

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R126-10

Effective December 16, 2010

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

AUTHORITY: §§1-5, NRS 445B.210.

A REGULATION relating to air pollution; revising the definition of “stationary source”; revising certain provisions relating to environmental evaluations; revising certain provisions concerning the measurement of maximum heat input for the purpose of determining the effects of a Class I source on the quality of ambient air; and providing other matters properly relating thereto.

Section 1. NAC 445B.138 is hereby amended to read as follows:

445B.138 “Potential to emit” means the maximum capacity of a stationary source to emit a regulated air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a stationary source to emit a regulated air pollutant, including equipment for the control of air pollution and any restrictions on the hours of operation of the stationary source or on the type or amount of material combusted, stored or processed, may be treated as part of its design for the purposes of determining its potential to emit if the limitation is *federally* enforceable . ~~[by the Director.]~~

Sec. 2. NAC 445B.187 is hereby amended to read as follows:

445B.187 1. “Stationary source” means all buildings, structures, facilities and installations, including temporary sources, which:

(a) Belong to the same major industrial groupings described in the *Standard Industrial Classification Manual*, as incorporated by reference in NAC 445B.221;

- (b) Are located on one or more contiguous or adjacent properties;
- (c) Are owned or operated by the same person or by persons under common control; and
- (d) Emit or may emit any regulated air pollutant that is regulated under 42 U.S.C. §§ 7401 to 7671q, inclusive, or NAC 445B.001 to 445B.3791, inclusive.

2. Contracted operations that support the primary operations of the stationary source are part of the stationary source, except that temporary construction activities, including, without limitation, the construction of emission units, are not part of the stationary source.

3. The term does not include motor vehicles, ~~[special mobile equipment,]~~ nonroad engines and nonroad vehicles.

Sec. 3. NAC 445B.311 is hereby amended to read as follows:

445B.311 1. An environmental evaluation which is required for a new or modified stationary source pursuant to NAC 445B.308 to 445B.314, inclusive, or as required by the Director must contain a careful and detailed assessment of the environmental aspects of the proposed stationary source and must also contain:

- (a) The name and address of the applicant;
- (b) The name, address and location of the stationary source;
- (c) A description of the proposed stationary source, including the normal hours of operation of the facility and the general types of activities to be performed;
- (d) A map showing the location of the stationary source and the topography of the area, including existing principal streets, roads and highways within 3 miles of the stationary source;
- (e) A site plan showing the location and height of buildings on the site;
- (f) Any additional information or documentation which the Director deems necessary to determine the effect of the stationary source on the quality of the ambient air, including

measured data on the quality of the ambient air and meteorological conditions at the proposed site before construction or modification; and

(g) A dispersion analysis of each regulated air pollutant.

2. Where approval is sought for stationary sources to be constructed in phases, the information required by subsection 1 must be submitted for each phase of the construction project.

3. An environmental evaluation must also consider good engineering practice stack height. If the Director considers an analysis of a source based on a good engineering practice stack height that exceeds the height specified in paragraph (a) or (b) of subsection 1 of NAC 445B.083, the Director shall:

(a) Notify the public of the availability of the demonstration study performed pursuant to paragraph (c) of subsection 1 of NAC 445B.083; and

(b) Provide an opportunity for a public hearing on the demonstration study in accordance with the requirements for a Class I operating permit set forth in subsections 7, 9 and 10 of NAC 445B.3395.

4. A dispersion analysis used to determine the location and estimated value of the highest concentration of each regulated air pollutant must include:

(a) A dispersion model based on the applicable models, bases and other requirements specified in the “Guideline on Air Quality Models,” which is Appendix W of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, except that the Director may authorize the modification of a model specified in the “Guideline on Air Quality Models” or the use of a model not included in the “Guideline on Air Quality Models” if the Director **[determines]** :

(1) Determines that the modification or use is appropriate;

(2) Obtains written approval of the modification or use from the Administrator; and
(3) Provides notice of and establishes a 30-day period for comment in accordance with the applicable provisions of NAC 445B.3364, 445B.3395, 445B.3447, 445B.3457 or 445B.3477;

(b) A narrative report describing:

(1) If applicable, assumptions and premises used in the analysis, including, without limitation:

- (I) Model options chosen;
- (II) Urban versus rural selection;
- (III) Background concentrations;
- (IV) Characterization of emission sources as point, area or volume;
- (V) Emission discharge points; and
- (VI) Rate of emission from each emission unit; and

(2) The geographic area considered in the analysis, including, without limitation, information concerning:

- (I) The nearest significant terrain features;
- (II) The receptor grid or grids; and
- (III) Restrictions on public access to the stationary source; and

(c) Valid meteorological information pursuant to the provisions of Appendix W of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, which:

(1) For sources that are not subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221:

(I) Is site specific, if the information exists pursuant to subsection 1 of this section or subsection 7 of NAC 445B.308, and which covers a period of not less than 1 year;

(II) Has been obtained from an off-site location representative of the proposed site and which covers a period of not less than 1 year;

(III) Represents the worst-case meteorological conditions, as approved by the Director for synthetic data; or

(IV) Has been obtained over the last 5 years at the nearest National Weather Service site; or

(2) For sources that are subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, is representative of the source site location and source emissions and which covers a period of not less than 1 year.

Sec. 4. NAC 445B.313 is hereby amended to read as follows:

445B.313 For the purposes of determining the effects of Class I sources on the quality of ambient air and determining the applicability of a federally enforceable standard or requirement to an emission unit, the maximum heat input will be determined by :

1. Multiplying the maximum fuel rate as determined by the manufacturer by the total calorific value of the fuel as determined by using the appropriate method of ASTM International

; or

2. An alternative method specified by the Director as a condition contained in the operating permit of the Class I source.

Sec. 5. NAC 445B.179 is hereby repealed.

TEXT OF REPEALED SECTION

445B.179 “Special mobile equipment” defined. (NRS 445B.210) “Special mobile equipment” has the meaning ascribed to it in NRS 482.123.

Permanent Regulation - Filing Statement

Nevada Division of Environmental Protection Bureaus of Air Pollution Control and Air Quality Planning

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066

State Environmental Commission (SEC) LCB File No. R126-10 SEC # P2010-06

R126-10: Air Pollution Control Permitting Provisions Applicable to State Implementation Plan (ASIP): The Nevada Division of Environmental Protection has amended four sections in the permitting provisions of NAC 445B. The amendments are in response to U.S. EPA comments on the approvability of the agency's air pollution control permitting provisions into the applicable State Implementation Plan. The amendments align state regulations with the federal Clean Air Act and U.S. EPA rule requirements.

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.

This draft regulation is the result of many meetings and conversations with stakeholders prior to the public workshop. The NDEP held a public workshop on the above referenced regulation on Wednesday, September 15, 2010 at the Bryan Building in Carson City. Minutes are available on the SEC web site at http://www.sec.nv.gov/main/hearing_1010.htm agenda item #4. At this meeting, the NDEP solicited comment on the proposed regulation.

Following the workshop, the SEC held a regulatory hearing on October 5th 2010. The hearing was held as a video conference in Carson City and Las Vegas. The hearing location in Carson City was the Bryan Building, 901 South Stewart Street (2nd floor, Tahoe Room). In Las Vegas the hearing was held at the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

A public notice and agenda for the SEC regulatory hearing was posted at the meeting location, at the 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 permanent regulation were also 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 also published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the above referenced SEC regulatory hearing. Other information about the regulation was also made available on the SEC website at: http://www.sec.nv.gov/main/hearing_1010.htm

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

- (a) Attended October 5, 2010 hearing; 20 (approx.)
- (b) Testified on this Petition at the hearing: 1 (1 NDEP)
- (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 and responded to through e-mail and telephone exchanges, and the working meetings and public workshops 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.

One substantive change to the proposed regulation was requested at the Hearing by the Nevada Division of Environmental Protection in response to stakeholder comments prior to the Hearing; the SEC adopted the regulation with the proposed change. The revised regulation is being submitted to the Legislative Counsel Bureau with this information statement.

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

There is no significant economic impact from the amendments on the regulated industry or on the public.

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

There will be no additional cost to the Division of Environmental Protection for enforcement of the amendment.

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.

This regulation does not duplicate any other federal, state or local regulation.

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 regulation or guidance.

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.

No fees are generated by this regulation.