NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

NEVADA ENVIRONMENTAL COMMISSION

HEARING ARCHIVE

FOR THE HEARING OF March 26, 1996

HELD AT: Reno, Nevada

TYPE OF HEARING:

YES	**REGULATORY**
	APPEAL
	FIELD TRIP
	ENFORCEMENT
	VARIANCE

RECORDS CONTAINED IN THIS FILE INCLUDE:

YES	**AGENDA**
YES	**PUBLIC NOTICE**
YES	**MINUTES OF THE HEARING**
YES	**LISTING OF EXHIBITS**

A G E N D A

NEVADA STATE ENVIRONMENTAL COMMISSION
PUBLIC HEARING

The Nevada State Environmental Commission will conduct a hearing commencing **9:00 a.m., on Tuesday, March 26, 1996,** at the Division of Wildlife, Conference Room B, 1100 Valley Road, Reno, Nevada.

This agenda has been posted at the Grant Sawyer State Office Building in Las Vegas, Nevada, the Division of Wildlife and the Washoe County Library in Reno, Nevada; the Nevada State Library and Division of Environmental Protection Office in Carson City, Nevada. The Public Notice for this hearing was published on February 23, February 28 and March 5, 1996 in the Las Vegas Review Journal and Reno Gazette Journal Newspapers.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

I. Approval of minutes from the December 11, 1995 meeting. * ACTION
Approval of minutes from the December 12, 1995 meeting. * ACTION

II. Regulatory Petitions * ACTION

A. **Petition 96007** (R-016-96) is proposed to permanently amend NAC 459.970 to 459.9729, the Consultant Certification program. The revision adds a written statement and original signature to all documents submitted to the State and local political subdivisions. The consultants would be required to attest that documents submitted to the state have been prepared under the responsible control of an individual certified by the Division of Environmental Protection.

B. **Petition 96006** (R-011-96) is proposed to permanently amend Nevada Administrative Code (NAC) 445B.339 to 445B.351 to make existing State requirements regarding Hazardous Air Pollutants (HAPs) consistent with federal requirements. Redundant regulations regarding the Commission authority to adopt emission standards are proposed to be repealed. The threshold in permitting HAPs emissions is simplified and made consistent with federal regulations. The requirements for sources to develop Best Available Control Technology and Maximum Achievable Control Technology are repealed. The petition proposes to amend NAC 445B.339 and 445B.349, and repeals NAC 445B.341, 445B.343, 445B.347, and 445B.351.

C. **Petition 96008** (R-018-96) is proposed to amend NAC 445B.400 to 445B.775 by establishing a program for the regulation of air quality emissions from heavy-duty vehicles as required by Nevada Revised Statute 445.631. The amendments establish an opacity limit for heavy duty vehicle exhaust and revise test procedures and equipment for measuring opacity. It is proposed that NAC 445B.739, 445B.767 be amended and NAC 445B.766 is to be repealed.

D. **Petition 96009** (R-021-96) is proposed to permanently amend NAC 445B.001 to NAC 445B.395 by deleting provisions requiring Best Available Control Technology (BACT) for air quality stationary sources not subject to the provisions of 40 C.F.R § 52.21. Also proposed to be amended is the definition of "major source" by excluding particulate matter greater than 10 microns. In addition, definition of "potential to emit" is proposed to be amended to eliminate the provision requiring that air quality operating permits be federally enforceable. Proposed to be amended is NAC 445B.028, 445B.094 and 445B.138.

E. **Petition 96010** (R-027-96) is proposed to permanently amend NAC 445B.001 to 445B.395 by revising the fee structure for the State's air quality stationary source permitting program. NAC 445B.327, proposed to be amended, revises the current fee structure for operating permits and annual fees. Fees for Class I and II permits applications are proposed to be increased and Class II General permits are proposed to be decreased. The annual emission fee is proposed to be increased from $3.36 to $3.75 per ton, and sources emitting less than 25 tons per year are proposed to be exempted from annual emissions fees. The annual maintenance fee is to be eliminated; the annual fee of $350, charged to sources emitting less than 1 ton per/year, is to be eliminated, and the annual fee of $450 for surface area disturbances is to be eliminated. NAC 445B.331 is also amended to eliminate the distinct fee for reissuance of an expired permit. In addition, the fee for a request for a change of location of an emission unit is reduced from $90 to $50.

III. **A.** **Response to the Request of the Nevada Mining Association made pursuant to NRS 233B.064(2) regarding the Humboldt River Water Quality Standards as adopted in Petition 96003 (LCB file R-127-95) on November 7, 1995 * ACTION**

B. **Future review of the Water Quality sulfate standards**

IV. **Review of Utility Environmental Act evaluation process and potential legislative options * ACTION**

V. **Settlement Agreements on Air Quality Violations * ACTION**

A. Ree's Enterprise: Notice of Alleged Violation # 1194

VI. **Discussion Items**

A. Small Business Assistance Program Update

B. Status of Division of Environmental Protection's Programs and Policies

C. Future Meetings of the Environmental Commission

Water Quality Standards and Temperature Workshop *** ACTION**

D. General Commission or Public Comment

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Executive Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89710, facsimile (702) 687-5856, or by calling (702) 687-4670 no later than **5:00 p.m. March 20, 1996.**

NEVADA STATE ENVIRONMENTAL COMMISSION
NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning **9:00 a.m. on Tuesday March 26, 1996**, at the Division of Wildlife's Conference Room B, located at 1100 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 96006** (R-011-96) is proposed to permanently amend Nevada Administrative Code (NAC) 445B.339 to 445B.351 to make existing State requirements regarding Hazardous Air Pollutants (HAPs) consistent with federal requirements. Redundant regulations regarding the Commission authority to adopt emission standards are proposed to be repealed. The threshold in permitting HAPs emissions is simplified and made consistent with federal regulations. The requirements for sources to develop Best Available Control Technology and Maximum Achievable Control Technology are repealed. The petition proposes to amend NAC 445B.339 and 445B.349, and repeals NAC 445B.341, 445B.343, 445B.347, and 445B.351.

The amendments, as proposed, will have a positive economic effect on facilities that are required to obtain air quality operating permits. It is estimated that facilities will save an average of $2,500 by not having to evaluate Best Available Control Technology (BACT) and Maximum Achievable Control Technology (MACT) during submittal of an operating permit application. In addition, stationary sources will not be required to replace air pollution control equipment that may be established through the current Nevada BACT requirements. The public should not experience any anticipated long or short term adverse economic impact. The Division of Environmental Protection will realize cost savings of about $24,000 annually as a result of the proposed regulations. The proposed regulation makes the Nevada HAP's requirements consistent with federal requirements for HAPs. This regulation does not impose a new fee or increase an existing fee.

2. **Petition 96007** (R-016-96) is proposed to permanently amend NAC 459.970 to 459.9729, the Consultant Certification program. The revision adds a written statement and original signature to all documents submitted to the State and local political subdivisions. The consultants would be required to attest that documents submitted to the state have been prepared under the responsible control of an individual certified by the Division of Environmental Protection.

There is no anticipated economic short or long term adverse impact on business. The public should not experience any anticipated long or short term adverse economic impact. In addition, there would not be any long or short term anticipated economic benefit. No additional cost for enforcement is anticipated. There are no other state or government agencies which the proposed regulation overlaps or duplicates. This regulation does not impose a new fee or increase an existing fee.

3. **Petition 96008** (R-018-96) is proposed to amend NAC 445B.400 to 445B.775 by establishing a program for the regulation of air quality emissions from heavy-duty vehicles as required by Nevada Revised Statute 445.631. The amendments establish an opacity limit for heavy duty vehicle exhaust and revise test procedures and equipment for measuring opacity. It is proposed that NAC 445B.739, 445B.767 be amended and NAC 445B.766 is to be repealed.

There is a possible adverse economic effect to businesses who fail to properly maintain their heavy-duty motor vehicles or who tamper with emission control devices on their vehicles. The expected 11 percent failure of vehicles has a broad range of compliance costs, ranging at the lower end of $50 up to $1,000. It is expected that 165 vehicles will be affected, with an average repair cost of $450. The expected cost to business would be approximately $74,250 annually. A positive economic benefit should be realized by some businesses due to increased efficiency of their heavy-duty motor vehicles as a result of improved maintenance. The long term economic effect will be similar to the short term economic effect. The public will not see an adverse effect or economic benefit either short or long term. There will be an additional cost for enforcement of the proposed regulation by the Department of Motor Vehicles and Public Safety. The current estimated annual cost is $159,124 for implementation of the regulation. There are no other state or government agencies which the proposed regulation overlaps or duplicates. This regulation does not impose a new fee or increase an existing fee.

4. **Petition 96009** (R-021-96) is proposed to permanently amend NAC 445B.001 to NAC 445B.395 by deleting provisions requiring Best Available Control Technology (BACT) for air quality stationary sources not subject to the provisions of 40 C.F.R § 52.21. Also proposed to be amended is the definition of "major source" by excluding particulate matter greater than 10 microns. In addition, definition of "potential to emit" is proposed to be amended to eliminate the provision requiring that air quality operating permits be federally enforceable. Proposed to be amended is NAC 445B.028, 445B.094 and 445B.138.

The proposed amendments will have a beneficial economic effect on an estimated 90 stationary source facilities in Nevada. Those facilities will not be required to submit new title V permit applications in 1996. The estimated saving to each regulated facility will be $15,000 for a total saving of $1,350,000. In the long term, facilities will benefit economically by avoiding Title V requirements such as compliance reporting, enhanced monitoring and higher permitting costs. It is estimated these facilities will save an additional $10,000 annually, with an estimated annual saving of $900,000 to Nevada businesses. The public will not realize any direct short term or long term benefit, however the public may receive an indirect saving due to reduced cost of operations. The Division of Environmental Protection will save an estimated 200 hours of staff time per facility for an overall annual cost savings of $360,000. There are no other state or government agencies which the proposed regulation overlaps or duplicates. This regulation does not impose a new fee or increase an existing fee.

5. **Petition 96010** (R-027-96) is proposed to permanently amend NAC 445B.001 to 445B.395 by revising the fee structure for the State's air quality stationary source permitting program. NAC 445B.327, proposed to be amended, revises the current fee structure for operating permits and annual fees. Fees for Class I and II permits applications are proposed to be increased and Class II General permits are proposed to be decreased. The annual emission fee is proposed to be increased from $3.36 to $3.75 per ton, and sources emitting less than 25 tons per year are proposed to be exempted from annual emissions fees. The annual maintenance fee is to be eliminated; the annual fee of $350, charged to sources emitting less than 1 ton per/year, is to be eliminated, and the annual fee of $450 for surface area disturbances is to be eliminated. NAC 445B.331 is also amended to eliminate the distinct fee for reissuance of an expired permit. In addition, the fee for a request for a change of location of an emission unit is reduced from $90 to $50.

This petition has no estimated adverse economic effect upon the public and will possibly have a slight beneficial effect that could possibly be passed on to the consumer by businesses. There is no estimated immediate or long-term economic effect upon the public. The petition will provide a substantial economic benefit to certain classes of businesses and an adverse economic effect upon a small class of regulated businesses. Effects for businesses will be immediate and long term. The cumulative annual net benefit to businesses by the reduction of fees is anticipated to be $198,200.

Overall, regulated facilities with emission less than 25 tons per year will be paying less in air quality control fees under the proposed fee structure in comparison to the current fee structure. Generally, regulated facilities will pay less in annual fees and more for specific permitting needs. The proposed fee structure will result in lower annual fees for 367 facilities, with an annual savings realized by each source from $60 to $9,000, with an expected total annual savings to businesses of approximately $305,500. In addition, these facilities will realize a savings of $100 per facility due to a decreased administrative burden relating to the processing of annual invoices and payments. This indirect saving would be approximately $36,700 annually.

An additional 69 facilities emitting over 25 tons annually of pollutants will realize lower annual air quality fees. The annual saving realized ranges from $60 to $40,000, with an annual savings to businesses estimated at $322,000. One facility will have to pay higher fees, with the increase estimated to be $16,000 or an overall increase of 7.8 percent in terms of fees currently paid. Permit fee modifications will result in a savings or increased cost for existing facilities. These fees will vary by specific facility in which modifications or renewals of permits are requested. The Division will collect an additional $450,000 in permits per year under the proposed fee structure. Again, the increased cost for a permit application will be offset by the reduced annual fees.

The Division will realize a decreased cost for implementation of proposed fees as compared to the existing fees. It is estimated that the Division will realize an annual savings of $66,000. This regulation does not overlap or duplicate any regulations of other state or government agencies. This petition does not establish a new fee, however the overall fee structure will be amended. Annual maintenance fees are reduced. Annual emissions fees and permit fees are increased. Overall fee collections are reduced.

Pursuant to NRS 233B.0603(c) the provisions of NRS 233B.064 (2) is 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 upon 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, Carson City, Nevada. Written submissions must be received at least 5 days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library, 100 Stewart Street, Carson City; the Division of Environmental Protection, 333 West Nye Lane - Room 128, Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas, Nevada 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. Listed below are the locations where the public notice and regulations will be available for inspection and copying:

Carson City Library, 900 North Roop Street, Carson City;
Churchill County Library, 553 South Maine Street, Fallon;
Las Vegas Library, 833 Las Vegas Blvd. North, Las Vegas;
Douglas County Library, 1625 Library Lane, Minden;
Elko County Library, 720 Court Street, Elko;
Goldfield Public Library, Fourth & Crook Streets, Goldfield;
Eureka Branch Library, 10190 Monroe Street, Eureka;
Humboldt County Library, 85 East 5th Street, Winnemucca;
Battle Mountain Branch Library, 625 Broad Street, Battle Mountain;
Lincoln County Library, 93 Main Street, Pioche;
Lyon County Library, 20 Nevin Way, Yerington;
Mineral County Library, First & A Street, Hawthorne;
Tonopah Public Library, 171 Central Street, Tonopah;
Pershing County Library, 1125 Central Avenue, Lovelock;
Storey County Library, 95 South R Street, Virginia City;
Washoe County Library, 301 South Center Street, Reno;
White Pine County Library, 950 Campton Street, Ely.

Additional copies of the regulations to be adopted or amended will be available at the Division of Environmental Protection for inspection and copying by the members of the public during business hours. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Executive Secretary in writing, Nevada State Environmental Commission, 333 West Nye Lane, Room 128, Carson City, Nevada, 89701, facsimile (702) 687-5856, or by calling (702) 687-4670 Extension 3118, no later than 5:00 p.m. on March 20, 1996

This public notice has been posted at the Clark County Public Library, the Grant Sawyer Office Building in Las Vegas, the Washoe County Library and the Division of Wildlife in Reno; and at the Division of Environmental Protection and State Library in Carson City.

STATE ENVIRONMENTAL COMMISSION
Meeting of March 26, 1996
Reno, Nevada
Adopted Minutes

MEMBERS PRESENT:
Melvin Close, Chairman
Paul Iverson

MEMBERS ABSENT:
William Molini
Mark Doppe

Russell Fields
Marla Griswold
Michael Turnipseed
Roy Trenoweth
Fred Gifford
Joseph Tangredi
Robert Jones

Staff Present:
Jean Mischel - Deputy Attorney General
David Cowperthwaite - Executive Secretary
LuElla Rogers - Recording Secretary

Chairman Close convened the meeting at 9:00 a.m. at the Division of Wildlife, 1100 Valley Road, Reno, Nevada. Chairman Close read the public notice as defined in the agenda for March 26, 1996.

Chairman Close moved to Agenda Item I:

Approval of the minutes for the December 11, 1995 meeting.

Commissioner Turnipseed moved the minutes be approved as presented.

Commissioner Griswold seconded the motion. The motion carried.

Approval of the minutes for the December 12, 1995 meeting.

