

LCB File No. R017-02

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Friday, March 8, 2002, at the Nevada Division of Wildlife's Conference Room B, 1100 Valley Road, 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.

1. Petition 2002-05 is a permanent amendment to NAC 445B.400 to 445B.774, the vehicle emission control program. Amendments are proposed for NAC 445B.575, devices to control pollution; 445B.5815, the inspection of vehicle: certified on-board diagnostic systems and 445B.6115, the exemption of vehicle from certain provisions. NAC 445B.51815 is amended to remove the limitation on applicability of the on-board diagnostic systems for counties with a population of more than 400,000. The restrictive trigger for effectuating the implementation of on-board diagnostic systems is removed from NAC 445B.575 and 445B.5815. An effective date of March 1, 2002 for implementation of on-board diagnostics is established for Clark and Washoe Counties.

The Nevada Department of Motor Vehicles has already moved forward with implementing the on-board diagnostic II testing at the state's smog check inspection stations. The estimated short-term impact is approximately \$12,950 per station. There are approximately 400 stations in Clark and Washoe County for a cumulative cost of about \$5,000,000. The inspection stations have already incurred these costs. This investment cost will offset the existing tailpipe testing, reducing the long-term emission testing equipment maintenance costs. The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public. The implementation of the proposed regulation is not expected to result in any additional cost by the Division of Environmental Protection for enforcement. There are no other state or government agency regulations that the proposed amendments duplicate. The regulation implements U.S. EPA final rules of May 8, 1998 (Federal Register Volume 63, No. 85, pp. 24429-24434) and April 5, 2001 (Federal Register Volume 66, No. 66, pp. 18156-18179) for Inspection/Maintenance Program Requirement for On-Board Diagnostic Checks. The amendment is no more stringent than federal requirements. This regulation does not provide for any new or increased fees.

2. Petition 2002-06 is a permanent amendment to NAC 519A.120 to 519A.240, the mining reclamation program. The amendments are to 519A.225, fees for application of permit; 519A.230, submission of fee if permit not issued; 519A.235, annual submission of fees for services by division and 519A.240, time for submission of fees for new exploration projects and mining operations. The proposed fees are to be effective April 15, 2002.

The proposed regulation increases fees for mining reclamation permits. The regulation will increase permit costs for the mining industry. The fees will allow a continued level of service for timely review and approval of permit decisions. The fees will also allow for sustained coordination with federal agencies (the BLM and U.S. Forest Service) also involved in mining reclamation. The proposed amendments are not

expected to have any economic short or long-term adverse impact upon the public. The implementation of the proposed regulation is not expected to result in any additional cost by the Division of Environmental Protection for enforcement. There are no other state or government agency regulations that the proposed amendments duplicate. This regulation is no more restrictive or stringent than federal requirements. This regulation provides for increased fees for mining reclamation permits. It is projected that the fees collected will be annually about \$ 438,100. The expenditures cover the cost for administration and enforcement of mining reclamation regulations. The fee supports 6.5 positions including costs for salaries and benefits, travel, training, equipment, operating, information services and indirect costs.

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 and Archives, 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, 1771 E. Flamingo, Suite 121-A, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notices 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.ndep/state.nv.us/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 **March 1, 2002**.

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 and Division of Wildlife in Reno, and the Division of Environmental Protection and Department of Museums, Library and Arts in Carson City.

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

Petition 2002-05

This is the original SEC Petition 2002-05 (LCB R017-02) as submitted to the Legislative Counsel Bureau for drafting as a permanent regulation on February 5, 2002. Citations of this petition were previously adopted on 6-20-2000 and filed on 7-27-2000 as petition R055-00, SEC file 2007-07. The original method in LCB file R055-00 to effectuate this regulation were defined and incorporated directly into the applicable citations and reconveyed in Section 4 of this regulation. These regulatory triggers were originally defined as Section 4 of R-055-00 and are being removed as part of the amendments to this regulation 2002-05. Corrected version #2 as forwarded on February 8, 2002

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

Authority: NRS 445B.210, Sections 1-4 and 445B.770

Section 1. NAC 445B.575 is hereby amended to read as follows:

NAC 445B.575 Device to control pollution: General requirement; alteration or modification. (NRS 445B.785) ~~[Effective until the date the state environmental commission notifies the department of motor vehicles and public safety that the amount of carbon monoxide in the air in Clark County exceeds the national ambient air quality standards for carbon monoxide set forth in 40 C.F.R. Part 50 or the actual vehicle miles traveled exceed the projected vehicle miles traveled set forth in the state implementation plan which has been approved by the United States Environmental Protection Agency.]~~

1. Except as otherwise provided in this section, a person shall not:

(a) Sell, offer to sell, display, operate or leave standing any motor vehicle which is required by state or federal law to be equipped with a device for the control of pollution unless the device is correctly installed and in operating condition.

