

**LCB File No. T040-03**

**PROPOSED TEMPORARY REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**Petition 2003-03**

**NOTICE OF PUBLIC HEARING AND  
OF INTENT TO ACT UPON REGULATIONS**

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Thursday, June 19, 2003, at the Nevada Division of Wildlife's Conference Room A, 1000 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 2003-03 (T040-03)** is proposed temporary amendments to NAC 445B.001 to 445B.3497, the air pollution control regulations. The regulation amends NAC 445B.281 to increase and standardize the fines in the schedule for minor violations, including fugitive dust, open burning, odors, excess emissions, testing and sampling reporting, monitoring system reporting and change of location. First offense is increased to \$250, second offense to \$500 and third offense to \$750, except for fugitive dust emissions where the fine is proposed to be \$1,000 for the third offense.

Unless the NAC is violated, there will be no economic impact on the regulated community. If a minor violation occurs, the penalty will be approximately two to five times greater than under current regulation. The regulation is not expected to have any economic effect on the public in the immediate term and long term. The regulation is not expected to result in additional cost by the agency for enforcement. There are no other state or government agency regulations, which the revisions duplicate. The regulation is not more stringent than a federal regulation. The regulation does not provide for a new fee or increase an existing fee, but does increase fines.

**2. Petition 2003-04 (T041-03)** is proposed temporary amendments to NAC 445B.001 to 445B.3497, the air pollution control regulations. The proposed regulation amendments include clarifications, technical corrections and the removal of regulations that are no longer applicable. These are necessary to update and correct the NAC. They will also bring Nevada's program more into alignment with the Applicable State Implementation Plan.

The proposed regulation amendments include only technical corrections, clarifications and removal of regulations that are no longer applicable and will have no economic impacts, either immediate or long term, on the regulated community or the public. The proposed regulation amendments will not result in additional cost by the agency for enforcement. The proposed

regulation amendments do not overlap or duplicate any other state or government agency regulations. The regulation is no more stringent than what is established by federal regulation. The proposed regulation amendments do not provide for a new fee or increase an existing fee.

**3. Petition 2003-05 (T042-03)** is proposed temporary amendments to NAC 445B.001 to 445B.3497, the air pollution control regulations. On December 31, 2002, the U.S. Environmental Protection Agency adopted revisions to the federal New Source Review (NSR) and Prevention of Significant Deterioration (PSD) rule. The federal revisions include changes to applicability determinations, plant-wide applicability limits (PALs), clean unit exemptions, and pollution control projects. The changes being proposed by the agency adopt by reference those revisions and create a separate set of regulations for PSD sources necessary to ensure consistency with the federal program and allow NDEP to implement the new federal provisions. Specifically, the agency is proposing: 1) Application requirements for each of the new provisions; 2) Application processing timelines for each of the new provisions; 3) Permit content **Page 2- Notice of Environmental Commission Hearing for June 19, 2003**

requirements; 4) A fee structure that is expected to cover costs for each of the new provisions; and 5) Technical corrections to separate PSD source requirements from the application and permit requirements for other sources. These regulation changes are necessary to regain full delegation of these federal programs.

The proposed regulation only applies to major stationary sources which is currently 12 facilities. The changes will allow affected sources to utilize the new NSR provisions which were designed to provide additional flexibility and to decrease the number of modifications that would otherwise be required in a formal PSD review. The economic impact will be an increase in annual maintenance fees assessed on these facilities and added specific permitting fees necessary to cover agency costs. These costs will apply only to those sources requesting any of the new NSR provisions at the time that they modify their existing permit and the new maintenance fee will be assessed for the life of the facility. The regulation is not expected to have any economic effect on the public in the immediate term and long term. There will be additional costs to the agency for compliance monitoring and enforcement of these amendments and for processing these new types of applications and the issuing of permits. These additional costs will be covered by the modifications to the fee structure that are being proposed as part of this proposed regulation amendment. The proposed regulation amendments do not overlap or duplicate any regulations or other state of government agencies. The regulation is not more stringent than what is established by federal regulation. The regulation does provide for a new fee and increases existing fees. Any fees collected will be used to support the program.