Commissioner Fields moved the minutes be approved as presented.

Commissioner Turnipseed seconded the motion. The motion carried.

Chairman Close moved to Agenda Item II: Regulatory Petitions

A. **Petition 96007** (R-016-96) is proposed to permanently amend NAC 459.970 to 459.9729, the Consultant Certification program. The revision adds a written statement and original signature to all documents submitted to the State and local political subdivisions. The consultants would be required to attest that documents submitted to the state have been prepared under the responsible control of an individual certified by the Division of Environmental Protection.

Allen Biaggi, Chief, Bureau of Corrective Actions, Nevada Division of Environmental Protection (NDEP), explained this petition is proposed to modify Nevada's consultant certification program to include a jurat, an affidavit, which attests to the preparation of the document on all reports and documents submitted to clients and to regulatory agencies by a certified individual.

Mr. Biaggi explained, the 1989 session of the Nevada Legislature passed provisions for the Consultant Certification Program as a result of an incident involving the improper storage of 3,000 drums of hazardous waste in Cold Springs, Washoe County. Responsible parties asked to conduct that cleanup, that cost in excess of $1 million, included several large hotels and casinos, state agencies, and private parties. The resulting legislation ensures that

individuals have a certain degree of expertise and knowledge to conduct consulting activities in Nevada. The program certifies 4 major classifications and certifies individuals, not firms. The program currently certifies 603 individuals, nation-wide; 29 are Testers, 60 are Handlers, 21 Hazardous Waste Specialists, and 493 are Environmental Managers. The proposed regulation would require all documents relating to those services include certain information relating to the certified individual.

Mr. Biaggi reviewed the proposed petition:

Section 1 requires specific language attesting to the responsibility of the individual, their oversight of the services described and the level of expertise and care that was used in the preparation of that document.

Section 2 will require a brief description of the services that will be provided.

Section 3 will require the signature of the holder of the certificate and the date the document was signed.

Section 4 will require the certification number of the individual who is responsible for the document.

Section 5 requires the expiration date of their certificate.

Mr. Biaggi explained the Bureau worked closely with the Consulting Engineers Council in Nevada on the language and intent of these provisions. Notice of the changes was sent in March to all certified individuals. We responded to 5 requests for copies of the proposed regulations. No comments on the proposed regulations were received.

The Consulting Engineers Council preferred a wet stamp, much like professional engineers use, in lieu of a jurat. NDEP decided a jurat is more specific to the intent of informing the regulatory agencies and the clients of the level of care and services of the individual who is performing the work and would require no additional cost, as would a wet stamp.

Chairman Close called for questions.

Commissioner Turnipseed asked what type of document the jurat would be placed on.

Mr. Biaggi explained the jurat would be required on all documents relating to services requiring certification by NDEP. If there has been a spill, and well drilling is occurring to investigate the extent and magnitude of the resultant contamination, the jurat would be required on the document submitted to the agency. Similarly, if someone is performing an underground storage tank test for tightness determination.

Commissioner Jones asked how these documents would be stored and how long they would be kept.

Mr. Biaggi explained, because many of the documents supplied under the auspices of this program are used quite frequently because people are doing site assessments for property transactions, etc., the documents will be kept for a minimum of 10 years in the NDEP office or in storage areas so they are readily available to the public.

Chairman Close called for additional questions from Commission members.

No questions were received.

Chairman Close called for questions from the public.

No questions were received.

Commissioner Turnipseed made a motion that Petition 96007 be approved as presented.

Commissioner Jones seconded the motion.

The motion was unanimously approved.

B. **Petition 96006** (R-011-96) is proposed to permanently amend Nevada Administrative Code (NAC) 445B.339 to 445B.351 to make existing State requirements regarding Hazardous Air Pollutants (HAPs) consistent with federal requirements. Redundant regulations regarding the Commission authority to adopt emission standards are proposed to be repealed. The threshold in permitting HAPs emissions is simplified and made consistent with federal regulations. The requirements for sources to develop Best Available

Control Technology and Maximum Achievable Control Technology are repealed. The petition proposes to amend NAC 445B.339 and 445B.349, and repeals NAC 445B.341, 445B.343, 445B.347, and 445B.351.

Jolaine Johnson, Chief, Bureau of Air Quality, NDEP, explained substantial new provisions at the Federal level for hazardous air pollutants were included in the Clean Air Act amendments of 1990. Congress adopted 189 substances as hazardous air pollutants of concern. The Act also required the Federal EPA to adopt standards for major new and major modified sources of hazardous air pollutants. Those sources would be subject to what EPA refers to as Maximum Achievable Control Technology (MACT). Sources would have to evaluate that upon submittal of a permit application for a new or modified source. To date, the EPA has not adopted the regulations required for evaluation of MACT.

In 1993 the Commission amended the Nevada Administrative Code (NAC) in anticipation of the new Title V requirements for major sources of all pollutants, including hazardous air pollutants. In those amendments we included the provision to address MACT requirement for major new or major modified sources. We also required that facilities, major sources that were coming in for the 5 year renewal of their permit, would also be subject to MACT under the current provisions of our regulations. That element goes far beyond the Federal requirement that was never intended to deal with existing sources of hazardous air pollutants. At the time those amendments were adopted we also maintained a Best Available Control Technology (BACT) requirement for all sources of Hazardous Air Pollutants (HAP's) that emit anything over 1 pound per hour of hazardous air pollutants. That requirement is substantially more stringent than the Federal requirements that only address sources that emit 10 tons per year of any one HAP or 25 tons per year of a combination of HAP's. The 1 pound per hour goes way beyond the Federal requirements, is an arbitrary number and not representative of the source that has significant concern for the public for the emissions of those substances.

Ms. Johnson continued, we are proposing to back off of the HAP's requirements in the State of Nevada until such time as the EPA actually adopts a requirement for MACT. We will maintain a general provision in our regulation that allows the Division to consider any specific sources, their specific site, the specific substance they are emitting and the rate they are emitting it, to determine if appropriate controls may be required on that facility. The EPA decision paper indicates that EPA believes it is not wise for things to go forth with the MACT requirements because that may cause some facilities to put on substantial new controls. Then, when EPA actually does adopt their standards they might be subject to different kinds of controls at potential great expense. We propose this in order to be reasonable and cost effective for these facilities in controlling these substances.

Ms. Johnson reviewed the petition:

Section 1: Is a Legislative Counsel Bureau (LCB) amendment, basically a punctuation correction.

Section 2: Amends NAC 445B.339 by eliminating subsection 3. We believe this Commission has full authority to establish emission rates and standards and that it is not necessary to re-emphasize that in the regulation.

Section 3: Amends NAC 445B.349 by eliminating the first sentence because we are changing those specified NAC's substantially with this amendment. We also eliminate the statement that says that they "may not exceed the acceptable emission rate established by the director in accordance with these provisions" because there are no emission rates established at this point.

Section 4: Repeals several sections, again to back out of the extensive requirements that we have on HAP's in the interest of waiting for the Federal EPA to come along with their standards.

NAC 445B.341: We require evaluation of BACT for any source that emits greater than 1 pound per hour.

NAC 445B.343: A requirement for the development for MACT for major sources of hazardous air pollutants, again until such time as the Federal EPA comes through with their guidelines

and MACT requirements.

NAC 445B.345: Another MACT requirement that discusses the specifics of the requirement. We propose to repeal that.

NAC 445B.347: Prerequisites to issuance and renewal of an operating permit.
This is more of the BACT and MACT requirement that are established in our current regulations that we propose to repeal.

NAC 445B.351: A notice of high concentrations.
Until such time as the MACT requirements are established, we would like to repeal that section.

Chairman Close asked for questions from the Commission.

Commissioner Jones asked how long will it be before EPA adopts the regulations.

Ms. Johnson explained they were to have the regulations adopted in 1995 but have recently proposed a new modified version of the Clean Air Act 112-G requirement. They think by January, 1997 they will have a final rule. They will then allow us approximately 2 years to bring our program around and for facilities to come into compliance with MACT.

Commissioner Jones asked if we had enough statutory authority to allow the Director to operate freely in the absence of these regulations until such a time as they are adopted.

Ms. Johnson explained she believes we do. There is a regulation that says "no source may cause air pollution of hazardous air pollutants". That is a public health threat so we will be able to evaluate those on a case-by-case basis.

DAG Mischel asked, do you consider applying that case-by-case language in NAC 445B.295, Subsection 2(c), where it describes that the emission rates of regulated air pollutants may be set in the permit pursuant to an applicable requirement. If it is determined by the Director that something is an issue because of bio-accumulation or something, and it becomes a threat to human health, what leeway to you have?

Ms. Johnson explained NAC 445B.295, subsection 2(c) is an applicable requirement that addresses that air pollutant. There are some Federal HAP's, NESHAP's (National Emission Standards for Hazardous Air Pollutants) already established for some area sources. We will be able to point to and implement those as we consider these sources and write their permits. As we pull this MACT and BACT requirement out of the regulations we are eliminating any specific applicable requirements that we have for the hazardous air pollutants for the time being. By statute we can establish and require controls on a source to prevent a public health threat from air pollution. We can use that to establish appropriate emission rates and appropriate controls.

Chairman Close asked for additional questions from the Commission.

There were no questions.

Chairman Close asked for questions from the public.

Michael Tomko, Nevada Mining Association (NMA), stated the Association supports the Bureau of Air Quality's proposal. We believe it allows Nevada to implement a hazardous air pollutant program in a manner that is consistent with the Federal Program. The 1990 amendments to the Clean Air Act provided for extensive revision to the way that hazardous air pollution is to be regulated. Originally, EPA suggested that states implement the provisions of the Clean Air Act prior to EPA's providing guidance and regulations. EPA re-evaluated the situation after receiving comments from industry that said "requiring states to implement the MACT program before providing guidance to them is going to cause many problems. If the state requires MACT under one set of conditions, then EPA promulgated a regulation that required a different kind of MACT, it would provide for inconsistent regulation".

Mr. Tomko explained the NMA believes it is important to allow the Federal regulatory program to develop to avoid

redundant or conflicting state requirements. Nevada has retained the authority to evaluate sources on a case-by-case basis if those sources should pose a problem or a threat to health and safety.

Chairman Close asked that the letter dated from Lynn Giraudo, the Nevada Mining Association (Exhibit 2) and a letter from John K. Mudge, Newmont Gold Company (Exhibit 3) be accepted as part of the record on Petition 96006.

Commissioner Turnipseed made a motion that Petition 96006 be adopted as presented.

Commissioner Fields seconded the motion.

The motion was unanimously approved.

C. **Petition 96008** (R-018-96) is proposed to amend NAC 445B.400 to 445B.775 by establishing a program for the regulation of air quality emissions from heavy-duty vehicles as required by Nevada Revised Statute 445.631. The amendments establish an opacity limit for heavy-duty vehicle exhaust and revise test procedures and equipment for measuring opacity. It is proposed that NAC 445B.739, 445B.767 be amended and NAC 445B.766 is to be repealed.

Ed Glick, Bureau of Air Quality, Mobile Source Section, NDEP, explained this action will satisfy NRS 445B.780 which specifically requires the Commission to establish a program to measure smoke from heavy-duty vehicles.

Mr. Glick reviewed the proposed changes.

Section 2: Adds a definition of "Commission" because of the addition of Section 3.

Section 3: Sets the opacity level. Opacity from the vehicle exhaust is the amount of particulate that obscures the light. 100% means that you can't see anything through it, 0 % means it is absolutely clear. Based on the study we conducted of 1,500 trucks, we propose a certification level of 70%, arrived from that data, testimony from the Engine Manufacturing Association, testimony from public workshops, the California Trucking Association, Nevada Motor Transport Association and public testimony.

Section 4: Changed for consistency of definitions.

Section 5: Proposes to remove the reference to the federal test procedure which, from our study, showed we had no consistent correlation with the Snap-Idle Test.

Section 6: Changed for consistency of definitions.

Section 7 and Section 8: A reference correlation back to the correct number in law.

Section 9: Changes are to adapt a new Snap Acceleration Smoke Test Procedure for Heavy-duty Diesel Powered Vehicles, also known as SAE J1667. This would replace SAE J1243 which is not adapted to roadside testing and was limited in the choice of equipment that you could use. The new procedure is specifically for roadside testing and compensates for environmental influences such as altitude.

All our data was at altitude and the SAE J1667 is very specific on how a test is conducted and specific on the performance of the meters.

Section 10: 3 (b) is deleted because of one cut-point, the number plate is not germane to the proposed testing process and relates back to the federal test procedure requirement.

Section 10: 3 (e) is deleted for the reference to a 35% cut-point, which also relates back to the federal test procedure, which by the way, for identification, is a for a bench test which is under a controlled

environmental which the federal government used to certify brand new engines before they are placed in the vehicles.

Section 11: Amends # 3 to reference the emissions set cut-point.

Section 12: A reference change.

Section 13: Changes definitions and a reference.

Section 14: Deletes NAC 445B.766, the adoption of the 40 C.F.R. Part 86 for determination of the certification allowance. This relates back to the Federal Test Procedure (FTP) which is a controlled environmental test.

Deletes NAC 445B.775 which required NDEP to study the correlation of the FTP and the Snap Idle Test. NDEP tested 1,500 vehicles throughout the State of Nevada at no altitude lower than 2500 feet. We analyzed the resultant data and found there is no consistent correlation between the FTP and the Snap Idle Test, so that would not be a good reference.

Chairman Close asked for questions from the Commission.

Commissioner Fields noted, you found that the Snap Idle Test did not correlate well in the 1,500 test cases. What assurance do you have that the new Snap Acceleration Smoke Test Procedure will work?

Mr. Glick explained even the new one does not compare to the Federal Test Procedures (FTP) - they are apples and oranges and not comparable. The new test has been agonized over for a number of years by the Society of Automotive Engineers, has been voted on nation-wide, world-wide, and is probably the test that will be adopted in Europe. In our field experience we used some of the meters and our test data matches, within 2%, the test data we obtained from the Engine Manufacturing Association, a study of 8,500 trucks. The 70% would compensate for some of the borderline trucks.

Commissioner Griswold asked if the data gathered testing the 1,500 trucks refer to the old Snap Idle or to the new testing method.

Mr. Glick replied, a combination of both. Our test was done at altitude and was full-flow meter which means the meter sends a beam across the exhaust gas without any reduction. We also used a partial-flow meter which samples a portion out of it and it is not influenced by wind and things. The fact that we have a good correlation with the Engine Manufacturers Association makes us feel comfortable with our data.

Commissioner Griswold asked, how much exact test data do you have from the new process that we are considering today?

Mr. Glick reported the last 600 trucks tested used the new test.

Commissioner Griswold noted the material states the Bureau is anticipating an 11% fail rate and asked who will fall into that category.

Mr. Glick explained the data shows we have an 11% failure rate. If a truck is tuned to engine specifications set by the engine manufacturer they should not have a problem passing the test. If the air filter is dirty, if they have tampered with the metering or if the truck is simply worn out, it would have trouble passing the test.

Commissioner Griswold asked, how the fail rate would apply to older vehicles.

Mr. Glick explained the data determined that vehicles older than 1990 showed a 15% failure rate.

Commissioner Griswold asked where that data was obtained.

Mr. Glick replied, from our own testing. The data is also supported by the Engine Manufacturers Association which shows a similar percentage of pass and fail. In Utah, the county where Salt Lake City is located has a cut-point of 70%. The State of Utah feels very comfortable with that.

Commissioner Griswold noted she was confused about the test and asked Mr. Glick to explain how it operates.

