

LCB File No. R118-00

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

**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 Tuesday, August 22, 2000**, at the **at the Nevada Commission on Tourism, Commission Chamber, 2nd Floor, 401 N. Carson Street, Carson City, Nevada (The Laxalt Building is located immediately south of the Carson Nugget and two blocks north of the Capitol Building)**.

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.

1. Petition 2001-01 (LCB R-120-00) is a permanent amendment to NAC 519A.235, the mining regulation and reclamation rules. The amendment establishes a trust fund for emergency reclamation activities with fees to be collected in the years 2000 and 2002.

The public would be better protected from possible financial impacts due to unsecured closure of mining operations and emergency fluid management obligations. The public is not adversely affected in the immediate or long-term. Mine operators with process fluid stabilization needs may be required to post additional surety. Fees are based upon the total reclamation liability, with surety for process fluid stabilization required through mine closure. Fees for the readiness fund would be collected for only three years and the fund is to be replenished by surety money collected. No additional costs are expected for collection of the fees. The Bureau of Land Management and the USDA Forest Service requires surety for process fluid stabilization on public lands, but not on private lands.

Through joint bonding, done by a Memorandum of Understanding, duplication is avoided. There is no equivalent federal regulation for the fund. The regulation is no more stringent than federal requirements. The total amount collected for the readiness fund is anticipated to be approximately \$1,000,000 over three years. The fund is to be used as a bridge to support the management of mining process fluids during the surety revocation process, with the fund being replenished by surety money collected.

2. Petition 2000-11 (LCB R-118-00) is a permanent amendment to NAC 445B.010 to 445B.395 the air pollution control regulations. The petition proposes to amend NAC 445B.264,

Original Petition 2000-11 as submitted to the Legislative Counsel Bureau on June 30, 2000 for drafting as a permanent regulation.

monitoring system: recordation of data, by removing language regarding six-minute opacity averages being used in calculations. NAC 445B.354, the maximum opacity of emissions is amended to incorporate Title 40 CFR Part 60, Appendix A, Reference Method 9 and that emission units being subject to Title 40 CFR Part 60, subparts D or Da are limited to 27 percent opacity. The existing language requires the use of an aggregate reading to determine opacity, for which no standard reference method exists.

There will be no adverse economic impact upon the regulated business community. The amendments will reduce the time required to collect measurements from one-hour to six minutes per emission unit, resulting in an economic benefit to regulated sources. The exact economic benefit will vary depending upon the number of units to be evaluated by each regulated facility. The proposed amendments will have no adverse economic impact upon the public. There will be no additional cost to the Division of Environmental Protection for enforcement of these amendments. There are no other State regulations which the amendments overlap or duplicate. The amendment incorporates Title 40 CFR Part 60.42(a)(2) and Part 60.42(a)(b) which is administered by the federal Environmental Protection Agency. This regulation is no more restrictive or stringent than the federal requirements. The amendment does not provide a new fee and it does not amend existing fees.

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

"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 on 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.

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. It is 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 **August 17, 2000**.

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

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PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

Petition 2000-11

Explanation - Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

Authority: NRS 445B.210(1-5) and 445B.300

Section 1. NAC 445B.264 is hereby amended to read as follows:

1. Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to 6-minute averages and for systems other than opacity to 1-hour averages.

~~[Six-minute opacity averages must be calculated from 24 or more data points equally spaced over each 6-minute period.]~~

2. For systems other than opacity, 1-hour averages must be computed from four or more data points equally spaced over each 1-hour period.

3. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments must not be included in the data averages computed under this section. An arithmetic or integrated average of all calibrated data must be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form, e.g., ppm pollutant and percent O₂ or lb/million Btu of pollutant.

4. All excess emissions must be converted into units of the standard using the applicable conversion procedures specified in NAC 445B.001 to 445B.395, inclusive. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in those sections to specify the applicable standard, e.g., rounded to the nearest 1 percent opacity.

5. As used in this section, "calibrated data" means data which is precise and accurate within a stated acceptance criteria for the instrument.

Sec. 2. NAC 445B.354 is hereby amended to read as follows:

1. Unless otherwise provided in NAC 445B.354 to 445B.357, inclusive, no owner or operator may cause or permit the discharge into the atmosphere from any ~~[stationary source of] emission unit [any regulated air pollutant for a period or periods aggregating more than 3 minutes in any 1-hour which is of]~~ *which is of* an opacity equal to or greater than 20 percent. *Opacity shall be determined by either one of the two following methods:*

(a) Visual measurement of opacity shall be determined utilizing Title 40 CFR Part 60, Appendix A, Reference Method 9; or

(b) For sources which utilize continuous opacity monitoring systems, data shall be reduced to six minute averages as described in Title 40 CFR Part 60.13(h)

2. NAC 445B.354 to 445B.357, inclusive, do not apply *to that portion of the opacity which is composed of [if the presence of] uncombined water [is the only reason for the failure of an emission to comply with those sections]*. The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.

3. *Emission units subject to Title 40 CFR Part 60 Subparts D or Da shall be allowed one 6-minute period per hour of not more than 27 percent opacity pursuant to the provisions of Title*

40 CFR Part 60.42(a)(2) and Part 60.42a (b).

4. The continuous monitoring system for monitoring opacity at a facility must be operated and maintained by the owner or operator specified in the permit for the facility in accordance with NAC 445B.256 to 445B.267, inclusive.