

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R038-12

Effective September 14, 2012

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

AUTHORITY: §§1-4, NRS 445B.210.

A REGULATION relating to air pollution; adopting the most recent national ambient air quality standards; adopting by reference certain federal regulations relating to air quality; and providing other matters properly relating thereto.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto a new section to read as follows:

“PM_{2.5}” means any particulate matter in the atmosphere with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an approved reference method or equivalent method based on 40 C.F.R. Part 50, Appendix L, and designated in accordance with 40 C.F.R. Part 53.

Sec. 2. NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to 445B.3689, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 445B.22097 is hereby amended to read as follows:

445B.22097 1. The table contained in this section lists the minimum standards of quality for ambient air.

		NEVADA STANDARDS ^A		NATIONAL STANDARDS ^B		
POLLUTANT	AVERAGING TIME	CONCENTRATION ^C	METHOD ^D	PRIMARY ^{C, E}	SECONDARY ^{C, F}	METHOD ^D
Ozone	1 hour	0.12 ppm (235 µg/m ³)	Ultraviolet absorption	0.12 ppm ^G {(235 µg/m³)} (1979 standard)	Same as primary	Chemiluminescence
	<i>8 hours</i>	--	--	<i>0.075 ppm</i> (2008 standard)		
Ozone-Lake Tahoe Basin, #90	1 hour	0.10 ppm (195 µg/m ³)	Ultraviolet absorption	--	--	--
Carbon monoxide less than 5,000' above mean sea level	8 hours	9 ppm (10,500 µg/m ³)	Nondispersive infrared photometry	9 ppm (10 mg/m ³)	None	Nondispersive infrared photometry
At or greater than 5,000' above mean sea level		6 ppm (7,000 µg/m ³)				
Carbon monoxide at any elevation	1 hour	35 ppm (40,500 µg/m ³)				
Nitrogen dioxide	Annual arithmetic mean	0.053 ppm (100 µg/m ³)	Gas phase chemiluminescence	{0.053 ppm} {(100 µg/m³)} 53 ppb	Same as primary	Gas phase chemiluminescence
	<i>1 hour</i>	--	--	<i>100 ppb</i>	<i>None</i>	
Sulfur dioxide	Annual arithmetic mean	0.030 ppm (80 µg/m ³)	Ultraviolet fluorescence	{0.030} 0.03 ppm ^H (1971 standard)	None	Spectrophotometry (Pararosaniline method)
	24 hours	0.14 ppm (365 µg/m ³)		0.14 ppm ^H (1971 standard)		
	3 hours	0.5 ppm (1,300 µg/m ³)		None	0.5 ppm	
	<i>1 hour</i>	--		--	<i>75 ppb</i>	
Particulate matter as PM ₁₀	Annual arithmetic mean	50 µg/m ³	High volume PM ₁₀ sampling	{50 µg/m³} None	None	--
	24 hours	150 µg/m ³		150 µg/m ³	Same as primary	High <i>or low</i> volume PM ₁₀ sampling
<i>Particulate matter as PM_{2.5}</i>	<i>Annual arithmetic mean</i>	--	--	<i>15.0 µg/m³</i>	<i>Same as primary</i>	<i>Low volume PM_{2.5} sampling</i>
	<i>24 hours</i>	--	--	<i>35 µg/m³</i>	<i>Same as primary</i>	
Lead (Pb)	<i>Nevada: Quarterly arithmetic mean ; National: Rolling 3 mo. average</i>	1.5 µg/m ³	High volume sampling, acid extraction and atomic absorption spectrometry	{1.5} 0.15 µg/m ³	Same as primary	High volume sampling, acid extraction and atomic absorption spectrometry
Hydrogen sulfide	1 hour	0.08 ppm (112 µg/m ³) ^{I-IV}	Ultraviolet fluorescence	--	--	--

Notes:

Note A: The Director shall use the Nevada standards in considering whether to issue a permit for a stationary source and shall ensure that the stationary source will not cause the Nevada standards to be exceeded in areas where the general public has access.