Mr. Glick explained the test requires the operator to run the engine up to maximum rpm and hold it for approximately 5 seconds. When you rev it up you get somewhat of an increase because you are loading the system, putting full throttle to get a high rpm reading, then when you decelerate you tend to have a little bit of dumping of fuel which could cause a puff of smoke. The meters with the J1667 have a mathematical filter that cuts the peaks off and averages the run so it won't show the highest peaks, it will show only what that truck is averaging over that test.
Commissioner Griswold noted Section 10, subsection 2 refers to the testing of gasoline engines in heavy vehicles. Why is that included in these regulations.
Mr. Glick explained gasoline engines in heavy-duty trucks are tested under our other emission laws which govern gasoline motors. When the regulation was proposed it said "heavy-duty vehicle" and a distinction was not made between the power supply. The NAC definition of a heavy-duty vehicle is "a vehicle over 8,500 pounds". If a smoking gasoline powered heavy-duty truck stops to be weighed it might be subject to a check for pollution.
Commissioner Griswold asked, are we testing for anything else to do with a gasoline engine.
Mr. Glick replied no.
Commissioner Turnipseed asked if the majority of the testing was on Nevada's interstate highways, on long-haul drivers.
Mr. Glick replied yes.
Commissioner Turnipseed asked if the Division tests local delivery trucks that stay strictly within Nevada or within a town.
Pete Bellis, Nevada Department of Motor Vehicles and Public Safety, (NDMV) reported their mobile unit is placed at weigh stations on the interstate highways in Nevada but that mobile unit can also go to various trucking companies - van lines, garbage trucks, etc., within a city and request to test their vehicles.
Commissioner Griswold asked what is the weight cut-off of a truck that will fall into this heavy-duty category.
Mr. Bellis explained anything below 8,500 gvw (gross vehicle weight) is a light-duty vehicle. Anything above that is a heavy-duty vehicle. There is some confusion, i.e. a 1-ton pickup. A person has the ability to register that truck with a gvw of whatever they think they are going to be hauling. If the vehicle has been registered below 8,500 pounds it does not get flagged as a heavy-duty vehicle.
Commissioner Griswold noted, because we are talking primarily about heavy-duty diesel vehicles, these regulations would apply to almost all delivery trucks.
Mr. Bellis agreed.
Commissioner Tangredi noted, in the test, when the smoke meter reads the smoke, there is incomplete combustion in the beginning as soon as the pedal is depressed. Then at the end you have the same situation of smoke. But the smoke meter eliminates the peak at the beginning and at the end so that you are just concentrating on the average.
Mr. Bellis explained the discussion that took place when they were forming the J1667 had to do with the smoke meters ability to see the peak and record just those peaks. It was decided this was an unfair value of the smoke that the vehicle was emitting so that is where the averaging came in. They do a ½ second averaging so any high peaks do get averaged off and you get a more stable ignition reading from the vehicle.
Commissioner Tangredi stated that seems biased, smoke is being emitted into the air and you are just erasing it and saying it does not exist.
Mr. Bellis explained you are not erasing it, you are getting a way to measure it accurately because you can get peaks that happen so quickly the eye would not be able to see them.
Commissioner Tangredi noted if 1,000 diesel trucks depress their pedals 10 to 15 times an hour in a valley, all that emission is something to be considered. You are saying that the peaks are nothing so therefore, let's eliminate them.

Mr. Bellis explained, it is not really being eliminated it is being averaged into the total value of smoke. If you look just at the peaks it is very difficult to determine if a vehicle would fail. Averaging the whole column of smoke is a much fairer way to determine if this vehicle would pass the test.
Commissioner Iverson asked, isn't a peak a characteristic of any vehicle? As you accelerate and decelerate aren't you going to get a peak?
Mr. Bellis explained that does happen with any engine. You are not going see a consistent value of smoke coming from any engine so to average is a much fairer way to go.
Commissioner Griswold expressed disappointment that some of the data that has been accumulated and collected from the testing was not included in the Commission's packet and asked for a comparison of the fail record at the highest elevation tested versus the fail record at the lowest elevation tested.
Mr. Glick stated that he did not know exact numbers. The testing on Pequop Summit showed it was a few percentage points higher opacity because the air is thinner. With the J1667 and the 70% cut-point it should not put trucks at a disadvantage at high altitude.
Commissioner Griswold asked if the data revealed how many of the trucks tested on the Pequop Summit failed.
Mr. Glick reported that data presented at a previous Commission meeting is available but he did not have it with him today.
Commissioner Griswold noted she would be interested in knowing that figure.
Chairman Close asked how much the testing device costs and if they were available to private companies so their trucks can be tested for this determination before this regulation goes into affect.
Mr. Bellis replied the device costs approximately $8,000 and explained they were waiting for the J1667 to see exactly how they are supposed to be configured, but they are available at this point.
Commissioner Griswold asked how many of these devices are in operation now, how many are anticipated to be in operation in the future, and will this test become part of the routine check when the weigh-stations are open in Nevada.
Mr. Bellis explained 2 mobile units are currently operating. 1 in Las Vegas, 1 in Reno and those two are all we anticipate. Testing is done on a random basis and not every truck registered in Nevada gets tested. Probably 95% of the time they will not be getting tested.
Commissioner Tangredi asked if a citizen can report a violation of excess smoke from a vehicle to your group or is detection left only up to you.
Mr. Bellis explained a hot-line allowing citizens to report smoking vehicles is currently in operation in Las Vegas We are setting up a hot-line in Reno but that is geared more towards gasoline vehicles.
Chairman Close asked how the hot-line number is advertised in Las Vegas, I did not know a number was available.
Mr. Bellis explained commercial radio advertisements list the number to call in Las Vegas. The cellular number is 733-SMOG. It would be great if more money could be spent on public information, to explain what the hot-line is, what it does and what it represents.
Commissioner Tangredi stated the number advertised is just for dust, not for smoking vehicles.
Mr. Bellis explained the number can be used to report a smoking vehicle in the Las Vegas area.
Commissioner Tangredi noted several people reported to me they tried that number to report a smoking vehicle and no action was taken. They could not even find anyone to speak with -
Mr. Bellis explained when 733-SMOG is dialed an answering machine gives the caller information and asks for their message. Those messages are gathered and checked out -
Chairman Tangredi interjected, and a card is sent to the vehicle that is reported.

Mr. Bellis replied, either that or someone physically goes to the location and tries to find the vehicle.
Commissioner Tangredi recalled on several occasions two ladies reported to him that they saw a vehicle spewing out smoke, they called the hot-line to report it but no card was sent out and they did not get any kind of response - Mr. Bellis explained we do not report the outcome back to the caller.
Mr. Bellis asked to turn the question/answer period back over to Mr. Glick because we are not here to discuss the smoking vehicle hot-line.
Commissioner Jones asked if public transportation vehicles would be checked and subject to the same fine.
Mr. Bellis explained all vehicles classed as a heavy-duty vehicle, buses, public transportation, etc., fall within this regulation, would be subject to being tested, and and would pay the same fine.
Commissioner Griswold asked if the regulations we are being asked to adopt today, for the most part, enforced in the State of California.
Mr. Bellis explained California's regulations are currently up in the air. They adopted a different set of regulations, then had difficulty with their cut-point which was a little stringent. I am not privy to the status of their regulations right now.
Commissioner Griswold asked if the status of the regulations of other neighboring states, Oregon, Idaho, Utah and Arizona was known.
Mr. Glick reported California is waiting for the J1667 to come through for a re-evaluation of their program. They originally had their cut-point set, based on the Federal Test Procedure, and it was brought into litigation. Utah is currently working under the 70% cut-point on a county basis and they are anticipating state-wide adoption. Arizona, Idaho or Oregon have not adopted a regulation.
Commissioner Griswold stated, then Nevada is are pioneering this.
Mr. Glick replied, we are one of the first.
Chairman Close asked if there are any states that have a lower cut-point than what we have adopted.
Mr. Glick stated, without being declared inaccurate, he believed Colorado has a cut-point of 30% - 40%. Also, other states are using dynamometers and various other methods for their testing. Nevada, California and Utah are among the first to use the smoke sampling meters and opacity meters as the test procedure which is less time consuming than the dynamometer test. Utah has raised their weight limit to 16,000 pounds to require delivery vehicles to undergo the dynamometer test rather than the snap-idle. A truck in Utah has to be heavier than 16,000 pounds for the snap idle test. Nevada's 8,500 pound weight was derived from the Clean Air Act.
Commissioner Jones asked if we were going to force a routing around Nevada in over-the-road hauling vehicles by "standing alone" with this process.
Mr. Glick replied he did not see why it would. If a truck is maintained to manufacturers specifications there should not be a problem passing the test.
Chairman Close asked Mr. Glick to review the economic information provided to the Commission relative to the effect of adopting this regulation, so the audience will be aware of the information.
Mr. Glick explained the Bureau estimated the adverse economic effect could be to businesses who fail to maintain the motors or tamper with emission control devices on their heavy-duty vehicles. At a failure rate of 11%, figuring that the repair would go from a $50 minimum - for a simple adjustment - to a system overhaul which could cost from $700 -$1,000. If we test 1,500 trucks a year, approximately 165 will fail. An average repair cost of $450 could cost the industry about $74,250.
Chairman Close asked if owners went through the repair process can the truck continue operating?
Mr. Glick explained a waiver program is available after evidence of repairs. Also, the Director of the DMV can

offer compliance repair certification.
Commissioner Griswold interjected, after you have spent $1,000.
Mr. Glick replied, at a shop for labor and parts. $750 if you do the repairs yourself.
Chairman Close asked, how long is the waiver good for.
Mr. Glick reported that is determined by the Director of the DMV.
Mr. Bellis explained there is not a time-line at this time. He anticipates it would be good for one year.
Chairman Tangredi noted, if the 40% cut-point is a statute in force in Colorado, the difference between their 40% and our 70% is tremendous.
Mr. Glick replied he was not sure if that is statute or a test program and acknowledged concern about that difference. Utah and Nevada have been conferring and California is watching what we are doing. I think there should be similarity and unity.
Commissioner Tangredi asked if the Bureau felt adequate testing has been done and if further testing would be redundant.
Mr. Glick replied he thought Nevada's testing 1,500 trucks plus 8,500 trucks tested by the Engine Manufacturers Association adequate. Additional testing could be both costly and redundant.
Commissioner Fields asked Mr. Glick to refer back to the legislation that has caused this exercise, NRS 445.631 (revised by LCB as NRS 445B.780). Did that regulation give this Commission the authority to adopt such regulations or does it require us to adopt such regulation.
Mr. Glick reviewed Section 1 of NRS 445B.780: "The Commission shall, by regulation, establish a program for the regulation of smoke and other emissions by inspection of heavy-duty motor vehicles that are powered by diesel fuel or gasoline. The program must be substantially similar to the program established in the State of California."
Commissioner Fields asked if this test procedure applies to off-road heavy-duty diesel vehicles.
Mr. Glick replied, it just says heavy-duty motor vehicle. The NRS definition of a heavy-duty motor vehicle is "one that carries passengers and goods on the highways of Nevada".
Commissioner Gifford noted the Engine Manufacturers Association seem to recommend two levels, depending on whether it is a newer vehicle or not. What is the rationale for that?
Mr. Glick explained it would be for ease of implementation. You are not so concerned about what the number plate on the truck is. Trucks newer than 1991 easily pass the test. We felt about 3% of the newer trucks would fail the 70% which indicates the truck is out of specifications and not a gross emitter. We are after the gross emitter.
Commissioner Gifford recalled, you cited good correlation with the Society for Automotive Engineers data. Could you review that for me and what do you mean by good correlation?
Mr. Glick noted we were discussing the J1667 test procedure and I was relating that to the Engine Manufacturers data. By using those procedures our data matched the Engine Manufacturers data within a 2% margin which would indicate there is some reputability and a comparable level of certification.
Commissioner Gifford referred back to the peaks and asked if data exists on the quantity of material emitted during these peaks compared to the intervening times? What percentage of the emissions might come during these peak periods and is it high enough to be concerned about? Are we talking about a significant quantity of materials being emitted during these peaks or is it fairly minor?
Mr. Glick explained, to his knowledge data to that effect does not exist - the peak is a very momentary and that actual spike cannot, as Mr. Bellis reported, be perceived by the human eye. The averaging takes into account that spike but also the operating level which is probably more indicative of how the engine runs on an overall basis. In-town driving, 90% of is at light or medium throttle level, 10% would be acceleration and deceleration. Out on the

interstate it would probably be less. Equate it to driving your own car, when you are in town you accelerate more than when you are driving on a freeway.
Commissioner Tangredi asked for additional clarification on the peak. When I see a diesel vehicle begin to move at a red light, I view this enormous cloud of black, opaque smoke which occurs for about 10 seconds. I slow down my car and try to avoid its wake. Then it disappears as the vehicle is crawling along. What do you call this invisible peak that I always see?
Mr. Glick reported when a truck is full, hauling 50,000 - 70,000 pounds, fuel has to be fed to it to get it moving and emission levels are higher when a vehicle goes from a stopped position to movement -
Commissioner Griswold interjected, or pulling at a steep grade with a heavy load at a high elevation.
Commissioner Tangredi asked, so all that is just eliminated?
Mr. Glick reported some of that is inherent with the diesel or any engine. If you have more throttle on to overcome that heavy load it is going to emit more.
Commissioner Tangredi asked, do you take into consideration those first 10 seconds in that peak.
Mr. Glick explained, the test averages from idle to high rpm then deceleration. That is done 3 times and the result is averaged.
Commissioner Tangredi stated, they are measured and averaged in, you just do not eliminate them.
Mr. Glick explained that actual spike, which might be a nano-second or momentary, is cut off or leveled to over-all performance, averaged with the steady stage.
Chairman Close noted the Engine Manufacturers Association has provided us with a letter with a chart of the opacity distribution and asked Mr. Glick if he agreed with the information contained in the letter and the chart? If you were to give us a similar distribution would your test results be similar?
Mr. Glick replied, our testing has disclosed it would be real close.
Chairman Close asked, when I read the chart, 95 - 100 and on top 58.68, what does that mean?
Mr. Glick replied, of the gross polluters, gross emitters, 91% of the gross emitters were in that 70% or higher range and 50% were in the 95-100 range. The Engine Manufacturers data is showing there is a small group of trucks that are the major polluters. 90% of the gross polluters are above the 70%, with 50% of them even higher than that. That indicates those trucks are out of specification. The size of the fleet they are considering here is fairly low.
Chairman Close asked for additional questions from the Commission. There were no additional questions.
Chairman Close asked for questions from the public.
Mr. Dave Depue, CMD Trucking, Reno, Nevada reported that his trucks were fairly new and on scheduled maintenance. Mr. Depue asked if the poor grade of fuel we are buying today has anything to do with the smoking of our trucks?
Mr. Glick replied it might have some part in it. The low-sulfur diesel was comprised of less than 500 ppm sulfur and sulfur is one of the biggest contributors to particulates. Nevada does not have the reformulated diesel, we have traditional diesel with a low sulfur, the law of the land at this point. I still feel if a truck engine is within specifications it should not have trouble passing the 70%.
Mr. Depue explained, I am talking about low-grade, poor grades, of fuel, #1, #2 and #3 grades of fuel. We are supposed to be getting #2 grade of fuel but we are buying even lesser grades in our service stations. Our oil companies are doing this to us. It has nothing to do with the sulfur content.
Mr. Glick replied, unfortunately I can't address that. That quality of fuel would be under the Department of Agriculture.
Mr. Depue replied the guy testing the smoke coming out of the truck should test the quality of the fuel also.

California is changing the grades of their fuel because of the EPA requirements and they are all up in the air, they don't know what they are going to do with the regulations. My trucks are tested every month, every 2 - 3 months, running back and forth through California inspection stations. The only problem we ever have with smoke is because of the grade of fuel that we are buying. You can buy fuel in Nevada or Utah and it will emit a different color smoke than the fuel you buy in California. The oil manufacturers are lessening the grade of the fuel that we are paying a high price for at the fuel pump and this is causing a lot of the smoke problems in our trucks. Why can't these guys figure out some of that and put the pressure on the oil companies instead of on us poor truckers trying to make a living?

