

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R036-05

September 6, 2005

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

AUTHORITY: §§1-5, NRS 445B.210.

A REGULATION relating to air pollution; prospectively repealing the provisions relating to the control of certain emissions of air pollutants by certain coal-fired steam generating facilities; and providing other matters properly relating thereto.

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

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

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

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

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

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

4. The continuous monitoring system for monitoring opacity at a facility must be operated and maintained by the owner or operator specified in the permit for the facility in accordance with NAC 445B.256 to 445B.267, inclusive.

Sec. 2. NAC 445B.2202 is hereby amended to read as follows:

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

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

Sec. 3. Sections 1 to 4, inclusive, of LCB File No. T003-05 are hereby repealed.

Sec. 4. NAC 445B.22023 is hereby repealed.

Sec. 5. 1. This section and section 3 of this regulation become effective on the date on which the regulation is filed by the Legislative Counsel with the Secretary of State.

2. Sections 1, 2 and 4 of this regulation become effective:

(a) On April 1, 2006;

(b) Upon the expiration of an extended deadline for complying with the emission limitations in the consent decree set forth in *Grand Canyon Trust, Inc. v. Southern California Edison Co.*, No. CV-S-98-00305-LDG (RJJ) (D. Nev. filed Dec. 17, 1999) if the extended deadline is:

(1) Either provided pursuant to the consent decree or provided in a judicial amendment of the consent decree; and

(2) Set for a date that is later than April 1, 2006; or

(c) Upon the date on which this regulation is filed by the Legislative Counsel with the Secretary of State,

↳ whichever occurs later. As soon as practicable after sections 1, 2 and 4 of this regulation become effective, the Chairman of the State Environmental Commission will publish a notice indicating that those sections have become effective and will file a copy of the notice with the Legislative Counsel and the Secretary of State.

TEXT OF REPEALED SECTION

445B.22023 Visible emissions: Coal-fired steam generating facilities. (NRS 445B.210)

1. The provisions of this section and NAC 445B.22017 and 445B.2202 apply to any coal-fired steam generating facility used to produce electricity with an equipment manufacturer's guarantee or demonstrated capability of more than 7,936 x 10⁶ Btu (2,000 x 10⁶ kg-cal) per hour of heat input which existed before 1972.

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

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

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