

Chapter 445B of NAC

LCB File No. T003-05

ADOPTED TEMPORARY REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION

Filed with the Secretary of State on January 5, 2005

Petition 2004-28

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

AUTHORITY: NRS 445B.210 and 445B.300.

Section 1. NAC 445B.22017 is hereby amended to read as follows:

NAC 445B.22017 1. Except as otherwise provided in this section and NAC 445B.2202 ~~and 445B.22023~~, no owner or operator may cause or permit the discharge into the atmosphere from any emission unit which is of an opacity equal to or greater than 20 percent. Opacity must be determined by one of the following methods:

(a) If opacity is determined by a visual measurement, it must be determined as set forth in Reference Method 9 in Appendix A of 40 C.F.R. Part 60.

(b) If a source uses a continuous monitoring system for the measurement of opacity, the data must be reduced to 6-minute averages as set forth in 40 C.F.R. § 60.13(h).

2. The provisions of this section ~~and NAC 445B.2202 and 445B.22023~~ do not apply to that part of the opacity that consists of uncombined water. The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.

3. If the provisions of 40 C.F.R. Part 60, Subpart D or Da apply to an emission unit, the emission unit must be allowed one 6-minute period per hour of not more than 27 percent opacity as set forth in 40 C.F.R. § 60.42(a)(2) and 40 C.F.R. § 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.

Section 2. NAC 445B.2202 effective through February 28, 2006 is hereby amended to read as follows:

NAC 445B.2202 NAC 445B.22017 ~~and 445B.22023 do~~ *does* not apply to:

1. Smoke from the open burning described in NAC 445B.22067;
2. Smoke discharged in the course of training air pollution control inspectors to observe visible emissions, if the facility has written approval of the Commission;
3. Emissions from an incinerator as set forth in NAC 445B.2207;
4. Emissions of stationary diesel-powered engines during warm-up for not longer than 15 minutes to achieve operating temperatures; or
5. Emission from a steam generating unit fired by fossil fuel or wood for boiler lancing or soot blowing, not to exceed 180 minutes in any 24 consecutive hours.

6. The provisions of this section do not apply to that part of the opacity that consists of uncombined water. The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.

Section 3. NAC 445B.2202 effective March 1, 2006 is hereby amended to read as follows:

NAC 445B.2202 NAC 445B.22017 ~~[and 445B.22023 do]~~ *does* not apply to:

1. Smoke from the open burning described in NAC 445B.22067;
2. Smoke discharged in the course of training air pollution control inspectors to observe visible emissions, if the facility has written approval of the Commission;
3. Emissions from an incinerator as set forth in NAC 445B.2207; or
4. Emissions of stationary diesel-powered engines during warm-up for not longer than 15 minutes to achieve operating temperatures.

5. The provisions of this section do not apply to that part of the opacity that consists of uncombined water. The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.

Section 4. NAC 445B.22023 is hereby amended to read as follows:

NAC 445B.22023 *Notwithstanding the provisions of NAC 445B.22017 and 445B.2202:*

1. The provisions of this section ~~[and NAC 445B.22017 and 445B.2202]~~ apply to any coal-fired steam generating facility used to produce electricity with an equipment manufacturer's guarantee or demonstrated capability of more than $7,936 \times 10^6$ Btu ($2,000 \times 10^6$ kg-cal) per hour of heat input which existed before 1972.

2. Each coal-fired steam generating unit at a facility must not discharge any particulate matter which exceeds an average opacity of 30 percent for any 6-minute period contained in any hour as measured in the emissions stack of the facility in the manner described in subsection 3.

3. The opacity of the particulate matter must be averaged over each 6-minute period and recorded 10 times per hour. The initial 6-minute period for each hour must begin on the hour. The average opacity for each 6-minute period must be recorded after the expiration of that period.

4. During the interim compliance period specified in 40 C.F.R. § 52.1488(d), each coal-fired steam generating unit at a facility must comply with the opacity provisions of 40 C.F.R. § 52.1488(d).

5. The provisions of this section do not apply to that part of the opacity that consists of uncombined water. The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T003-05**

The State Environmental Commission adopted temporary regulations assigned LCB File No. T003-05 which pertain to chapter 445B of the Nevada Administrative Code on November 30, 2004.

Notice date: 10/26/2004
Hearing date: 11/30/2004

Date of adoption by agency: 11/30/2004
Filing date: 1/5/2005

INFORMATIONAL STATEMENT

This regulation proposes certain technical corrections to eliminate cross-references in the Air Pollution Control regulations, i.e., NAC 445B.22017 and 445B.2202 to NAC 445B.22023. These technical corrections will have no substantive effect on the regulated community. The technical changes are needed to comply with Nevada's Applicable State Implementation Plan (ASIP), which ensures that the National Ambient Air Quality Standards are attained and maintained. This amended regulation is necessary as part of the preparation for submitting an updated ASIP to the U.S. EPA by December 31, 2004.

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.

The Nevada Division of Environmental Protection (NDEP), Bureau of Air Quality Planning (BAQP) held a workshop on the above referenced temporary regulation at the following location. Workshop announcements were mailed to all air quality permit holders in Nevada.

Carson City
Wednesday, November 3, 2004
9:30 am - 11:00 am
Western Nevada Community College
Room 103, Reynolds Building
2201 West College Parkway
Carson City NV

The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates – November 8, 15, and 22, 2004. The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing list was used for both mailings.

At the SEC hearing, there was one public oral comments received by the Commission during the adoption of the referenced regulation. The Nevada Mining Association supported this petition at the hearing.

2. The number persons who:

- (a) **Attended August 19, 2004 hearing;** 30
- (b) **Testified on this Petition at the hearing:** 2
- (c) **Submitted to the agency written comments:** None

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 by the notice in the newspapers, as outlined in #1 above and by direct mail to interested persons subscribing to the SEC electronic 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 in libraries in Clark and Washoe Counties, 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 regulation, public notice and meeting agenda were also made available on SEC Website at: <http://www.sec.nv.gov/main/hearing113004.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.

The State Environmental Commission adopted the regulation on November 30, 2004 without any changes.

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.