Commissioner Gifford asked Mr. Glick, in terms of the readings that you take, is there a possibility of factoring in fuel composition or quality?

Mr. Glick explained testing the 1,500 trucks this past year was a real live test on the trucks that travel through our State and the levels that we found were what I recorded. At that point it was not evident to us that there was a tremendous difficulty but I suppose things change.

Assemblyman John Carpenter from Elko stated he is concerned about the rancher, farmer, or small contractor, owners of a vehicle that is not used every day. They own a vehicle for a convenience and economic factor in their operation. Passing regulations in Nevada that would eliminate those type of vehicles may be what we are doing here. Large trucking companies with a new fleet of trucks running over the roads will probably not have many problems complying with these regulations but the citizens of Nevada who need a truck for a specific purpose in their operation are going to have a very hard time complying. I am also concerned that we are passing regulations in Nevada that are not in place in California or Utah. The states have to get together to come up with a test that is across-the-board. If a trucker is legal in Illinois he ought to be legal in Nevada. As a result of putting on regulations that are not in effect anywhere else, we may be detouring trucks around Nevada. I know it is going to affect the economics of truck stops in Nevada.

Assemblyman Carpenter continued, like Commissioner Tangredi, I don't like to see vehicles pouring out smoke. On the other-hand, that is a characteristic of diesel engines. Later engines have the technology to collect these particulates, older trucks do not have that technology. It seems to me that in the area of environmental situations and environmental law we need to be attuned to the technology. As the technology advances then our air is going to get cleaner.

Any truck newer than 1974 would be subject to these regulations but would a 1974 truck pass these standards? They don't have the technology. I think we need to research that. The age of the vehicle concerns me. The statistics show that 15% of the trucks with a 1990 or older engine failed, versus only 3% of the new trucks. I don't know whether that is due to the technology on the newer engines or if the older engines were worn out. I think those are questions that need to be answered. I used to have 2 or 3 trucks, they were pretty new when I was using them, but they did not have this new modern equipment to catch these particulates. We maintained them, air cleaners were cleaned, etc., but I don't know whether those engines would have been able to pass these kinds of tests.

Assemblyman Carpenter continued, if we are going to do pass regulations in Nevada that they are not passing in Idaho, Oregon, Arizona or California, we better take a good look. I don't think the Legislature intended that we plow fertile ground and get ourselves into trouble with the trucking industry.

Commissioner Turnipseed asked Assemblyman Carpenter, you were in the Legislature when this bill passed, I won't ask you how you voted, but what was the thinking of the Legislature when they wrote in the language that we adopt regulations similar to those in California?

Assemblyman Carpenter replied he should go back to find out how he voted on the bill. It is my feeling, in a lot of

things that go on in the Legislature, if it is done in California we probably should not do it. I think the feeling of the Legislature was, all trucks that travel east and west across Nevada are going to travel into California and if it is workable in California it should be workable in Nevada. I think we found out what California was trying to do is not working but they have not yet come up with anything else. If they would adopt standards that we felt comfortable with that would take care of our altitude, that would make sense but California is up-in-the-air and don't know what to do. We should not be passing something that will put a great burden on the truckers that are coming across Nevada.

Commissioner Tangredi expressed appreciation of Assemblyman Carpenter's comments and asked if the ranches of Nevada, already burdened by tremendous expenses, would be further economically burdened if these regulations were placed on the vehicles the ranchers use 2 or 3 times a year.

Assemblyman Carpenter replied, that is right. They do not use these older vehicles every day. They can't afford to purchase a $100 thousand over-the-road outfit, maybe they can afford one that will meet their needs that costs $5 or $10 thousand but to bring that truck up to meet these specifications may not be worth it.

Commissioner Tangredi asked if the ranchers haul livestock from one place to another within the State or do they travel to other states.

Assemblyman Carpenter replied both, but most of the time it is within State, moving their stock from ranch to ranch or range to range.

Commissioner Tangredi noted they stand a possibility of being caught in other states if their vehicle is smoking.

Assemblyman Carpenter replied yes, but there is no program in Idaho & Utah, the states they would be going into.

Commissioner Tangredi asked if this regulation is put into effect, do you envision allowing certain classes of vehicles, especially in rural counties, a 5 or 10 year extension on their vehicle life without the controls.

Assemblyman Carpenter replied yes, but small contractors and other business people should be included also.

Commissioner Tangredi asked, so you envision certain rural counties being free counties, so-to-speak, and counties like Clark and Washoe more amenable to the possibility of this Commission implementing control.

Assemblyman Carpenter agreed that would solve our problem but you should also listen to the members of the trucking industry within the metropolitan areas. I am concerned about the guys with only 1 or 2 trucks who use them very seldom.

Commissioner Tangredi asked, in your estimate, how many trucks would that be.

Assemblyman Carpenter explained in the Elko area we are probably looking at 100 trucks.

Commissioner Griswold added, these regulations could make it impossible for a rancher, farmer, or small contractor to use their own older vehicle, forcing them to hire a vehicle. That would place a great financial burden upon them.

Assemblyman Carpenter agreed. You also have the situation of convenience and necessity, using your own vehicle to get a job done when it has to be done. Commercial haulers are often unavailable "tomorrow" to haul a load of cows from a ranch near Elko to a range 30 miles distant.

Commissioner Tangredi asked Assemblyman Carpenter if he would consider raising the opacity level in those older vehicles for a period of time. As opposed to the 70% opacity level this petition recommends, would those older vehicles pass an 80% or 90% opacity.

Assemblyman Carpenter replied, I do not know. It would make more sense to raise the age of the vehicle from 1974 to somewhere in the '1980s, looking at when the technology was available in truck engines to enable them to meet these kinds of standards. Or, put on some kind of a mileage factor but that raises a question on how to regulate that.

Commissioner Tangredi stated there should be an answer, but the major concern is the amount of carbon monoxide

and poisons that are emitted from trucks like this. We are very concerned about the populated areas. I am sure the emissions in the rural areas are being precipitated very graphically.
Commissioner Gifford asked Mr. Glick, if the Commission takes action on this, are we talking about action only in counties with a population greater than 100,000 or are we talking about this being in effect for all counties.
Mr. Glick explained it is a state-wide program.
Commissioner Gifford quoted Section 2 of NRS 445B.770, "any county whose population is less than 100,000, if the Commission determines that it is feasible and practical to carry out a program of inspecting and testing motor vehicles and systems for the control of emissions from motor vehicles". Is it practical to try to do this in counties with population less than 100,000.
Mr. Bellis, DMV, noted the intention is to have most of the testing performed in the major metropolitan areas where the mobile testing vehicles will be situated.
Commissioner Gifford asked, in your opinion, if the Commission were to take action on this would it seem reasonable to restrict it to the 100,000 population figure?
Mr. Bellis explained the population figure is stated for the gasoline program, the diesel program was supposed to be a state-wide program.
Jolaine Johnson, Chief, Bureau of Air Quality, explained NRS 445B.770 does distinguish between counties that have greater than, and less than, 100,000 population. NRS 445B.780, which establishes the requirements for the heavy-duty vehicle program, was adopted separately and it is my understanding it does not carry with it the distinction of the population of 100,000 people or above. There is a legal question as to whether we could bring that distinction into NRS 445B.780. The Division has pursued this program with the understanding that it was a state-wide requirement. Perhaps we need a legal determination on whether we can bring the Legislative distinction in 445B.770 into 445B.780.
Commissioner Griswold agreed, a written legal opinion may be necessary.
Commissioner Tangredi agreed. Can we interpret the application of a Commission decision to be population dependent?
Commissioner Jones stated if we are going to find a way to facilitate older vehicles in minor uses why make that differentiation by population of the community. That should be by use rather than by the community.
Daryl Capurro, Nevada Transport Association (NTA), stated he has worked with staff for a long period of time relative to this emission testing program, a result of AB 812 of the 1991 session. The industry believes it is necessary to do our part with respect to the environment and be aware of the importance of maintaining the vehicles that we operate in and through Nevada. We also believe it is very important the testing procedures employed for vehicles be uniform. As you may recall, the standard for gasoline emission testing has always been the California BAR 90 or BAR 84, which has has been adopted by most every state in the United States. California was the leader in respect to that type of emission testing. We hope the heavy-duty vehicle testing procedures adopted are uniform so vehicles coming out of Utah or any other state would be subject to the same kind of testing procedure, under the same conditions, and be able to pass in every state. A number of studies have been done, some of them by our own Desert Research Institute (DRI) that prove 10% of the vehicles produce anywhere from 50% -80% of the pollution. What you need to do with your regulations is eliminate the gross polluters instead of penalizing 90% of the operators. Concentrate on those 10% that are producing the greatest amount of pollution.
Mr. Capurro continued, in general NTA supports one of the previous comments, the problem with the inconsistency of fuel as it relates to vehicles operating in Nevada.
Mr. Capurro pointed out there is no mention in the regulation as to when it would become effective. It would be

helpful to let everyone know when they intend to actually begin testing.

Mr. Capurro asked, for the record, I would like clarification on:

> NAC 445B.727, the provision in the current regulation that states the fine levels, but not included in this proposed regulation. Those fines are: $800 for the first violation, $300 if you have brought the vehicle into specifications for testing purposes within 30 days and $1500 for second and subsequent violations. There is a provision within NAC 445B.727 that it is a 12-month rolling cycle. If I am cited today, 1 year from today I am not subject to that second and third penalty.

I would like is to make sure that is vehicle specific. If I have a company operating 5 vehicles and 2 of them are cited NTA wants to make sure that second citation, on a completely different vehicle, is not the $1500 variety vehicle. I assume that it is vehicle specific and will stay that way.

Mr. Capurro continued, another Section that is not dealt with in the proposed changes is NAC 445B.760, which is the definition of snap-idle. Since J1667 is not a snap-idle procedure but a snap-acceleration smoke test procedure, that particular definition should be changed to reflect that provision.

Mr. Capurro explained he looked at NAC 445B.768 in the current regulation but not up for change in this proposed regulation, components of vehicles subject to inspection for tampered or defective emissions. There is a procedure in the regulation that says the inspector has to check certain things to make sure those items have not been tampered with. I have had calls from members and non-members alike regarding this language. For instance:

1. (b) "any seal or cover protecting the adjustments to control the ratio of air to fuel" and
1. (c) "any seal or cover on the fuel injection pump" -

I am advised that many times replacement fuel pumps do not have the seal on them. They have not been tampered with, they simply don't have the seal. If the intent of that language is to say that because it does not have that seal it should be cited goes beyond what the intent should be. We would prefer to see that the test be run first, if the vehicle passes the test everything else would be unnecessary. I believe you would find that those vehicles defined as "gross polluters" would be the ones where you would have that kind of problem, there is a reason why they would smoke in excess of the 70% opacity standard.

Mr. Capurro continued, for the record, under J1667 the new standard for snap acceleration test procedure, there is an altitude adjustment procedure. It is important in Nevada, where altitudes range from 2,100 feet above sea level in Clark County to over 7,000 feet above sea level in some of the passes, that the altitude adjustment procedure within J1667 is followed.

Mr. Capurro continued, NTA has a concern with the proposed regulation on Page 4, Section 10, NAC 445B.769, subsection 4 which reads "as used in this section inspection site means an area including a random roadside location, a weigh-station or a fleet facility used to conduct the test procedure on heavy duty" etc. We would not like to see this procedure used to punish or expose the Nevada-based individual. We would not like to see this mobile station taken into a facility and require the operator to fire up and run every truck for 15 minutes (the procedure requires at least a 15 minute warm-up to be able to get to test temperature). We would not like the testing to be concentrated on every vehicle in that individuals fleet rather than the random road-side inspection procedure that I think everyone intended it to be. I believe the use of "fleet facility" should not be with respect to forcing the local guy to fire up every truck in his fleet. That is not random inspection.

DAG Jean Mischel explained the last area Mr. Capurro described has been in the regulations and asked if he had observed problems with the randomness of testing.

Mr. Capurro explained there was not a test procedure in the past, only a pilot program that operated primarily on the interstate. We are asking that you take a look at changing it, much like you are changing other sections right now.

I would also comment that there is no specific exemption for any vehicle class in the law, particularly on heavy vehicles. I do not believe this Commission has the ability to make any kind of exemption without legislative approval.

Commissioner Jones asked Mr. Capurro, in light of Assemblyman Carpenter's comments, do you think that requires legislative approval, to go back and make that kind of adjustment.

Mr. Capurro replied, if you are talking about applying it only to an area of certain populations, certainly. My 27 years of legislative experience tells me you don't have the authority to do that. It would be unconstitutional if it were not uniform to all vehicles in that classification, whether it be in Elko, Clark or Washoe County. We are under the gun by the Federal EPA. We have a PM_{10} problem in Nevada and this is one of the strategies that is going to be required of every state. Not many states have adopted programs - Colorado's is a static test procedure and you can't impute what is used in Colorado to Nevada or what the procedure proposed in Nevada is to Colorado. We hope some uniformity is brought to this situation that can expand, as the old BAR 84 gasoline inspection standards spread, throughout the United States. We hope it is uniform, fair, and addresses the concerns. 70% is a reasonable standard because what you are trying to do is catch the gross emitter.

Commissioner Jones commented, I applauded Mr. Capurro's effort to try to create a standard that will catch the majority of violators in Nevada. I am also sympathetic to Assemblyman Carpenter's cause. Can we draft something uniform that will still allow exemption for the unique characteristics of transporting livestock or a small piece of equipment? Mr. Capurro explained:

1. The transportation of 80,000 pounds worth of livestock is the same as 80,000 pounds of feathers, steel or anything else.

2. You have outlined one methodology of addressing that concern, and that is to address it by vehicle year.

It is possible to do it that way as long as it is uniform and applies state-wide. What standard are you going to apply? 90%? 100%? You have some trade-offs that you must look at as to what you are going to allow the older vehicle to pollute. If this Commission adopts a regulation, you don't want to end up in court with somebody saying "that is discriminatory constitutionally".

Stephanie Williams, representing the California Trucking Association (CTA) explained she worked cooperatively with the Trucking Association within the Western States to try to develop a test procedure we could live with. Our association litigated the California procedure, we were a major player on the Society of Automotive Engineers that helped develop this test procedure, and we are very comfortable with it.

Ms. Williams discussed the test procedure.

70% opacity is 70% opacity adjusted to sea level. That is how the procedure would read it in Nevada, because of the altitude consideration. Any vehicle that is within manufacture specifications, regardless of the year, older than 1977, will pass this test if it is properly maintained. It is a decision of the state if you are going to allow certain industries to operate non-maintained vehicles. Maintenance saves the operator money. I believe, as Mr. Capurro, that you would be creating an underground regulation by exempting a certain industry. You could waive a fine for economic reasons. You would still cite the vehicle, but during the hearing procedure you could waive the fine once repairs were completed.

Ms. Williams continued, terrible things are happening in California - trucks emit particulate and nitrous oxides, nitrous oxides are the precursors to ozone and are also responsible for secondary particulate and diesel is being evaluated as a toxic air contaminate. We have legislation in California to come up with a control measure we think we can live with, rather than have the air resources board do something that we don't think we can live with. If you choose not to follow what EPA sets out, as California did, and you don't reach your goal for attainment EPA will

come in and figure out something for you. We had that with California SIP and it was not very attractive. You are responding to a particulate SIP, as are other states, so I urge you to adopt something rather than to end up with a retrofit for particulate that would be much more expensive.

Ms. Williams addressed the ambient conditions correction, Appendix D in the document. This is very important in Nevada because you will default failing vehicles if you are not using it.

