

**ADOPTED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R088-09**

Effective November 25, 2009

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 provisions governing the adoption by reference of certain federal regulations; adopting by reference certain standards of ASTM International; 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), 51.100(nn) ~~[ ]~~ and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~[2007.]~~ **2009.**

2. ~~[The amendments to Appendix S of Title 40 C.F.R. Part 51 as set forth in Volume 73 of the Federal Register at pages 28321 et seq., May 16, 2008, are hereby adopted by reference.~~

~~—3.]~~ Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, 2002.

~~[4.—Appendix]~~

3. *Appendices M and W* of 40 C.F.R. Part 51 ~~[is]~~ **are** hereby adopted by reference as ~~[it]~~ **they** existed on July 1, ~~[2007.]~~

~~—5.]~~ **2009.**

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, ~~[2007.]~~

~~—6.—The amendments to Title 40 C.F.R. § 52.21 as set forth in Volume 73 of the Federal Register at pages 28321 et seq., May 16, 2008, are hereby adopted by reference.~~

~~—7.—Except as otherwise provided in subsection 8, the]~~ **2009.**

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,

~~[2007;]~~ 2009;

(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, *VVa*, WW, XX, BBB, DDD, FFF, GGG, *GGGa*, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, *JJJJ* and KKKK as they existed on July 1, ~~[2007;]~~ 2009; 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 JJJ as set forth in Volume 73 of the Federal Register at pages 3568 et seq., January 18, 2008.~~

~~—8.— The amendments to Subpart A of Title 40 C.F.R. Part 60 as set forth in Volume 73 of the Federal Register at pages 3568 et seq., January 18, 2008, are hereby adopted by reference.~~

~~—9.] 6.~~ Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, ~~[2007.~~

~~—10.] 2009.~~

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, ~~[2007.~~

~~—11.— Except as otherwise provided in subsection 12, the following subparts] 2009.~~

8. *Appendix B* of Title 40 C.F.R. Part ~~[63-are]~~ *61 is* hereby adopted by reference ~~[-~~  
~~—(a)] as it existed on July 1, 2009.~~

9. 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, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, SSSSS, *WWWWW, YYYYY, ZZZZ*, DDDDD, EEEEE, FFFFF, ~~[and]~~ GGGGG, *LLLLL, MMMMM, NNNNN, OOOOO, PPPPP, QQQQQ, RRRRR, SSSSS and TTTTT* of 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, ~~[2007;~~

~~—(b) Subpart WWWW as set forth in Volume 72 of the Federal Register at pages 73611 et seq., December 28, 2007;~~

~~—(c) Subpart YYYYY as set forth in Volume 72 of the Federal Register at pages 74088 et seq., December 28, 2007;~~

~~—(d) Subpart ZZZZ as set forth in Volume 73 of the Federal Register at pages 226 et seq., January 2, 2008;~~

~~—(e) Subparts LLLLL, MMMMM, NNNNN, OOOOO, PPPPP and QQQQQ as set forth in Volume 72 of the Federal Register at pages 38864 et seq., July 16, 2007; and~~

~~—(f) Subparts RRRRR, SSSSS and TTTTT as set forth in Volume 72 of the Federal Register at pages 73180 et seq., December 26, 2007.~~

~~—12.— The amendments to the following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference:~~

~~—(a) Subparts A and ZZZZ as set forth in Volume 73 of the Federal Register at pages 3568 et seq., January 18, 2008;~~

~~—(b) Subpart DDDD as set forth in Volume 72 of the Federal Register at pages 61060 et seq., October 29, 2007;~~

~~—(c) Subpart EEEEE as set forth in Volume 73 of the Federal Register at pages 7210 et seq., February 7, 2008;~~

~~—(d) Subparts EEEEE and FFFFFF as set forth in Volume 72 of the Federal Register at pages 36363 et seq., July 3, 2007; and~~

~~—(e) Subparts LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP and QQQQQQ as set forth in Volume 73 of the Federal Register at pages 15923 et seq., March 26, 2008.~~

~~—13.] 2009.~~

**10.** Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~[2007.]~~ **2009**. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3791, inclusive, and sections 2, 3 and 4 of LCB File No. R190-08, which was adopted by the State Environmental Commission and was filed with the Secretary of State on April 23, 2009, the provisions of 40 C.F.R. Part 72 apply.