(b) Disconnect, alter or modify any such required device.

2. ~~[The]~~ *Except for section 2 of this regulation, the* provisions of subsection 1 and NAC 445B.576 to 445B.582, inclusive, do not apply to an alteration or modification of a motor vehicle to use fuel other than gasoline or diesel fuel where the alteration or modification is effected without violating existing federal and state standards for the control of exhaust emissions.

3. The provisions of subsection 1 do not apply to a wholesale transaction between licensed dealers of motor vehicles.

4. The department may inspect a licensed dealer of motor vehicles to determine compliance with this section. Such inspections must be conducted in accordance with subparagraph (2) of paragraph (a) of subsection 4 of NAC 445B.580.

5. As used in this section, a "device for the control of pollution" includes, without limitation, a gasoline cap which meets the specifications of the manufacturer of the motor vehicle and seals the neck or pipe of the fuel filler.

Section 2. NAC 445B.5815 is hereby amended to read as follows:

NAC 445B.5815 Inspection of vehicle: Certified on-board diagnostic systems. (NRS 445B.210, 445B.770) ~~[Effective on the date the state environmental commission notifies the department of motor vehicles and public safety that the amount of carbon monoxide in the air in Clark County exceeds the national ambient air quality standards for carbon monoxide set forth in 40 C.F.R. Part 50 or the actual vehicle miles traveled exceed the projected vehicle miles traveled set forth in the state implementation plan which has been approved by the United States Environmental Protection Agency.]~~

1. Any motor vehicle with a 1996 or newer model year which is equipped with a certified on-board diagnostic system and which is subject to inspection pursuant to chapter 445B of NRS ~~[in a county whose population is 400,000 or more]~~, as a condition of compliance with the inspection, must have the certified on-board diagnostic system inspected.

2. The department shall develop test procedures and certify equipment to be used for inspecting certified on-board diagnostic systems ~~[in a county whose population is 400,000 or more]~~.

3. As used in this section:

(a) "Certified on-board diagnostic system" means a computer system which is contained within the vehicle and which is certified by the United States Environmental Protection Agency to be fully capable of monitoring all the sensors and actuators in the drivetrain of the vehicle to determine whether the sensors and actuators are working as intended.

(b) "Population" has the meaning ascribed to it in NRS 0.050.

~~[(Added to NAC by Environmental Comm'n by R055-00, eff. on the date the state environmental commission notifies the department of motor vehicles and public safety that the amount of carbon monoxide in the air in Clark County exceeds the national ambient air quality standards for carbon monoxide set forth in 40 C.F.R. Part 50 or the actual vehicle miles traveled exceed the projected vehicle miles traveled set forth in the state implementation plan which has been approved by the United States Environmental Protection Agency)]~~

Section 3. NAC 445B.6115 is hereby amended to read as follows:

NAC 445B.6115 Exemption of vehicle from certain provisions. (NRS 445B.210, 445B.760, 445B.770)

The provisions of NAC 445B.575 to 445B.601, inclusive, *and section 2 of this regulation* do not apply to a motor vehicle that is certified as a restored vehicle by the department pursuant to NAC 445B.6125.

Section 4. This regulation becomes effective on ~~[the date the state environmental commission notifies the department of motor vehicles and public safety that:~~

~~—1. The amount of carbon monoxide in the air in Clark County exceeds the national ambient air quality standards for carbon monoxide set forth in 40 C.F.R. Part 50; or~~

~~—2. The actual vehicle miles traveled exceed the projected vehicle miles traveled set forth in the state implementation plan which has been approved by the United States Environmental Protection Agency]~~ *March 1, 2002*