Ms. Williams addressed the "peak". The problem with the test before was variability. When you leave your maintenance facility you get a 30% or 40% opacity; you continue driving down the highway, are pulled over 15 minutes later and you fail at 90%. You have an angry trucking industry and that is what happened in California. The peaks are a problem with variability. This is the same smoke trace. The test procedure itself lasts 1.5 seconds, not 10 seconds. A 10 second plume of smoke is going to fail 100% on this test. This test will catch all vehicles that you are concerned with. You test one truck, looking at the 70% spike, the 1.5 second, it spikes up at about 1/16 second then it comes back down. If you average this the smoke would be 25% opacity and that vehicle would pass the test. The next vehicle emits a solid plume of smoke that shoots up to 70% and maintains 70% throughout the entire 1.5 second will fail. That is a smoking vehicle, not maintained and needing repair. You do not want to measure a peak, if your eye can't see it, it is not smoke.

Ms. Williams explained, Utah is using the very same test procedure you are proposing. California will be using the same test procedure when testing is resumed in January, 1997. The procedure in Colorado currently, is a steady state test. Their cut-point is lower because they are not measuring a transient peak, they are measuring steady. Colorado will most likely be adopting this test, as will Arizona.

Ms. Williams addressed the smoking vehicle hot-line. A puff of smoke may be well within Federal certification. An engine is allowed to have 55% transient smoke when it is certified. For the public to determine that is no longer what the standard is would really be a hardship on the industry. The South Coast Air Quality Management District has the same program and looks at many of the targeted vehicles. The operators can prove they passed the annual inspection and display current maintenance records so a hot-line is not a great way of cleaning up the heavy duty vehicle smoke emissions.

Ms. Williams addressed selective enforcement. Using the J1667 test procedure a 15 minute engine warm-up is necessary. Cold vehicles will fail at 100%. It would be a real hardship for a trucking company to drive their vehicles around the block for 15 minutes so you could test them. Additionally, some of the vehicles on the lot may not be road worthy and may not be registered. It would not prove anything to test those types of vehicles.

Chairman Close asked, you said that any truck after 1977, if maintained properly would pass. Our proposed rule is 1974. Why do you say 1977 and we say 1974?

Ms. Williams explained she was in the field on all the test procedures and no vehicle older than 1977 was tested. I don't feel comfortable making comments on vehicles I have not tested. This test looks for gross polluters and it is targeting older vehicles because they emit emissions above and beyond what they are supposed to, a health hazard. You might want to bring it up to 1977 or at least test vehicles between 1974 and 1977.

Chairman Close asked if California will be at 70% when they start using the same procedure.

Ms. Williams explained that is our intent but we have to go through the hearing procedure. We are an intrastate industry and we would like to see the Federal EPA adopt this test nation-wide.

Ms. Williams explained SAE is currently working on the meter correlation. CTA members have been told not to purchase meters until CTA notifies them they are O.K., because the meters have not been correlated. The manufacturers claim they produce the result we are supposed to get through J1667, a mathematical signal, but they indicate different readings on the same vehicle. My engineer will be part of the testing crew that does that the first

week in April. CTA will then furnish a list of meters that do correlate to the industry.
Chairman Close asked, are the meters you are referring the J1667?
Ms. Williams explained the process. The last meters we had, when you first started the test it was just an analog signal. The vehicles pass through a light, smoke is measured for darkness, it pushed the reading through to a strip chart recorder that recorded whatever the peak, it was very simple. The new meter takes the signal, puts it into a computer processor, takes the highest ½ second and then puts it through what they call a baffle function, a mathematical filter. The test is more difficult than the earlier test but the earlier test did not work very well. We think this is going to be a good test. I have worked on this test procedure for 4 years. The Engine Manufacturers, other carriers, and Jim Parsons from Nevada DMV, sit on the committee. With the cooperation of the western states we funded, the altitude test. We spent 6 weeks in California testing carrier vehicles. The carriers furnished the vehicles and drivers for a day and we sent the data to Southwest Research to have it analyzed. We spent a lot of time and money on this procedure and we believe it will work.
Commissioner Tangredi asked, are the smoke meters that you presently have not dependable? Do they vary from one to another? Did we use the same smoke meters you found a problem with in our determination?
Ms. Williams explained Nevada used them in the beginning and then changed. One of the meters that you used was a Wager 650A. The meter was not the problem, it is just not designed for the test that we were using it for, a variable tabbing with that instrument. The second part of your test procedure used what is called the Bosh meter, a much more expensive meter with a computer inside. They used the ½ second average which is very similar to what the committee did in California. Ms. Williams explained, you don't need to go out and re-create the wheel, you can use the data from the J1667 and you will obtain more data than you could possibly deal with.
Commissioner Tangredi asked, then you feel we have corrected the problem.
Ms. Williams replied yes. CTA members won't let us go out until we have actually done the variability test. We have not supported the test procedure yet, the California Air Resources Board has not gone forward and said "we are going to start doing this" but we are working with them as we are working with the Nevada Air Quality Bureau. What we are going to do in California is a variability test, after we finish the meter correlation.
Commissioner Tangredi asked, has Nevada not done that?
Ms. Williams replied, you don't need to. Why do it twice, SAE is going to do it for you. You should wait.
Commissioner Tangredi asked, are you suggesting that we wait until the EPA does it for us.
Ms. Williams stated my opinion is, I would go out to the field with the Bosh equipment that you have, get some experience with the test procedure and establish a relationship with the industry so they know if their vehicles are dirty or clean. The trucking industry is wary because of what happened in California. Armed police officers were required at one of our hearings where this test was repealed. This was not a happy event and rumors spread fast in the trucking industry. Carriers in Nevada are just as concerned as carriers in California. You are bringing back this horrible test. We tried to change the name, Snap-Acceleration, but it obviously did not work. There is fear on both sides. I suggest you test without fines and gather the data you need. I also suggest that in your hearing process you have an escape because weird things do happen with this test, it is just not a great way to test diesel vehicles without taking them out of service. I suggest you have a process for an operator who is told to take their vehicle in for repair. The repair technician says "there is nothing wrong with this vehicle, it must have been the humidity or something funny happened" during the test". Thus, the operator will be able to avoid paying some of the fine. We think the test is 95% accurate but there is going to be a 5% chance that you have a false-failure and you need to address that in your procedures. It is the best science available today, the result of a cooperative effort between the industry, the air quality people, and EPA. You have non-attainment for particulates so you don't have a lot of

choices.
Commissioner Tangredi asked when California would be doing the variability test?
Ms. Williams explained we are going to do the meter correlation the first week in April and we would like to do the variability test in the summer. We will probably start in mid-June. We know what happens at altitude, we know what happens at ambient conditions, we want to see how variable the cycle is so we are going to take 10 trucks in a round robin to 8 different sites and just measure variability.
Commissioner Gifford stated, you have alluded to some of the things that could happen. If you were going to set a value or make a recommendation for a value, would you say 70 plus or minus 5?
Ms. Williams explained, it does say that in the procedure. If your cut-point is 70 you won't fine at 70. The procedures give you a plus or minus 5 just on the instrumentation on the air so you would not fine until 75. California had a cut-point of 55 and they did not start fining until 60. They recognize the variability. The data shows 90% of the vehicles that fail, fail between 95% and 100% opacity. You are dealing with 10%, not a lot, of the vehicles tested. If your hearing procedure is set up properly you will be able to deal with what you find as false-failures. You can't be completely rigid on it.
Commissioner Griswold asked who makes this testing device.
Ms. Williams listed several manufacturers - Bosh, Wager, Sun, Caltest, Hartridge, - there are 10 meter companies on the committee.
Commissioner Griswold asked if they were developing one device.
Ms. Williams explained they are all different devices, all different manufacturers. Some of the meters are cheaper than others, ranging from $5,000 to $8,000. The cheaper ones do not do the ambient correction in a computer, you have to check a piece of paper to do the ambient correction.
Chairman Close asked for additional questions.
Commissioner Gifford stated the subjectivity concerns him. One person decides one thing, the next person comes along and decides something else - it seems it would be better if the regulation was written with some latitude, in terms of sampling in the field, and that latitude be recognized in terms of your tolerance limits.
Chairman Close asked about the 1977 vehicles in California as compared to Nevada's 1974 vehicles?
Mr. Glick explained they did not capture very many vehicles that were in the '70s during the test, so it is probably statistically insignificant as this point. I can't say there were tremendous problems with older vehicles. I believe if a truck is properly maintained it would not have a problem with this regulation. I believe the 1974 date was when the Federal Government started testing engines using the Federal Test Procedure.
Mr. Close recalled Assemblyman Carpenter's concern that past a certain date there were no control devices installed on the trucks and asked if that is a concern.
Mr. Glick replied there were few controls on trucks manufactured before 1990. 1990 was a turning point for technology when we got electronic fuel injection and manufactures were required to meet Federal standards for particulate. That would be particulate trash or catalytic converters which still are not prevalent on the roadways. Stricter standards are anticipated in the future.
Chairman Close asked if there would be merit in increasing the age level from 1974 to something else since there are so few trucks of that age on the road anyway?
Mr. Glick replied he did not think it made a statistical difference.
Chairman Close asked Mr. Glick if he had a response to Mr. Capurro's suggestion, "if the truck did not fail the test then further examination to see if tampering had been done to any of the equipment would be unnecessary".
Mr. Glick replied the regulation says to look for these items but it does not state a penalty for them being not

correct. The regulation is somewhat patterned after the automobile emissions where you check for the emission devices before you do the test. Either way would be fine.
Chairman Close asked Mr. Bellis, DMV, for his opinion of Mr. Capurro's suggestion.
Mr. Bellis replied, that could move trucks through the test procedure faster if they would not have to tamper inspect a vehicle that was not blowing opacity and I would not be opposed to that.
Commissioner Jones referred to the implementation date and stated he would like to see a transition period so the industry would have a period of time where you did the inspections without assessing fines, a period to see how your test is running for consistency and then have notification for this whole process. Do you have a proposed implementation date?
Mr. Glick explained the soonest the regulations would be implemented is July 1. It would be up to the pleasure of the Commission if they want to have a trial period.
Mr. Jones asked Mr. Glick if that would create the right atmosphere between the industry and the regulators.
Mr. Glick replied it certainly would not hurt anything.
Chairman Close asked what process do we now have for an appeal from a trucker who violates the standard.
Mr. Glick explained enforcement will be under the DMV, there is a fine system geared to repair. If a trucker is assessed an $800 fine, if the truck is repaired the fine is reduced to $300. Our anticipation would be to eliminate the fine if the truck is repaired. Also, there is a waiver process, if the cost of the repairs are to extensive they can apply to the Director of the DMV for a waiver.
Commissioner Gifford referred to comments made regarding the possible elimination of testing a fleet facility category and asked Mr. Glick for his comments on that procedure.
Mr. Glick replied he did not think the intention was to make a surprise inspection on a fleet, the intention was to allow the device to enter a fleet station, perhaps at their request, to test their vehicles to preclude any difficulties.
Commissioner Gifford asked, was the original intent to target Nevadans more so than just people passing through the State?-
Mr. Glick replied when the Legislature wrote the statute it was not exclusive to Nevada vehicles but on all vehicles operating within the State.
Mr. Capurro stated the NTA likes the idea of the waiver of a fine and suggested the Commission consider full force and effect of the regulation does not take place until January 1, 1997 because California has indicated that is their effective date. If you want to make the regulation effective in July, include the provision to provide for the fine but full waiver of it, if it is brought back within the 30 days as contained in NAC 445B.727, would be sufficient for that first 6 month period. That would give both the industry and the enforcers the chance to look at it. To do that you would have to make a change to NAC 445B.727 because there is no provision for waiver in there now, at least for that interim period of time.
Mr. Capurro referred back to the definition of heavy-duty vehicle, stating he was not sure how that is written in law. An 8,500 pound vehicle is a 3/4 ton pickup. A 1-ton pickup is rated at 10,000 pounds. Nevada's registration procedure says you register at the declared gross vehicle weight (gvw) but that does not apply to vehicles up to 10,000 pounds. The vehicle door sticker states the gvw reading, I believe that goes up to 10,000 pounds, so they could not declare a 1-ton pickup as 6,500 or 7,500 pounds to avoid that particular provision. You may want to take a look at the possibility of changing that as California has done. California's is 14,000 pounds and above. You can do that if this specific law does not say a heavy-duty vehicle, diesel powered, is above 8,500 pounds.
Jerry Aaron, Bragg Crane Service, stated his company falls into the category of the contractor using older trucks. We don't often utilize our trucks, they are support vehicles to transport booms, etc. and high mileage for us on these

older vehicles would probably be 10,000 miles per year where a highway truck would travel 100,000 miles per year. I back up what Assemblyman Carpenter said. It does not warrant us buying a $70,000 truck that is going to run 10,000 miles a year.

Chairman Close asked, does it warrant repairing the truck to bring it into standards?

Mr. Aaron explained he hoped his trucks would meet the standards but older trucks did not have the smog controls or electronics they have now so that may be a problem for our company.

Scott Saibini, Harker & Harker Electrical Contractors, stated his company does specialty work that requires equipment that we use very randomly and seldom, most of it 4-wheel drive equipment that we have purchased through the military. These vehicles do not have many smog controls. To transport equipment across the State would not be cost-effective for us because they might be used 1 or 2 days a year or every 5 years. The cost of having to maintain these to meet the new regulations or to transport them to the job site would be an economic hardship on us, forcing us to bid a job higher and causing us to miss getting jobs throughout the State. It just isn't a small contractor seldom using a piece of equipment, the cost of repairing them to meet these regulations would not be cost effective for us.

Assemblyman Carpenter referred to the fine situation. It would seem to me that it is better to waive the fine, especially the first time. You may have just had your truck over-hauled, but you fail the test. After this regulation is in effect for a number of years and everybody understands it, a fine could be looked at. For now, if you fail the test the first time, there should not be a fine if repairs are made.

Assemblyman Carpenter continued, after listening to Ms. Williams I have more concerns now than I did before because there seems to be a lot of controversy about the test. I think that we certainly ought to wait until California and some of the other states institute this before we get it in Nevada.

Chairman Close asked for additional public comment.

No comments were forthcoming.

Chairman Close declared the public comment period closed and allowed additional questions by the Commission.

Commissioner Griswold expressed her concerns. I have a serious problem with this Commission placing regulations in force in unknown territory. We are dealing with things and we have no idea of the consequences and the outcome. I fully realize Nevada has a particulate problem. This Commission has a willingness to address that problem but I think we are premature to even consider this regulation today. A number of problems surfaced today that I think DEP should look at and address. I feel we are considering this under a legislative mandate that told us to have regulations similar to the State of California but the State of California has not solved their problems, or even made a good attempt at solving them. I would like to see this postponed until California gets something in place. I think we are in dangerous territory.

Commissioner Turnipseed noted he did not have a problem making the effective date January 1, 1997, and having some kind of a warning citation between July 1, 1996, and January 1, 1997. From what I heard, the testing is fairly scientific, 95% accurate, the instrumentation will obviously improve, and the experience of the DMV will obviously improve. The 2 mobile units are based only in Washoe and Clark Counties so the chances of a cattle rancher in Elko County transporting cattle from one part of his range to another getting caught as a gross polluter are practically negligible. I would not want to waste the Commission's time in re-visiting this again in 6 months. I think we ought to pass something today, even if it is slightly less stringent than what we already have.

Commissioner Jones agreed with Commissioner Turnipseed and stated we have a rare opportunity with an industry that is already in agreement with compliance of this regulation, in its majority issues. I think we ought to waive the fine for the period of time you suggested and I think the fleet issue ought to be removed from the regulation. It is

inappropriate to go into cold fleet areas and do testing. If California moves forward with regulations I suspect they will probably be more stringent than we are proposing adopting today. We could revisit the issue and direct staff to do a comparison when California adopts theirs. I think it is important that we go forward in the spirit of cooperation that the industry has brought to us and adopt regulations.