~~[14.]~~ **11.** Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, ~~[2007.]~~ **2009**. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3791, inclusive, and sections 2, 3 and 4 of LCB File No. R190-08, which was adopted by the State Environmental Commission and was filed with the Secretary of State on April 23, 2009, the provisions of 40 C.F.R. Part 76 apply.

~~{15.}~~ 12. 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.

~~{16.}~~ 13. 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>.

~~{17.}~~ 14. A copy of the publications which contain the provisions adopted by reference in subsections 1 to ~~{15.}~~ 12, inclusive, may be obtained from the:

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

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

~~{18.}~~ 15. *The following standards of ASTM International are hereby adopted by reference:*

(a) *ASTM D5504, "Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence," set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D5504 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.*

(b) *ASTM D2234 and D2234M, "Standard Practice for Collection of a Gross Sample of Coal," set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D2234 and D2234M is available by mail from ASTM International, 100 Barr Harbor*

*Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.*

*(c) ASTM D2013, “Standard Practice for Preparing Coal Samples for Analysis,” set forth in Volume 05.06 of the [2008 Annual Book of ASTM Standards](#). A copy of ASTM D2013 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.*

*(d) ASTM D6784, “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” set forth in Volume 11.07 of the [2008 Annual Book of ASTM Standards](#). A copy of ASTM D6784 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.*

*(e) ASTM D2015, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter,” dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.*

*(f) ASTM D3286, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter,” dated July 10, 1996. A copy of ASTM D3286 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.*

*(g) ASTM D1989, “Standard Test Method for Gross Calorific Value of Coal and Coke by Microprocessor Controlled Isoperibol Calorimeters,” dated July 10, 1997. A copy of ASTM*

*D1989 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.*

**16.** 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.

~~{19.}~~ **17.** Except as otherwise provided in subsections ~~{13.}~~ **10** and ~~{14.}~~ **11**, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3791, inclusive, and sections 2, 3 and 4 of LCB File No. R190-08, which was adopted by the State Environmental Commission and was filed with the Secretary of State on April 23, 2009, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~{20.}~~ **18.** For the purposes of this section, “administrator” as used in the provisions of 40 C.F.R. Part 60, except Subpart B § 60.21 and Subpart HHHH §§ 60.4101 to 60.4105, inclusive, 60.4107 to 60.4114, inclusive, 60.4151 to 60.4173, inclusive, and 60.4175, and Parts 61 and 63, adopted by reference pursuant to this section, means the Director.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R088-09**

The State Environmental Commission adopted regulations assigned LCB File No. R088-09 which pertain to chapter 445B of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

**Permanent Regulation R088-09: Adopt by Reference Federal Regulations:** The Nevada Division of Environmental Protection (NDEP) is proposing to convert the temporary regulation, T036-09, which was adopted by the State Environmental Commission (June, 2009), to a permanent regulation and to adopt specific ASTM International test methods by reference. NDEP regularly adopts by reference appropriate new and revised federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated by the U.S. Environmental Protection Agency (EPA). NDEP then requests delegation of the NSPS and NESHAP programs to Nevada; however, it is necessary for the state to first adopt the federal rule so that EPA can delegate the implementation.

These proposed amendments update NAC 445B.221 with applicable new and revised federal NSPS and NESHAP rules that became effective after March 2008. This update will allow the regulated industry to continue to work with the state as opposed to the EPA. Additionally, adopting the test methods will allow the NDEP to use methods approved by EPA and recognized by the scientific community to measure emissions from sources.

**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.** The Nevada Division of Environmental Protection, Bureau of Air Quality Planning held public workshops on the above referenced regulation on May 28, 2009 in Carson City at the Bryan building (901 South Stewart Street) and again on August 13, 2009.

Following these workshop, the State Environmental Commission (SEC) held a public hearing to consider the regulation on October 6, 2009. The hearing was conducted 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. The SEC hearing agenda 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 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 for the regulation was published on Monday, September 14, 21, and 28, [2009] 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://sec.nv.gov/main/hearing\\_100609.htm](http://sec.nv.gov/main/hearing_100609.htm)**

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

- (a) Attended October 06, 2009 hearing; 30 (approx.)
- (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 regulations without any changes

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

The regulation is not anticipated to have any significant economic impact on the public or Nevada businesses.

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

There will be no additional cost to the agency for enforcement of the proposed 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.**

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 local or federal laws and regulations.

**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 address any fees.