives for the program for control of emissions from motor vehicles;
- (c) Identify areas where funding should be made available; and
- (d) Review and make recommendations concerning regulations adopted pursuant to subsection 4 or **NRS 445B.770**.

The Department also determined that it was not in the best interests of all stakeholders to delay the process to adopt permanent regulations for Nevada Administrative Code 445B.861 through 445B.867 until the Advisory Committee on the Control of Emissions From Motor Vehicles had an opportunity to review and make recommendations to the proposed regulations, as recommended by Mr. Dennis Ransel. There has been considerable discussion at previous meetings of the Advisory Committee on the Control of Emissions From Motor Vehicles with regards to amending regulations related to the Advisory Committee on the Control of Emissions From Motor Vehicles. Based upon past meeting discussions, Temporary Regulations (T010-05) were adopted, which added the Department of Agriculture as a member of this committee. Delaying the process to adopt permanent regulations would cause the Department of Agriculture to be eliminated from the committee, since the Advisory Committee only meets quarterly and the process to follow up with permanent regulation amendments would not be completed until well after November of 2005.

Two of Mr. Ransel's recommendations were considered and added to the Adopted Regulations for LCB File No R135-05. "Professional Services" has been included as a category within Nevada Administrative Code 445B.861, subsection 2(g). Chapter 445B Proposed Regulations

were amended for length of intra-local agreements and time extensions which would take into account fund distribution cycles. These revisions are found within Section 7, Nevada Administrative Code 445B.867(1) and 445B.867(2).

5. The estimated economic effect of the adopted regulation on the businesses that 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.

(a) There is no estimated economic effect on the regulated industry, either adverse or beneficial, nor immediate or long-term.

(b) There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term.

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

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies that 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.

There are no other state or government agency regulations that the proposed regulation amendments duplicate.

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

There are not federal regulations which regulate the same activity as the proposed 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.

This regulation does not provide or involve a new fee. There is not a total amount expected to be collected or used.