Commissioner Iverson noted Mr. Capurro's effort in working with DEP staff is real good as far as coming up with something that is workable but there are other people here with concerns. We have to consider the issues Assemblyman Carpenter brought up regarding the ranching community and rural areas. Maybe we need to get Lew Dodgion, Mr. Capurro and the NTA, Mr. Carpenter and the ranching industry, contractors and some independent truckers that are not a part of the association to take a look at this proposal. If we wait until July won't we end up adopting temporary regulations?

Mr. Cowperthwaite, Executive Secretary explained the regulatory process. This is a permanent petition, it has been drafted by the Legislative Counsel Bureau (LCB) and it can probably be re-drafted. It would be considered to be permanent, even if it does go beyond July 1 which is the beginning of the temporary period.

Chairman Close stated he thought the Commission should take action. We would be remiss if we took no action whatsoever after having the studies performed. The staff indicates that 89% of the trucks are going to pass this test. If they give some leeway - another 5% - 94% are going to pass this test. We will stop the "gross polluters" that are causing the serious problems we face in Las Vegas, Reno and Carson City. It would not be fitting for our Commission to do nothing. I agree, this is not an exact test, it was indicated there was a probable chance of 5% error, plus or minus. I have no problem starting out gradually, waiving fines if the vehicles are repaired. I think that is the reasonable thing to do.

Commissioner Griswold stated she had always considered the trucking industry extremely important to the economy of the State of Nevada. Do we really want to be the first to put these regulations in place?

Chairman Close replied he understood we are in the forefront but we are not the first. It will be a change to have California follow Nevada rather than having Nevada following California.

DAG Mischel reported California has a program but their 55% cutoff is being litigated.

Ms. Williams reported when the diesel fuel crisis happened, California shut their program down so nothing would happen to the trucking industry and the environmentalists were hot. California stopped testing and legislation passed that year that would eliminate their test because it was not repeatable, consistent and had no false-failures. New Jersey and most of the East Coast states have adopted the program. You have to adopt a test or you are going to get a PM SIP. You have to figure out when your PM SIP is due. That is how Utah complied with SIP for PM in the Salt Lake area. The public came forward saying "we want smoky diesel trucks off the road" and that pushed California's. They will be using that for the PM SIP which is due in January, 1997. California wants their test up and running in January, 1997.

Chairman Close suggested changing the date from 1974 to 1977 or some other reasonable cut-off date that would take care of Assemblyman Carpenter's concern. Most of the older ranch trucks would fall in that category.

DAG Mischel stated, in terms of the issue of gradual transition, while I don't believe our public notice would cover changing the administrative fines schedule in NAC 445B.727, we could amend the proposed change in Section 10, page 4, 3(c) where it talks about issuing a citation. If you are going to give some warning period, I recommend rather than repealing all of 3(d) on page 4, use the warning provision for some specified period of time so that the citation does not initiate the fine schedule and the hearing provision that DMV has control over.

Mr. Bellis reported the current $800 fine, reduced to $300 if the owner of the truck showed proof the truck had been repaired, is intended to be reduced to $0 if the truck has been repaired. DMV would be capable of re-writing that

regulation before July 1, 1996.
Chairman Close asked how long the waiver would exist. You are amending a regulation to say "if the truck was repaired there would be no fine". Is that not what I heard?
Mr. Bellis explained there is a current regulation that deals with the fines. The $800 fine drops down to $300. We plan to modify that regulation so the $300 bottom is no longer there. There will be no fine if the truck is repaired. As far as I know, it will remain at $0 indefinitely.
Commissioner Jones asked, when you say repair do you mean it is repaired and in compliance or do you mean it simply had the right amount of money spent on it?
Mr. Bellis explained, the regulation, as it reads right now, states they just have to show evidence, a repair order, that the vehicle has been repaired. This works for vehicles that are out of State also. A trucker from Mississippi is not going to bring the truck back in and have it re-tested but they will be required to show a repair order for that particular vehicle. Based on that proof, the fine would be waived.
Mr. Lew Allison expressed his concern. The trucker is cited at the roadside for failing the test, but where does this trucker go to get his equipment fixed? How many stations are there? Are they licensed? Are the mechanics certified? Do they have the test equipment? The California lady says their test meters are not good. I lived in California when the smog program and unleaded fuel came in. I purchased 3 or 4 machines when the State of California first started smog testing. They did not have any inspection stations and the state begged me to be a station for them to write smog certificates for cars. Is this same thing going to happen with the truckers? Where do they go to get their truck repaired by a certified mechanic? Most garages don't even have the equipment. There has been no mention of that issue.
Mr. Glick explained the law requires proof that repairs have been made but it makes no specifications that it has to be any particular place. It can be a dealership or independent shop. At this point, we are not proposing a regulation that they have the certification process at the shops.
Chairman Close stated, and they don't have to be retested?
Mr. Glick explained, not with proof of repairs.
Chairman Close adjourned for lunch at 11:50 a.m.
Chairman Close reconvened the hearing at 1:17 p.m.
Chairman Close recalled, at the conclusion of our morning session we finished the public comment period and we were hearing comments by the Commission members.
Commissioner Fields noted the Commission is faced with issues that force us to make some decisions today;

1. The J1667 still undergoing testing in California;
2. Verification as far as repeatability, etc.;
3. Legislation that mandates us to do something, part of which is to adopt a regulation that is consistent with California's.
4. We find DMV is not completely settled on the fine, we have heard they can assure us if a repair is made the fine will be eliminated, which is good.
5. Can we exempt certain classes, ranches, small contractors, etc.;
6. Can we do something just in counties with our largest populations, Clark County and Washoe County, and perhaps exempt the rest of the State.

Mr. Fields continued, all of these issues are big ones in my mind. I agree with Commissioner Griswold, it seems very premature to adopt a regulation with all of these questions unanswered.
Commissioner Iverson conceded many questions need to be answered and looked at but I agree with Chairman

Close, we need to move forward. If it is the pleasure of the Commission to move forward, I would make a motion that we revisit this issue in 12 months, after California has adopted their regulations, and review every question Commissioner Fields has raised and in the interim, we ask Lew Dodgion and his staff to work closely with these different industries -Mr. Capurro, the Livestock Industry, some of the haulers, and some of the small contractors in these larger cities - and give us the opportunity to look at the law to see if what we are really looking at is population centers over 100,000 - That would gives us some time but yet we will get something moving - right, wrong, or indifferent. As a Commission we will have made a positive move towards reducing some of the air pollution problems.

Commissioner Jones stated, I am agree with what has been said by both Commissioner Fields and Iverson but I think the Commission should move forward, changing a couple of the glaring issues addressed today - the fine would not be assessed if repair work was done - the fleet removal, and adopt the regulation with those two things out and with a caveat or direction to staff that when California takes action on their regulations, for purposes of continuity and conformity, that we revisit this issue at that time.

Commissioner Griswold asked, how about giving a vehicle model date also.

Commissioner Jones replied he did not think that was a big issue. If we waive the fine if repair work is done we have accomplished that in a sense that if they are caught and out of compliance all they would have to do is the repairs. They are not going to be fined but they are going to have spend money to correct the issue.

Chairman Close asked Mr. Glick if he has any recommendation on the age of the vehicle.

Mr. Glick replied, we did not find very many trucks before the age of 1980 when we did our tests. If you want to pick a date prior to that it would not cause a problem. We could always revisit it and lower the age of the vehicle if necessary.

Commissioner Fields admitted he was confused. I thought the fine amounts were within the jurisdiction of the DMV but I also understood our Counsel to say that there was something in Section 10 where we could eliminate the fine if repair was shown.

DAG Mischel explained the suggestion was that you use your warning provision in the regulation, not as an issue in regards to the emission control label, but putting some time period in the warning provision so that you don't have the citation language kicking off the administrative fine schedule that DMV is currently bound to, until they amend their regulations. In other words, you don't call it a citation, you call it a warning, during some transition period.

Chairman Close noted he understood this regulation would not go into effect until July 1. We would make the enforcement effective date July 1, 1996.

Mr. Glick reported DMV has people on staff and the budget to start this program on July 1, 1996.

Commissioner Jones asked when DMV would change the $300 fine, dropping it to $0.

Mr. Bellis explained that would be done before any citations are issued, before July 1, 1996.

Jolaine Johnson, Chief, Bureau of Air Quality suggested the Commission consider how we may be able to implement this program and satisfy the need to provide a transition period for the vehicle to find out that they do have a problem so they can fix it before they may be subject to a penalty. With Counsel's consideration, could Section 3 be modified to read "on or after July 1, 1996, no owner or operator shall cause to permit the discharge of greater than 70% opacity" and then put in another provision that says "no penalties shall be assessed until after January 1, 1997". That provides us with an effective program and allows DMV time to implement the program, test vehicles, and issue citations that require the vehicles to be repaired but not issue penalties until sometime after January 1, 1997.

DAG Mischel agreed that would be one way to provide an effective date. DAG Mischel suggested, in respect to the

penalty provision, either add a separate section or keep it in Section 6 where you limit the use of the word citation to a period after January 1, 1997.
Chairman Close asked, if we decide to pass this and take the no penalty to January 1, 1997, I think we would pass it without drafting the language at this point. The Bureau and DAG Mischel could draft the language in the most proper manner. If we adopt the concept we will leave it up to them to draft our concept into the regulation.
DAG Mischel noted she understood, no penalty until at least January 1, 1997. We will put that wherever it is appropriate in the regulation.
Ms. Johnson noted the current regulation does not have an effective date written into it at this point. If you want a date, rather than "when filed by the Secretary of State" -
Chairman Close stated, we will make it effective July 1, 1996.
Commissioner Jones recalled one insightful public comment and stated, in light of the previous experience with DMV not having the infrastructure in place for qualifying the people who do repairs, etc., and suggested staff look at implementing that part of the process during the same period of time.
Chairman Close asked for a show of hands from the Commission as to whether or not we want to adopt this with the recommendations that were made in the course of our hearing. If we don't have enough votes to adopt it, even with the modifications, it is foolish to talk about the modifications.
Commissioner Fields asked if one of the modifications considered would the suggestion from Assemblyman Carpenter and Scott Saibini from Harker & Harker as to how to address those very limited mileage vehicles?
Chairman Close stated he that would be impossible to enforce. Mr. Aaron stated his truck travels 10,000 miles a year. I drive my car 10,000 miles a year and that is not de minimis. I don't know how you would do it practically.
Commissioner Griswold asked DMV, isn't that a requirement for licensing a truck, to know the number of miles that it travels? Isn't that information available on each individual truck?
Mr. Bellis, DMV, replied yes, when heavy-duty diesels are licensed they do have to represent the miles they travel in various states. That is how the fee schedule is set and the fees paid are distributed among the states the vehicle travels in. It is a complex schedule of distribution of fees.
DAG Mischel asked if the inspector at the test station would have that information or is that just on an annual basis.
Mr. Bellis explained the only thing the inspector would have is registration information - year, model, owner of the vehicle.
Commissioner Jones stated that issue would be handled by the citation. If they have the vehicle repaired they can then use the vehicle without a citation.
Commissioner Griswold noted they would still need a waiver if they don't pass.
Commissioner Jones explained it is not re-tested after they do the repairs.
Commissioner Griswold asked, what if they come into another situation and are tested again?
Commissioner Jones explained they would not be tested for 12 more months.
Commissioner Griswold noted, it would only be a temporary thing.
Chairman Close noted we are talking about 10% of the trucks on Nevada highways. Those 10% contribute a significant amount of the pollutants. I understand there is a concern about the guy who only drives his truck 10,000 miles a year, but I think this is a significant problem and those people who are the gross polluters will repair their trucks. From the testimony we have heard, even a 1974 truck, if driven and maintained properly, will pass.
Commissioner Tangredi agreed. At a certain point one can feel that we are watering down something which is really our obligation. We've got the public interest and we have the legislative order so we have to come to some conclusion and to wait another 6 months is probably out of the question. I agree with Commissioner Jones, it

would not place a financial burden on those vehicles in the rural counties because they would be issued a warning, not a citation.
Chairman Close explained you would still have to pay the $800 to repair your vehicle.
Commissioner Tangredi noted that would be considered an improvement on their own vehicle.
Chairman Close asked for a show of hands of all Commission members who want to vote in favor of the regulations with amendments - if the majority of the Commission votes in favor we will go through and adopt whatever amendments we think are appropriate.
Commissioner's Gifford, Turnipseed, Tangredi, Trenoweth, Jones, Iverson and Close raised their hands in favor of the regulation.
Chairman Close recognized a majority had raised their hands and reviewed the regulation:
Section 2: Will not be effective until July 1, 1996.
We will have a no-penalty provision somewhere and Jean Mischel will draft that language as part of the regulation.
Commissioner Gifford asked, in Section 3, discussion took place in terms of size of vehicle and the number from California was 14,000 gvw. After the words "heavy-duty motor vehicle" if it would be appropriate to put in parenthesis "greater than 14,000 gvw"?
DAG Mischel explained that is defined elsewhere in the regulations and is not subject to amendment today.
Chairman Close asked what that definition was.
DAG Mischel replied 8,500 gvw.
Commissioner Turnipseed replied, not only that, we would have the definition of light-duty truck, which takes it up to 8,500 so we would end up with a hole in the middle.
Chairman Close continued:
Section 4 and Section 5 had no changes.
Commissioner Trenoweth explained in Section 5 the year 1974 should be changed to 1977.
Chairman Close agreed.
Commissioner Turnipseed asked, if we left it 1974 and newer and there aren't any trucks in that range we could make it 1977 later.
Chairman Close stated his opinion is we should say 1977. That would address the concerns people had about the range. The Commission agreed.
Chairman Close continued:
No changes in Section 6
No changes in Section 7
No changes in Section 8
Commissioner Gifford asked, does it need to be stated somewhere that the test is corrected back to sea level or is that an inherent part of the test when it is run?
Mr. Glick explained J1667 was developed to make those corrections for ambient conditions, altitude, barometer, barometric pressures, and that type of thing. It has the procedure down for what you are to do if you use either full-flow meter or partial-flow meter and all these special filters built in for the averaging of the test. All that is contained in J1667. For clarification, what was referenced was a correlation of meters to each other, the test is good, it is just there is some question about the same value from each company's meter. The California Trucking Association wants a reference meter to test all the different company meters to make sure they are all saying 70%.
Chairman Close continued:
No changes in Section 9

Commissioner Griswold noted Section 10, subsection 2, makes reference to gasoline powered heavy-duty vehicles.
Commissioner Jones recalled the explanation was that all they are looking for there is that rare case where the gasoline engine is completely out of whack and emitting. That is the reason they left it in there. They know they are not checking it with regularity.
Mr. Capurro stated this was a leftover. You established a procedure when you adopted regulations to test heavy-duty gasoline powered vehicles located in another area in the regulations. You really don't need subsection 2 in here at all.
Mr. Bellis explained all heavy-duty gasoline vehicles are tested annually.
Chairman Close stated we can delete the language in Subsection 2 (a),(b), and (c)?
In Subsection 4, delete "fleet facility".
Ms. Johnson made the Commission aware that the reason this provision is in the regulation is because there may be some very locally driven fleets within an area that may not be passing some of these interstate vehicle inspection stations. I would be concerned about certain fleets that stay within a local area, don't pass the inspection, drive a lot of miles within the urban area that has the PM_{10} problems. If this provision is removed we really would not have a way to get at those vehicles in terms of checking their opacity.
Commissioner Turnipseed noted the local buses, the RTC, are an example. All their driving is done in the Truckee Meadows.
Commissioner Jones stated he hoped the mobile testing unit is doing testing other than just at the stops on the highway. The whole purpose is to catch the smoking vehicles and there are a lot of delivery vehicles that fall in this category that operate internally.
DAG Mischel explained Section 4 is telling the public where these mobile units can operate.
Ms. Johnson agreed. It gives them more opportunity to move the mobile unit into the area where they could test specific trucks. If there was a complaint about a truck they could go to that facility and run a smoke opacity test at the fleet facility rather than waiting for that truck to come through an inspection station. They will randomly evaluate those trucks as they stop at an inspection station so that we are not being to intrusive.
Commissioner Jones suggested spots inside the metropolitan areas that would pick up not only the RTC vehicles but inter-urban-area delivery vehicles. To travel to a specific site where these vehicles may be parked and say to the owner "run your vehicle around the block for 15 minutes" is not a good way to do this.
Ms. Johnson agreed that does not make any sense at all but we would like the ability to get at locally operated vehicles.
Chairman Close noted a lot of the pollutants come from local trucks. If they never drive on the highway they may never see an inspection station. Do you want to leave this in, with the understanding that it is not going to be just a massive intrusion.
Ms. Johnson replied that would be her preference, to leave it there and perhaps readdress it to make sure that it is never read that we can go on a site and require a whole fleet to start their engines.
Bennett Temple noted there are no inspection sites in the city of Reno to test locally owned vehicles. When we work with the inspections sites they are located on I-80. I do not know if there are sites in Las Vegas. We need to have something to work with the fleet stations.
Mr. Capurro stated, if the record indicates that it is the Commission's intent not to conduct a witch hunt by going on the property and requiring every vehicle there to run through a test procedure, we can accept that. That is in line with our philosophy that we need to clean up the air. I agree there are a lot of locally based vehicles that have a bigger problem than those on the interstate highway.