## **NON REGULATORY ACTIONS**

The Nevada Environmental Commission pursuant to NAC 444.8476 received a request on January 16, 2003, from Day & Zimmerman Hawthorne Corporation, the operations contractor for the Hawthorne Army Depot, for **renewal** of a variance application from NAC 444.8456(1)(d). The variance is in regards to the proposed plasma ordnance demilitarization system and concerns the proximity of groundwater beneath the proposed plasma ordnance demilitarization system. NAC

444.847 through 444.8482 provides for the Environmental Commission to act upon variance requests. The renewal variance application has been reviewed by the Nevada Division of Environmental Protection. NAC 444.8478 provides for a thirty-day public notice and comment period.

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, Room 138, 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, Carson City; 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 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 [sec.nv.gov](http://sec.nv.gov)/ This site contains the current public notice, agenda, the aforementioned proposed regulations and previously filed regulations from past commission hearings.

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 the Executive Secretary, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-9309, no later than 5:00 p.m. on **June 13, 2003**.

This public notice has been posted at the following locations: Clark County Public Library and the Grant Sawyer Office Building in Las Vegas, Washoe County Library and the Nevada Division of Wildlife in Reno, and the Division of Environmental Protection and Department of Cultural Affairs in Carson City.

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

AUTHORITY: NRS 445B.210.

**Section 1.** NAC 445B.281 is hereby amended to read as follows:

NAC 445B.281 1. Except as otherwise provided in NAC 445B.001 to 445B.3497, inclusive, any violation of the provisions of those sections is classified as a major violation, and a fine up to \$10,000 per day per violation may be levied.

2. For Class II and Class III sources, violations of NAC 445B.22037, 445B.22067, 445B.2207, 445B.22087, subsections 3 and 4 of NAC 445B.232, subsection 8 of NAC 445B.252, subsection 2 of NAC 445B.265, paragraph (e) of subsection 1 of NAC 445B.275 and NAC 445B.331 are classified as minor or lesser violations, unless there are four or more violations of any one of those sections by a person, occurring within a period of 60 consecutive months.

3. The schedule of fines for minor violations is as follows:

	First Offense	Second Offense	Third Offense
NAC 445B.22037, fugitive dust.....	<del>[\$125]</del>	<del>[\$250]</del>	<del>[\$500]</del>
	<i>\$250</i>	<i>\$500</i>	<i>\$1000</i>
NAC 445B.22067, open burning.....	<del>[50]</del>	<del>[100]</del>	<del>[200]</del>
	<i>\$250</i>	<i>\$500</i>	<i>\$750</i>
NAC 445B.2207, incinerator burning <del>;</del>	<del>[50]</del>	<del>[100]</del>	<del>[200]</del>
..... <del>[equal to or less than 25 lbs per]</del>	<i>\$250</i>	<i>\$500</i>	<i>\$750</i>
..... <del>[greater than 25 lbs per]</del>	<del>[50]</del>	<del>[100]</del>	<del>[200]</del>
	<del>[\$100]</del>	<del>[\$200]</del>	<del>[\$400]</del>
NAC 445B.22087, odors .....	<i>\$250</i>	<i>\$500</i>	<i>\$750</i>

	First Offense	Second Offense	Third Offense
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions .....	<del>125</del> \$250	<del>250</del> \$500	<del>500</del> \$750
Subsection 8 of NAC 445B.252, testing and sampling reporting .....	<del>100</del> \$250	<del>200</del> \$500	<del>400</del> \$750
Subsection 2 of NAC 445B.265, reporting of monitoring systems .....	<del>100</del> \$250	<del>200</del> \$500	<del>400</del> \$750
Paragraph (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	<del>50</del> \$250	<del>100</del> \$500	<del>200</del> \$750
NAC 445B.331, change of location .....	<del>100</del> \$250	<del>200</del> \$500	<del>400</del> \$750

4. All minor violations become major violations upon the occurrence of the fourth violation of the same section within a period of 60 consecutive months.