

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R057-07

Effective October 31, 2007

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 air pollution; revising certain provisions that adopt by reference certain federal regulations; 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) and 51.100(nn) and Appendix S of 40 C.F.R.

Part 51 are hereby adopted by reference as they existed on July 1, ~~[2005.]~~ *2007.*

2. Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, 2002.

3. Appendix W of 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 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.]~~

2007.

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

2007.

5. The following subparts of 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3) and 60.11(e), as it existed on July 1,

~~[2006.]~~ *2007;*

(b) Section 60.21 of Subpart B, as it existed on July 1, 2006;

(c) 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, AAAA, CCCC, DDDD, EEEE , ~~and~~ FFFF, **III and KKKK** as they existed on July 1, ~~2006;~~ **2007; and**

(d) Subpart HHHH, except §§ 60.4105(b)(2), 60.4106, 60.4120 to 60.4142, inclusive, 60.4153(a) and (b) and 60.4176, as set forth in Volume 70 of the Federal Register at pages 28606 et seq., May 18, 2005, and the amendments to Subpart HHHH as set forth in Volume 71 of the Federal Register at pages 33388 et seq., June 9, 2006 . ~~and~~

~~—(e) Subpart KKKK as set forth in Volume 71 of the Federal Register at pages 38482 et seq., July 6, 2006.]~~

6. ~~Appendix~~ **Appendices B and F** of 40 C.F.R. Part 60 ~~is~~ **are** hereby adopted by reference as ~~it~~ **they** existed on July 1, ~~2006;~~ **2007.**

7. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, ~~2006;~~ **2007.**

8. Subparts A, B, C, 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, DDDD, EEEE, FFFF, GGGG, HHHH, **III**, JJJJ, KKKK, MMMM, NNNN, OOOO, **PPPP**, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCC, DDDD, EEEE, FFFF, **GGGG**, **HHHH**, JJJJ, KKKK, LLLL, MMMM, NNNN, PPPP, QQQQ ~~and~~ , SSSS ,

~~DDDDDD, EEEEE, FFFFF and GGGGG~~ of 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, ~~[2006.]~~ 2007.

9. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~[2006.]~~ 2007. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3791, inclusive, the provisions of 40 C.F.R. Part 72 apply.

10. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, ~~[2006.]~~ 2007. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3791, inclusive, the provisions of 40 C.F.R. Part 76 apply.

11. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on October 1, 1993.

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, *free of charge*, from the United States Department of Labor at the Internet address <http://www.dol.gov>.

13. A copy of the publications which contain the provisions adopted by reference in subsections 1 to ~~[H0.]~~ *II*, inclusive, 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) and 51.100(nn) and Appendices S and W of Part 51	45
———— (2) For the volume containing § 51.165	10
———— (3) For the volume containing § 52.21	61
———— (4) For Part 60 (Sections 60.1 to end)	58

(5) For Part 60 (Appendices)	57
(6) For Part 61	43
(7) For Part 63 (Sections 63.1 to 63.599)	58
(8) For Part 63 (Sections 63.600 to 63.1199)	50
(9) For Part 63 (Sections 63.1200 to 63.1439)	50
(10) For Part 63 (Sections 63.1440 to 63.6175)	32
(11) For Part 63 (Sections 63.6580 to 63.8830)	32
(12) For Part 63 (Sections 63.8980 to end)	35
(13) For the volume containing Parts 72 and 76	62

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

~~(e)~~ (b) Government Printing Office, free of charge, at the Internet address <http://www.gpoaccess.gov/nara/index.html>.

14. For the purposes of the provisions of 40 C.F.R. Parts 60, 61 and 63, adopted by reference pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

15. Except as otherwise provided in subsections 9 and 10, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3791, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

16. For the purposes of this section, “administrator” as used in the provisions of 40 C.F.R. Parts 60, 61 and 63, adopted pursuant to this section, means the Director.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R057-07
Petition 2007-02

The State Environmental Commission adopted regulations assigned LCB File No. R057-07 which pertain to chapter 445BN of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

Nevada Division of Environmental Protection
Bureau of Air Pollution Control, Air Quality Planning

Regulation R057-07: Adopt by Reference: This regulation updates NAC 445B.221, adoption by reference and applicability of certain provisions of federal law and regulations. The regulation adopts into State regulation sections of the federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) rules that have been adopted by the U.S. Environmental Protection Agency (EPA) and published in the Federal Register since July 6, 2006.

The Nevada Division of Environmental Protection is delegated the implementation of the federal NSPS and NESHAP rules that apply in Nevada. Because of this delegation, it is necessary to keep the State's "adoption by reference" regulation up to date so that EPA can continue to delegate the implementation of new rules and revisions to existing rules to the State.

NAC 445B.221 currently adopts the applicable NSPS and NESHAP rules, as they existed on July 6, 2006. This regulation is necessary so that Nevada can request delegation for the implementation of new and revised federal NSPS and NESHAP rules promulgated after July 6, 2006. This will allow the regulated industry to continue to work with the State as opposed to the EPA.

1. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

NDEP's Bureau of Air Pollution Control / Air Quality Planning held two public workshops on the above referenced regulation at the following locations.

ELKO

July 10, 2007 1:00 PM to 2:00 PM
Berg Hall Conference Room
Great Basin College
1500 College Parkway

CARSON CITY

July 17, 2007 10:00 AM to 11:00 AM
Nevada Division of Environmental
Protection
4th Floor South Conference Room
901 South Carson Street

The State Environmental Commission (SEC) held a public hearing to consider this regulation on September 07, 2007. The hearing was held in Carson City and Las Vegas through a videoconference. The meeting location in Carson City was at the Legislative Counsel Bureau Chambers in the State Legislative Building (Room 2135), 401 South Carson Street. The meeting location in Las Vegas was at the Legislative Counsel Bureau in the Grant Sawyer Building (Room 4412), 555 E. Washington Street.

The hearing agenda was posted at the following locations: the Legislative Building in Carson City, the Grant Sawyer Office Building in Las Vegas, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of the agenda, the public notice, and the proposed regulation noted above were made available to all public libraries throughout the state as well as to individuals on the SEC electronic and ground-based mailing lists.

The public notice was published on August 14, 2007, August 21, 2007 and August 28, 2007 in the Las Vegas Review Journal and Reno Gazette Journal newspapers. Information about the regulation was also made available on the SEC website at:
http://www.sec.nv.gov/main/hearing_0907.htm

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

- (a) Attended September 7, 2007 hearing; 40
- (b) Testified on this Petition at the hearing: 1 (1 NDEP Staff)
- (c) Submitted to the agency written comments: 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses as indicated in number 1 above.

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 without change on September 7, 2006. Consensus on the proposed changes was obtained prior to the Hearing, during the drafting and public workshop process.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

This regulation will not have an immediate or long-term adverse effect on business or the public

The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional costs associated with enforcement of 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 proposed regulation does overlap or duplicate any regulations of other state or government 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 not more stringent than any federal regulations adopted by US EPA.

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.

The proposed regulation does not alter existing fees for permitting and monitoring activities conducted by the Nevada Division of Environmental Protection.