Chairman Close stated Ms. Johnson has indicated her intent is not to compel an entire fleet to be tested so we will leave "fleet facility" in the regulation.
Chairman Close continued:
No changes in Section 10, Section 11, Section 12, Section 13, or Section 14.
DAG Mischel explained she would add a new section to reference the effective date of July 1, 1996.
Chairman Close asked Ms. Mischel to make the language changes and send each individual Commission member a copy so they could understand what the new language would be.
DAG Mischel asked, for clarification when you speak of the no-penalty provision you are referring to fines, not the repair order.
Chairman Close replied "no fine if repaired".
Chairman Close asked for a motion to adopt the regulation with the above amendments.
Commissioner Turnipseed made a motion the regulation be adopted with the amendments as outlined.
Commissioner Gifford seconded the motion.
Commissioner's Turnipseed, Gifford, Close, Tangredi, Jones, Trenoweth and Iverson voted in favor of the motion.
Commissioner's Griswold and Fields voted no.
The motion carried.
Chairman Close asked that the letter dated August 7, 1995, from the Engine Manufacturers Association, be admitted as an exhibit to Petition 96008 and as part of the record.

Chairman Close moved to Agenda Item II - D:

D. **Petition 96009** (R-021-96) is proposed to permanently amend NAC 445B.001 to NAC 445B.395 by deleting provisions requiring Best Available Control Technology (BACT) for air quality stationary sources not subject to the provisions of 40 C.F.R § 52.21. Also proposed to be amended is the definition of "major source" by excluding particulate matter greater than 10 microns. In addition, definition of "potential to emit" is proposed to be amended to eliminate the provision requiring that air quality operating permits be federally enforceable. Proposed to be amended is NAC 445B.028, 445B.094 and 445B.138.

Jolaine Johnson, Chief, Bureau of Air Quality, NDEP, explained Petition 96009 changes our current operating permits regulations to be more consistent with the Federal requirements and to be less onerous on facilities that operate in the State of Nevada.
Ms. Johnson reviewed the amendments:
Section 1 amends NAC 445B.028 to eliminate a second definition of Best Available Control Technology (BACT). The first definition applies to facilities that are subject to the Federal requirements for prevention of significant deterioration and it will remain in effect; the second definition is basically clean-up language, eliminating the requirement for BACT for facilities that emit Hazardous Air Pollutants) HAP's in excess of 1 pound per hour. This is consistent with the earlier petition you adopted, simply changes the definition of BACT to only apply to the Federal PSC requirements.
Section 2 amends NAC 445B.094, the definition of major source. Major source is a category of source that was established by the Clean Air Act Amendments of 1990. When EPA adopted their regulation for facilities to determine whether they were major sources or not, they indicated that any source that emitted greater than 100 tons per year of any regulated air pollutant pollutants was subject to the major source Title V permitting requirements. EPA has since come out with direction that it was not the intent of the Clean Air Act to include sources that emit 100 tons per year of total suspended particulates. Several years ago EPA changed its standard for particulates from

a total suspended particulate to particulate that was less than 10 microns in diameter, because it is the smaller particulate that is causing the substantial health problem. This is clarified language that indicates if a facility is emitting greater than 100 tons of total suspended particulates but is not emitting greater than 100 tons of particulate matter less than 10 microns they would not be subject to the major source Title V permitting requirement. Those sources will still continue to be subject to the State operating permit requirement as a Class II source.
Commissioner Jones asked how do you tell the difference? Do you do this by extrapolating a test at any given time as to what the amount of a particulate, a particulate size -
Ms. Johnson explained the monitoring technique is designed specifically to filter out particulate matter that is greater than 10 microns. All of the emission factors that have been developed by EPA to determine what kind of pollutant sit in a certain process. They have learned how to focus in on a particulate matter less than 10 microns.
Ms. Johnson explained this change comes in Section 1 (d). Section 2 (I) has language that excludes particulate matter that is greater than 10 microns in diameter so this focuses back on just regulated air pollutants but excludes particulate matter less than 10 microns in diameter. This will eliminate 3 - 5 sources in Nevada from having to become a Class I Title V source and to have to come in and get a new permit. They will still be subject to the current Nevada State Operating Permit Program but this will save them from the new Federal requirements.
Section 3 amends NAC 445B.138, the definition of "potential to emit". This is a bit complicated so I will review some of the history of EPA's attitude and direction. The Clean Air Act said that sources that have a potential to emit greater than a threshold quantity of a regulated air pollutant, in most cases 100 tons or more, were subject to the Title V permitting requirements and went on to say that "potential to emit" meant that if a facility were operating at full capacity and they had the potential to emit that much then they would be subject to this. However, the Act acknowledged there may be legal permitting restrictions on that facility from operating at that upper level, if so you could account for those restrictions as limiting the potential to emit and essentially leave those facilities out of Title V applicability. When EPA adopted their regulations for Title V they indicated that only federally enforceable permit limits were any good and refused to acknowledge that a state had good operating permit limits. In response to two law suits, by the National Mining Association and the National Chemical Manufacturers, the courts decided EPA has not justified their decision for not acknowledging state operating permit limits as limiting potential to emit and have remanded those regulations back to EPA for further consideration. EPA recently, reluctantly, issued a policy document that agrees, at least for a 2 year time frame, they accept the operating permit limits until such time as they address the regulations again.
Ms. Johnson explained the basis of this petition is to eliminate the need for the operating permit limits to be federally enforceable and recognizes there is a State operating permit limit that limits the potential to emit. This change will keep between 80 and 100 facilities in Nevada out of Title V applicability. Again, those facilities will continue to be subject to the State Operating Permits which we think are quite adequate for protecting the environment.
Chairman Close asked for questions from the Commission.
There were no questions.
Chairman Close asked for questions from the public.
There were no questions.
Chairman Close asked that the letter from Newmont Gold, dated March 19, 1996, be accepted as an exhibit on Petition 96009.
Commissioner Fields made a motion to adopt Petition 96009 as presented.
Commissioner Griswold seconded the motion.

The motion unanimously carried.

Chairman Close moved to Agenda Item II - E

E. **Petition 96010** (R-027-96) is proposed to permanently amend NAC 445B.001 to 445B.395 by revising the fee structure for the State's air quality stationary source permitting program. NAC 445B.327, proposed to be amended, revises the current fee structure for operating permits and annual fees. Fees for Class I and II permits applications are proposed to be increased and Class II General permits are proposed to be decreased. The annual emission fee is proposed to be increased from $3.36 to $3.75 per ton, and sources emitting less than 25 tons per year are proposed to be exempted from annual emissions fees. The annual maintenance fee is to be eliminated; the annual fee of $350, charged to sources emitting less than 1 ton per/year, is to be eliminated, and the annual fee of $450 for surface area disturbances is to be eliminated. NAC 445B.331 is also amended to eliminate the distinct fee for reissuance of an expired permit. In addition, the fee for a request for a change of location of an emission unit is reduced from $90 to $50.

Jolaine Johnson, Chief, Bureau of Air Quality, NDEP, explained, on November 3, 1993, this Commission adopted the current fee schedule for facilities that operate air pollution sources within the State, outside of Clark and Washoe Counties, except for the power generation facilities located in those counties. In April, 1995 we came back to the Commission and eliminated the proposed steps in those fees, originally established in anticipation of the costs for the upcoming program. The Commission was concerned with the questions raised by the regulated community and requested that DEP go back and re-evaluate the current fee structure. Based upon testimony and direction during those hearings, the input we received at 2 series of workshops, and an evaluation of our work load and activities and how they relate to fees, we have developed a fee schedule which we believe is both reasonable and equitable.

Ms. Johnson explained the Bureau conducted 2 series of workshops regarding the fee structure. In October, 1995 workshops were held in Carson City, Winnemucca, Elko, Tonopah, Ely and Pahrump. Notice of those workshops were sent to representatives of all 496 permitted facilities in Nevada and 124 facility representatives participated in those workshops.

Ms. Johnson distributed a copy of her summary of the workshops and explained, at the first series of workshops facilities were asked for their concerns with the current fee structure. At that point we did not present anything specific. Facilities concerns and suggestions were:

They were being billed more money than they were being given, in terms of service, from the agency;

Smaller facilities felt they were paying more than their fair share of the cost of the Air Program in Nevada, based upon their emissions or operations.

Fees should be based upon emissions, that polluters should pay.

The current fee structure does not encourage facilities to reduce emissions, there was no incentive to reduce emissions. There should be an emission based fee with a minimum annual fee.

Fees should be more representative to the work load requirements.

That an emission fee cap be incorporated.

That there should be an emission fee with an increase in permit fees, that our permitting fees were too low and not representative of the work load that we were putting into them.

Ms. Johnson referred to Table 1 - current fees assessed:

A facility permitted to emit less than 1 ton of pollutant pays a flat fee of $350.

A surface disturbance of anything greater than 5 acres pays a flat, annual emission fee of $450 and all other sources pay $3.36 a ton - inequitable because a source that is emitting 3 tons of pollutant is being charged

$3.36 a ton, practically $10, versus a source emitting less than 1 ton paying $350.

An annual maintenance fee is charged facilities each emission unit that they operate, based upon the type of industry. For instance, a mining source is paying $175 per piece of equipment they have emitting pollutant and a generation unit is paying on the order of $2,850. There were concerns with this and the program was very difficult to implement, to be consistent from one facility to another.

A $250 fee for a permit whether they were a huge source or very minor source.

A $250 fee for a minor modification or a major modification. The problem is, one source may be requiring 2 hours of staff time to process a streamlined, straightforward permit and another source may be requiring 500 hours of our time.

Ms. Johnson explained, we thought it would be appropriate to distinguish between the kind of facility coming in to get a permit, the kind of application they may be applying for, and to charge fees that are more representative of that workload.

Chairman Close exclaimed, but you are going up from a $250 fee under a Class I operating permit to $14,500!

Ms. Johnson explained the proposal. Public input indicated some facilities wanted more of a emission-based fee and some facilities wanted more of a workload-based fee. We are trying to balance that out in this proposal so I dissected our activities. I found there were activities we could directly assign to a certain facility, for example, a Class I source is a major source required to come in this year for a major new Federal Title V permit. Those sources have to be inspected once a year whereas Class II sources may be much smaller and don't require as much attention in processing a permit through the State Operating Permit Program. We inspect those sources once every 5 years. I took the actual permitting activities for these various kinds of sources; the inspection activities and the compliance reports that are required to review for the various kinds of facilities and I put workload numbers on them. Other Bureau activities could not be assigned directly to any specific source, i.e., our ambient air monitoring, that is an area-wide effort, we don't focus in on any one source to do that. We also have mobile source activities (heavy-duty diesel) our planning, reporting to EPA, etc.. Those activities come into more of a general non-source specific program. I thought it would be appropriate to charge emission fees, annual emission fees to cover the general activities and try to assess permitting fees on the basis of how much work that class of facility is going to require on behalf of the Bureau.

Ms. Johnson explained the proposed fees:

Raise the annual emission fee from $3.36 a ton to $3.75 a ton. Again, that is to cover the general Bureau of Air Quality activities.

Exempt facilities that emit less than 25 tons of pollutants from this annual fee because we are talking about less than $100 fee income. It costs more than that for us to invoice them and process the check. Out of 427 facilities, 367 of them fall under the 25 ton per year. Their total fees, at $3.75 a ton, would only be $3,100 of the total fee base of almost $1 million. We don't think it is worth their time or our time to assess an annual fee for their emissions. We will continue to require reporting of their emissions so that we have an inventory of what they are emitting but we won't charge fees for that.

Eliminate the annual maintenance fee and not worry about charging annual fees on the basis of how many pieces of equipment are out there. The trade-off here is a substantial increase in the permitting fees. That again is established on a relative basis, quite relative to the workload required for each different class of facility and activity.

Chairman Close asked Ms. Johnson to describe a Class I property that would require this kind of fee.

Ms. Johnson explained Class I facilities emit greater than 100 tons per year of any pollutant. Those facilities are all

required to submit their Class I application in accordance with the Title V requirements that the Clean Air Act established. All those facilities will be newly permitted within the next 3 years under this expanded version of an operating permit that the Federal Government has established.

Commissioner Jones asked, will they then be considered new and will they all be paying that fee?

Ms. Johnson replied yes, about 30 existing facilities are Class I sources that will have to be newly permitted this year and they will be subject to this fee.

Chairman Close noted Ms. Johnson said it is not worth the Bureau's time to collect $3,000 under the fee type, why under general are we collecting $100, you said it cost more to bill them?

Ms. Johnson explained, we are proposing streamlining some of the very simple operations in Nevada. Those permits will be established on a general basis. We won't be reviewing each facility separately. We will establish very general conditions, i.e., for surface disturbances. We predict those facilities won't require more than a couple of hours of time to process. Therefore, we propose to drop their permitting fees from $250 to $100 which is more in line with the cost we incur. We will not be billing the $100 fee, we will require $100 be included with the application, eliminating the administrative burden.

Commissioner Turnipseed asked how the Bureau made a distinction between a significant modification and a minor modification.

Ms. Johnson explained that distinction is established in the permitting regulations, consistent with the Federal requirements. A significant modification means that they are increasing their pollutants and/or may be subject to new specific Federal requirements.

Commissioner Jones asked if the Class I operators were involved in the workshops.

Ms. Johnson replied yes.

Commissioner Jones asked if they had difficulty with the process of renewing their permits.

Ms. Johnson replied no, they have accepted the workload that we will incur for this Title V Program is represented by this $14,500.

Ms. Johnson explained she had evaluated neighboring states programs. Our fee for Class I sources is very consistent and actually lower than several of the surrounding states. In addition, they charge something on the order of $35 a ton for emissions. We are very proud that we run a stream-lined, cost-effective program.

