

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R206-05

Effective May 4, 2006

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 State Environmental 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. *Appendix W of Title 40 C.F.R. Part 51 is hereby adopted by reference as it existed on July 1, 2005, and the amendments to Appendix W of Title 40 C.F.R. Part 51 as set forth in Volume 70 of the Federal Register at pages 68218 et seq., November 9, 2005, are hereby adopted by reference.*

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

~~[3.]~~ 4. Except as otherwise provided in subsection ~~[4.]~~ 5, the following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference : ~~[as they existed on July 1, 2004:]~~

(a) Subpart A, except §§ 60.4, *60.8(b)(2)*, 60.8(b)(3) and 60.11(e) ~~[and]~~, *as it existed on July 1, 2005;*

(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, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW and AAAA ~~4.~~

~~4.~~ *as they existed on July 1, 2005; and*

(c) Subparts CCCC and DDDD of Title 40 C.F.R. Part 60 as set forth in Volume 70 of the Federal Register at pages 55568 et seq., September 22, 2005, are hereby adopted by reference.

5. The amendments to subpart ~~GG~~ *Da* of Title 40 C.F.R. Part 60 set forth in Volume ~~69~~ *70* of the Federal Register at pages ~~41346~~ *51266* et seq., ~~July 8, 2004,~~ *August 30, 2005*, are hereby adopted by reference.

~~5.~~ 6. Subparts A, ~~B,~~ C, D, E, F, H, I, J, K, L, 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.

~~6.~~ 7. Except as otherwise provided in subsection ~~7,~~ 8, 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, BBBB, CCCC, *DDDD, EEEE*, FFFFF, JJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ and SSSSS, as they existed on July 1, ~~2004;~~ *2005*; and

(b) Subpart ~~DDDD~~ *FFFF* as set forth in Volume ~~69~~ *70* of the Federal Register at pages ~~55218~~ *38553* et seq., ~~September 13, 2004.~~

~~7.] July 1, 2005, and pages 51269 et seq., August 30, 2005.~~

8. The amendments to ~~[subpart YYYY]~~:

(a) *Subpart B* of Title 40 C.F.R. Part 63 *as* set forth in Volume ~~[69]~~ 70 of the Federal Register at pages ~~[51184]~~ 39662 et seq., ~~[August 18, 2004,]~~ July 11, 2005;

(b) *Subpart LL of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 66280 et seq., November 2, 2005;*

(c) *Subpart EEE of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 59401 et seq., October 12, 2005;*

(d) *Subpart QQQ of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 40672 et seq., July 14, 2005;*

(e) *Subpart RRR of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 57513 et seq., October 3, 2005;*

(f) *Subpart UUUU of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 46683 et seq., August 10, 2005;*

(g) *Subpart WWW of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 50117 et seq., August 25, 2005; and*

(h) *Subpart CCCCC of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 44285 et seq., August 2, 2005,*

↪ are hereby adopted by reference.

~~[8.]~~ 9. 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.

~~19.~~ 10. 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.

~~110.~~ 11. 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.

~~111.~~ 12. 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.~~

~~12.~~ Internet at the following website: http://www.osha.gov/pls/imis/sic_manual.html.

13. 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	10 45
(2) For § 52.21	58 61
(3) For Part 60 (Sections 60.1 to end)	58
(4) For Part 60 (Appendices).....	57
(5) For Parts 61 - 62	43 45
(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 63.8830 63.6175)	64 32
(10) <i>For Part 63 (Sections 63.6580 to 63.8830)</i>	32
<i>(11)</i> For Part 63 (Sections 63.8980 to end)	35
(11) <i>(12)</i> For the volume containing Parts 72 and 76.....	64 62

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

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

~~(13)~~ *14.* 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.

~~(14)~~ *15.* Except as otherwise provided in subsections ~~8 and 9,~~ *9 and 10,* 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.

~~(15)~~ *16.* 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. R206-05**

The State Environmental Commission adopted regulations assigned LCB File No. R206-05 which pertain to chapter 445B of the Nevada Administrative Code on March 8, 2006.

Notice date: 2/1/2006
Hearing date: 3/8/2006

Date of adoption by agency: 3/8/2006
Filing date: 5/4/2006

INFORMATIONAL STATEMENT

This regulation adopts into the Nevada Administrative Code federal New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPs) that have been promulgated by the U.S. EPA since July 1, 2004. The Nevada Division of Environmental Protection is delegated the implementation of the federal NSPS and NESHAPs programs relevant in Nevada. Accordingly, it is necessary to keep the State's "adoption by reference" regulation (NAC 445B.221) up to date so that the United States Environmental Protection Agency (U.S. EPA) can continue to delegate the implementation of new rules to the State.

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.

NDEP's Bureau of Air Quality Planning (BAQP) held two workshops on the above referenced regulation at the following location.

Elko Nevada Tuesday, December 13, 2005 Great Basin College 1500 College Parkway Elko, Nevada 10:30 AM to 12:30 PM	Carson City, Nevada Thursday, December 15, 2005 Room 2144 Legislative Counsel Bureau 401 South Carson Street Carson City, Nevada 10:00 AM to 12:00 Noon
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The State Environmental Commission (SEC) held a public hearing to consider this regulation on March 8th, 2006 at the Washoe County Commission Chambers in Reno, Nevada.

2. The number persons who attended the SEC Regulatory Hearing:

- (a) Attended March 08, 2006 hearing; 70
- (b) Testified on this Petition at the hearing: (1 NDEP Staff)
- (c) Submitted to the agency written comments:

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 as indicated in number 1 above. Comments were also solicited by State Environmental Commission (SEC) in the SEC notice in the newspapers, by direct mail to interested persons subscribing to the SEC electronic and ground-based 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 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 workshop notice, the proposed regulation, the SEC public notice and the SEC meeting agenda were also made available on SEC Website at: <http://www.sec.nv.gov/main/hearing030806.htm>

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.

Changes were proposed to the regulation at the State Environmental Commission Hearing, by NDEP staff. The changes were minor and non-substantive and were communicated to Legislative Counsel Bureau staff in the cover letter accompanying this filing statement.

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.

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.