Note B: ~~{These standards, other than for ozone, particulate matter, and those based on annual averages, must not be exceeded more than once per year. The 1-hour ozone standard is attained when the expected number of days per calendar year with a maximum hourly average concentration above the standard is equal to or less than one. The PM₁₀ 24-hour standard is~~

~~attained when the expected number of days per calendar year with a 24-hour average concentration above the standard, rounded to the nearest $10 \mu\text{g}/\text{m}^3$, is equal to or less than one. The expected number of days per calendar year is generally based on an average of the number of times the standard has been exceeded per year for the last 3 years.]~~ The National standards are ~~[to be]~~ used in determinations of attainment or nonattainment. *The form of a National standard is the criteria which must be satisfied for each respective concentration level of a standard for the purposes of attainment. The form for each National standard is set forth in 40 C.F.R. Part 50 and may be viewed at <http://www.epa.gov/air/criteria.html>.*

Note C: Where applicable, concentration is expressed first in units in which it was adopted. All measurements of air quality that are expressed as mass per unit volume, such as micrograms per cubic meter, must be corrected to a reference temperature of 25 degrees Centigrade and a reference pressure of 760 mm of Hg (1,013.2 millibars); “ppm” in this table refers to parts per million by volume, or micromoles of regulated air pollutant per mole of gas; “ $\mu\text{g}/\text{m}^3$ ” refers to micrograms per cubic meter.

Note D: Any reference method specified in accordance with 40 C.F.R. Part 50 or any reference method or equivalent method designated in accordance with 40 C.F.R. Part 53 may be substituted.

Note E: National primary standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health.

Note F: National secondary standards are the levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a regulated air pollutant.

Note G: *The EPA revoked the National 1-hour ozone standard as it applies to all areas. However, anti-backsliding provisions in Federal law require certain areas to have continuing obligations under the National 1-hour ozone standard.*

Note H: The 1971 National sulfur dioxide standards remain in effect for an area until 1 year after the area is designated for the 2010 National sulfur dioxide standard, except that in an area designated nonattainment for the 1971 National sulfur dioxide standards, the 1971 standards remain in effect until an implementation plan to attain or maintain the 2010 National sulfur dioxide standards is approved.

Note I: The ambient air quality standard for hydrogen sulfide does not include naturally occurring background concentrations.

2. These standards of quality for ambient air are minimum goals, and it is the intent of the Commission in this section to protect the existing quality of Nevada's air to the extent that it is economically and technically feasible.

Sec. 4. NAC 445B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2010.

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

3. Appendices M and W of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on ~~July 1, 2010.~~ *January 1, 2011.*

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on ~~July 18, 2011.~~ *July 20, 2011.*

5. Appendix E of 40 C.F.R. Part 52 is hereby adopted by reference as it existed on July 1, 2011.

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

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3), 60.8(g) and 60.11(e), as it existed on July 1, 2011;

(b) Section 60.21 of Subpart B, as it existed on July 1, 2011.

(c) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, JJJJ and KKKK as they existed on July 1, 2011.

(d) Subpart HHHH, except §§ 60.4105(b)(2), 60.4106, 60.4120 to 60.4142, inclusive, 60.4153(a) and (b) and 60.4176, as it existed on June 9, 2006; and

(e) Subparts IIII and JJJJ as they existed on August 29, 2011.

7. Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Appendix A as it existed on July 1, 2010; and

(b) Appendices B and F as they existed on July 1, 2011.

8. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 2010.

9. Appendix B of 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, 2010.

10. The following subparts of 40 C.F.R. Part 63 are hereby adopted by reference:

(a) Subpart A as it existed on July 1, 2010;

(b) Subparts B, C, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYYY, ZZZZ, AAAAA, BBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, JJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, SSSSS, WWWWW, YYYYYY, ZZZZZ, BBBBBB, CCCCCC, DDDDDD, EEEEEEE, FFFFFFF, GGGGGG, HHHHHH, JJJJJ, LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP, QQQQQQ, RRRRRR, SSSSSS, TTTTTT, VVVVVV, XXXXXX, ZZZZZZ, AAAAAAA, BBBBBBB, CCCCCC and EEEEEEE, as they existed on July 1, 2011; and

(c) Subpart WWWWWW as it existed on October 19, 2011.

11. Appendix A of 40 C.F.R. Part 63 is hereby adopted by reference as it existed on July 1, 2011.

12. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2011. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, and sections 2 to 7, inclusive, of LCB File No. R014-11, which was adopted by the State Environmental Commission and filed with the Secretary of State on October 26, 2011, the provisions of 40 C.F.R. Part 72 apply.

13. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2011. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, and sections 2 to 7, inclusive, of LCB File No. R014-11, which was

adopted by the State Environmental Commission and filed with the Secretary of State on October 26, 2011, the provisions of 40 C.F.R. Part 76 apply.

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

15. The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained, free of charge, from the United States Department of Labor at the Internet address <http://www.dol.gov>.

16. A copy of the publications which contain the provisions adopted by reference in subsections 1 to 14, inclusive, may be obtained from the:

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

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

17. The following standards of ASTM International are hereby adopted by reference:

(a) ASTM D5504, “Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D5504 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$40.

(b) ASTM D2234 and D2234M, “Standard Practice for Collection of a Gross Sample of Coal,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM

D2234 and D2234M is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$40.

(c) ASTM D2013, “Standard Practice for Preparing Coal Samples for Analysis,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2013 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$46.

(d) ASTM D6784, “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” set forth in Volume 11.07 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D6784 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$46.

(e) ASTM D2015, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter,” dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of \$56.

(f) ASTM D3286, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter,” dated July 10, 1996. A copy of ASTM D3286 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of \$56.

(g) ASTM D1989, “Standard Test Method for Gross Calorific Value of Coal and Coke by Microprocessor Controlled Isoperibol Calorimeters,” dated July 10, 1997. A copy of ASTM D1989 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of \$56.

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

19. Except as otherwise provided in subsections 12 and 13, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3689, inclusive, and sections 2 to 7, inclusive, of LCB File No. R014-11, which was adopted by the State Environmental Commission and filed with the Secretary of State on October 26, 2011, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

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

Permanent Regulation - Filing Statement

A Regulation Relating to Air Pollution Control

Legislative Review of Adopted Regulations as Required
by Administrative Procedures Act, NRS 233B.066 & 233B.0603.10(f)

State Environmental Commission (SEC) LCB File No: R038-12

Petition R038-12: This regulation amends NAC 445B.22097, "Standards of quality for ambient air," and NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations." In NAC 445B.22097, the regulation updates the national ambient air quality standards side of the air quality standards table to align it with the federal standards currently in effect. In NAC 445B.221, the regulation adopts by reference federal regulations that will allow Nevada's industry to defer the application of the federal Prevention of Significant Deterioration and Title V permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources for three years. The regulation also revises methods for measuring filterable PM10 and PM2.5 and condensable particulate matter emissions from stationary sources.

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

On April 23, 2012, staff from NDEP conducted a public workshop on LCB's Proposed Draft Regulation R038-12. The workshop was held in Carson City and video conferenced to Las Vegas. The meeting location in Carson City was the Nevada Department of Transportation, 1263 South Stewart Street (Room 301). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

Two (2) members of the public commented on the proposed regulation at the workshop, they were:

Allen Biaggi, Nevada Mining Association
Joe Johnson, Private Citizen

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at: http://sec.nv.gov/docs/r038-12_workshop-minutes.pdf.

Following the workshop, the SEC held a formal regulatory meeting on June 12, 2012. The meeting was held as a video conference in Carson City and Las Vegas. The meeting location in Carson City was the Bryan Building, 901 South Stewart Street (2nd floor, Tahoe Room). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas, at the Department of Wildlife in Reno, and at the Division of Minerals in Carson City.

Copies of the agenda, the public notice, and the proposed permanent regulation R038-12 were also made available to all public libraries throughout the state as well as to individuals on the SEC mailing lists.

The public notice for the permanent regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: http://sec.nv.gov/main/hearing_0612.htm

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

- (a) Attended June 12, 2012 hearing: 20 (approx.)
- (b) Testified on this Petition at the hearing: 2
- (c) Submitted to the agency written comments: 0

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

Comments were solicited from affected businesses and responded to through e-mail and telephone exchanges, the public workshop, and at the June 12th Commission hearing as noted in number 1 above.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted without changes.

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

This regulation will not have an immediate or long-term adverse economic impact on the public or the business community.

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

There will be no additional costs to the agency for enforcement of the proposed regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication

or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

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

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is not more stringent than any federal regulation or guidance.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not address specific fees.