Ms. Johnson explained the proposed fee schedule was presented at another series of workshops to get specific feedback. The comments we have received in writing are very representative of the feedback we received. One mining facility agreed that $14,500 was fair but that they had not budgeted for that kind of money for this year, this fee is coming in the middle of their calendar budget year. The Bureau is willing to work with those facilities and perhaps spread that fee out over a couple of years if that works for them.

Ms. Johnson continued, under the fees proposed, we will be collecting on the order of $200,000 less, on an annual basis because we have a balance left in our air quality fund that I have spread out over 3 years. I would like to note for the record, I currently have a $1 million balance that I am able to work with for the next 3 years but at the end of those 3 years these fees will have to go up and I don't want anyone to be surprised. This $1 million cushion allows us to drop these fees to this point.

Ms. Johnson reviewed the proposed regulation:

Section 1, page 2, subsection 3, we eliminate the requirement of a $100 fee for a minor modification. That is also re-established in Section 2, where we establish the permitting fees. These fees will be due upon submittal of the specific kinds of permit.

Section 2, subsection 2, amends the annual emission fees from $3.36 to $3.75 a ton and also adds language that a

source that emitted less than 25 tons in a calendar year will not be subject to the annual fee for that coming year.

Section 2, subsection 4 eliminates these annual maintenance fees, the fees charged to sources annually based upon how many emission units they operate.

Section 2, subsection 7, administrative changes, where we are collecting these fees no later than July 1 of each year.

Section 2, the new subsection 5, the fee required by subsection 2 is due and payable. Then we eliminate the definition of "major group" because that related back to the annual maintenance fee and it is no longer necessary.

Section 3, we amend NAC 445B.331. Prior language, 1.25 x the fee specified in NAC 445.327, is not reasonable, we propose the fee be $200.

Section 4, subsection 4, are basically reference changes that were caught as we reviewed the regulations.

Chairman Close asked for questions from the Commission.

Commissioner Fields noted page 4 says that the Division must collect those fees in Section 2 no later than July 1, would that preclude you from working with the example you used, the mining company, with a budget problem?

Ms. Johnson explained the Bureau is willing to work with a facility on the permitting fees and those are submitted with the application. July 1 applies to the annual emission per ton fee so we can still work with those facilities in the Section 1 permit fees.

Chairman Close asked for comments from the public.

Mike Tomko, Nevada Mining Association (NMA) stated the NMA recognizes the difficult the Air Quality Bureau must engage in trying to balance fees for emissions versus fees for the services provided. I think everyone in this room could come up with a different scheme, there is no one way to do it. The Association feels the Bureau has come up with an equitable method.

Chuck Saylo, Nevada Operations, recognized it was an extremely complex and difficult issue to work with. Jolaine Johnson and her Bureau did very well at turning around what was a very inequitable fee schedule. The workshops were helpful and the input is directly reflected in the proposed fee schedule. As far as the geothermal power industry in Northern Nevada, Nevada Operations has 2 plants under Jolaine's jurisdiction and we are very happy with the new proposed fee schedule.

Aaron Mann, Sierra Pacific Power Company, thanked Jolaine Johnson and her staff for their excellent work in trying to bring together a fairly diverse group of industry. We are a Class I source and paying what might be considered very high fees but we are provided a lot of service from the Bureau. We are aware of the workload that entails and we want to express our appreciation to the Bureau. We encourage the Commission to adopt this proposal.

Michelle Nuttal, Southern California Edison noted her appreciation of working with Jolaine and her staff on this issue. This proposal will cause our facility fees to go up. I can't say we are happy with it but we can live with it. We know she worked very hard to make it an equitable fee system. In response to Commissioner Jones, I want to comment that under the old system, Class I facilities had numerous permits requiring renewal approximately every 5 years. Those sources were paying from $70 thousand to $150 thousand every 5 years to renew those permits. Under this new system there is a substantial reduction in actual permit fees, all of which are being made up for in the emission fee part of the fee schedule.

Chairman Close asked for additional public comment.

No additional comments were received.

Chairman Close asked for additional comments from the Commission.
Commissioner Fields noted, as we are adding kudos, one of the members on the Commission on Mineral Resources is a small miner, just he and his son operate a very small facility. He commented at the last Commission on Mineral Resources meeting what a great thing the Bureau of Air Quality is doing in reducing his fees. He was extremely pleased. We heard today from the very largest facility but I wanted you to know the feelings of a small facility.
Chairman Close congratulated Ms. Johnson and her staff for taking a difficult subject and working it out so that it is equitable and pleases the regulated community.
Chairman Close asked that the letter from Newmont Gold become a part of the record as Exhibit 3.
Commissioner Turnipseed made a motion that Petition 96010 be adopted as presented.
Commissioner Jones seconded the motion.
The motion unanimously carried.

Chairman Close moved to Agenda Item III - A.

III. A. Response to the Request of the Nevada Mining Association made pursuant to NRS 233B.064(2) regarding the Humboldt River Water Quality Standards as adopted in Petition 96003 (LCB file R-127-95) on November 7, 1995

DAG Mischel explained a provision in NRS 233B.064, subsection 2, allows any person to request a written summary of the reasons for and against the adopted regulation. This response is to NMA's letter of November 27, 1995, requesting precise statements of the principal reasons for and against adoption of the standards and is on the agenda for your review or modification.
David Cowperthwaite, Executive Secretary, explained he had carefully reviewed the exhibits and minutes of the November 7, 1995, meeting and constructed this document to reflect the basis of the Commission's decision regarding the Humboldt River and the sulfate standards. If you approve, I will submit this response to the NMA.
Chairman Close called for comments to the analysis.
Commissioner Turnipseed pointed out a typographical error on line 4, page 2. It should be rationale instead of rational.
DAG Mischel explained that was a typo in the document submitted by the NMA. admittedly, it should be "rationale" but their document was read "rational".
Commissioner Fields thought it was a fair representation of the record of the permanent adoption of Petition 96003 on November 7, 1995.
Commissioner Jones made a motion the analysis be accepted as written and submit it to the Nevada Mining Association.
Commissioner Griswold seconded the motion.
The motion was unanimous.

Chairman Close moved to Agenda Item III - B.

B. Future review of the Water Quality sulfate standards -

Lew Dodgion, Administrator, NDEP, requested that a statement be placed in the record that we recognizes that additional work is being done on evaluating a proper limit for sulfates, in particular with sulfates as they pertain to the public drinking water supply and the fact that the Federal EPA is looking at establishing a maximum contaminant level as a primary drinking water standard for water supplies for sulfate. For the record, the Division will review the new data that is available for sulfate and EPA's progress in establishing a maximum contaminant

level, and then we will revisit the sulfate standard and its applicability to Nevada streams. With respect to the Humboldt River, we would also look at the sulfate data that is available for the river, data that will be collected in the future and review the applicability of establishing the RMHQ's (Requirement to Maintain Higher Quality) for sulfates in the river.
Chairman Close asked for comments. No comments were received.

Chairman Close moved to Agenda Item IV.

IV. Review of Utility Environmental Act evaluation process and potential legislative options

Lew Dodgion, Administrator, NDEP, reminded Chairman Close of a recent letter from the Public Service Commission (PSC) that was addressed to the Chairman. Mr. Dodgion explained there is a provision in NRS 704.890, the Public Utility statutes, that establishes the Utility Environmental Compliance Act (UEPA) that makes the Environmental Commission a party to the permitting process before the PSC for utility permits to construct. It requires the Commission to review the applications and the reports. In reality, the applications and reports are appropriately reviewed by the staff of NDEP and compared against the regulations and rules that are adopted by the Environmental Commission.
Mr. Dodgion proposed that we seek an amendment to NRS 704.875 and NRS 704.885. It would be more appropriate and in sync with what actually takes place, that the application should be reviewed by the NDEP, that NDEP should be the party to the permit hearing and allow the Commission to act, as the Commission acts in all other matters, as an appellant body to the Division's actions if we misrepresent or misapply the Commission's regulations.
Chairman Close agreed and stated he did not think the Commission should be hearing making UEPA permit reviews because we do not have the ability to accomplish the goals they want.
Mr. Dodgion stated the structure of the Commission does not lend itself to doing that, NDEP staff does that work. As I stated, if we offend Southern California Edison or Sierra Pacific they can appeal to you.
Commissioner Jones asked if you have due process in front of the PSC, there is a dispute and they appeal to the Commission, does that hold up the entire PSC process.
Mr. Dodgion replied, it is possible that it could. Over the years the PSC has swayed from being very liberal in their interpretation of a statute, going ahead and granting their permits even though there is a squabble, or another environmental permit has not been issued. My reading of the statute is, the statute says "unless you have your environmental permits from local and State agencies you cannot get UEPA" so it is possible that it could hold the process up.
Commissioner Turnipseed made a motion to request Mr. Dodgion to prepare a bill draft to request revision to NRS 704.875 and NRS 704.885, to change the language from "Environmental Commission" to "Division of Environmental Protection".
Commissioner Fields seconded the motion.
The motion was unanimous.

Chairman Close moved to Agenda Item V.

V. Settlement Agreements on Air Quality Violations

A. Ree's Enterprise: Notice of Alleged Violation # 1194

Don Del Porto, Bureau of Air Quality, reported that Ree's Enterprise operate a crushing and screening plant west of Lovelock, Nevada in Pershing County. An inspection conducted on October 9, 1995, documented that Ree's was

operating the crushing and screening plant in a manner not sufficient to maintain dust emissions within the permit requirements. Notice of alleged violation #1194 was issued on November 20, 1995, for violation of Nevada Administrative Code 445B.275. During an enforcement conference Ree's Enterprise agreed the amount of dust produced by the plant was excessive and controls were not operating in a manner consistent with permit restrictions. Ree's implemented meeting with their key employees to discuss the maintenance and operation of required air pollution controls. The Division agreed these actions were sufficient to bring the source back into compliance with the regulations. An administrative fine of $600 was agreed upon for the violation. Presently, Ree's Enterprise seem to be in compliance with all applicable air quality regulations.
Chairman Close called for questions or comments. There were no questions or comments.
Commissioner Fields made a motion the Commission ratify Ree's Enterprise NOAV 1194.
Commissioner Turnipseed seconded the motion.
The motion was unanimous.

Chairman Close moved to agenda item VI: Discussion Items

A. Small Business Assistance Program Update

David Cowperthwaite, Manager of the Small Business Assistance Program, reported he and the Ombudsman, Ralph Capurro, visited Economic Development Authorities and area public officials in Eureka, Ely, Elko and Winnemucca to explain the Small Business Assistance Program and how the Program can work with them to provide better information to the regulated communities. We asked for their perception of the needs of small businesses, as well as the authority needs, to assist small businesses with environmental compliance. We are building a network of outreach and service delivery to small businesses coming into Nevada to do business or if they are expanding or modifying an existing business.
Mr. Cowperthwaite continued, the Compliance Advisory Panel met on March 5, 1996, in Las Vegas. Again, the meeting was primarily an orientation. Future meetings will focus in on helping this Program meet the goals of providing user-friendly information.
Mr. Cowperthwaite explained the Clean Air Contract Leadership Grant is moving forward at the University of Nevada. They should be hiring in May resulting in a start-up of services. The goal is to have more visibility by July 1, to have a viable program in place and information in the pipeline that can help small businesses. A big issue is the "regulatory mapping" - to scrutinize all the regulatory processes that the Division and the Department have and prepare materials that will help small businesses understand how the regulatory process works.
Commissioner Turnipseed interjected, this does not have anything to do with the Ombudsman but the rural communities are having trouble dealing with the solid waste regulations and there was an extension or an exemption for the very small users. What was the outcome of that?
Mr. Cowperthwaite reported landfills and septic tanks were big issues of concern with the people they met with in the rural communities.
Lew Dodgion explained a 2-year extension, until October, 1997, was granted for the smaller landfills to come into compliance. EPA was looking at drafting some regulations that gave us a little more flexibility in dealing with the rural landfills, as far as ground water impacts, watering well liners, final cover and those kinds of things. We still expect that to happen but everything is slowed down because of the federal budget problems.
Commissioner Fields asked how the EPA budget affects the Division.
Mr. Dodgion explained approximately 40% of the Division's staff is funded through Federal Grant money. We have not received all of our grant money. We don't know whether we are going to receive beyond 75%. I have 25

vacant positions out of 167 positions in the Division. If I don't get the money in various programs I may have positions in other programs, thus avoiding lay-offs. The current Continuing Resolution in the Federal Budget expires at midnight, March 29, 1996. Maybe they will pass another Continuing Resolution.
Chairman Close asked what happens when a resolution is not passed? Are NDEP employees funded by the Federal Government laid off or do they continue working on State salary?
Lew Dodgion explained that is why I have kept positions vacant so that I have enough cash flow from other funding sources to cover all the present positions.

B. Status of Division of Environmental Protection's Programs and Policies

Chairman Close noted Agenda Item V-B has been covered by Mr. Dodgion.

Chairman Close moved to Agenda Item V-C

C. Future Meetings of the Environmental Commission

Water Quality Standards and Temperature Workshop

David Cowperthwaite, Executive Secretary noted a workshop regarding the Humboldt River Water Quality Standards was discussed at the November 7, 1995, meeting in Winnemucca and asked "when and where" the Commission would like to have the workshop?
Lew Dodgion reminded the Commission we were also looking at the Lake Tahoe tributary standards because Commissioner Gifford wanted to discuss setting water standards in general and how the data was arranged statistically. It would be worthwhile, if we are going to talk about temperature standards, to have a general workshop to cover how water quality standards are developed, how many samples are considered enough, and how statistics are applied to arrive at what the numbers should be.
Executive Secretary Cowperthwaite asked if the Commission wanted to run a workshop jointly with a regulatory meeting.
Mr. Dodgion suggested keeping the regulatory items in the meeting very light. 4 - 5 hours should be set aside to talk about temperature issues and water quality standard setting criteria.
Mr. Cowperthwaite stated we could hold a regulatory meeting with a light agenda and combined workshop in mid-June. Because of the regulatory process I cannot submit a petition to LCB for drafting after July 1 because we switch to the temporary cycle.
Chairman Close noted our meeting is dictated by what business we have to conduct. If we have no business we will put off the temperature workshop until we have regulatory business to conduct and hold a regular meeting.
Mr. Cowperthwaite reported it would be his preference to give the Commission the summer off.
Commissioner Griswold asked, then we will not have a meeting until August?
Mr. Cowperthwaite replied again, any permanent petition can be acted upon at that time, as long as it was submitted to LCB by July 1.
DAG Mischel stated, as a personal opinion, I was impressed when we all traveled to Winnemucca that most of the public were not from Winnemucca.
Commissioner Fields agreed, a couple of local mines attended and suggested the meeting be held in Reno.

D. General Commission or Public Comment

Chairman Close called for other business. There was no additional business.
Chairman Close called for public comment. There was no public comment.

Chairman Close adjourned the meeting at 3:00 p.m.

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NEVADA STATE ENVIRONMENTAL COMMISSION

Hearing Date: MARCH 26, 1996

Location: DIVISION OF WILDLIFE CONFERENCE ROOM - 1100 VALLEY ROAD, RENO

REGULATORY EXHIBIT LOG

#	Item	Item Description	Petition	Accepted Yes/No
1	Memorandum/Fax	7 page document - Written comments from Michael Block, Engine Manufacturers Association	96008	Yes
2	Letter	2 page letter - Comments from Nevada Mining Association, Lynn Giraudo, NMA Air Quality Subcommittee Chairperson	96006	Yes
3	Letter	2 page letter - Comments from Newmont Gold Company, John Mudge, Director, Environmental Affairs	96006 96009 96010	Yes
4	Memorandum	2 page memorandum - Comments from L.H. Dodgion, Administrator, Division of Environmental Protection	Water Quality Standard for Sulfate - Ongoing Review	Yes
5	Presentation	Jolaine Johnson, Bureau of Air Quality	96010	Yes