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State Environmental Commission

Classification [] Proposed [] Adopted By Agency [] Temporary [] Emergency [] Permanent [XX]

Petition R041-13: This regulation revises NAC 445B.221, *Adoption by reference and applicability of certain provisions of federal law and regulations*, by adopting applicable federal rules promulgated since the State regulation was last updated as of January 1, 2012. The update includes rulemakings under 40 CFR Part 52.21, "Prevention of significant deterioration of air quality" (PSD), related to the regulation of greenhouse gases, Part 60, "Standards of performance for new stationary sources" (NSPS), and Part 63, "National emission standards for hazardous air pollutants for source categories" (NESHAP).

Authority citation other than 233B: §1, NRS 445B.210.

Notice date: October 31, 2013

Hearing date: December 4, 2013

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R041-13

Effective December 23, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted in version 50~~] is material to be omitted.

AUTHORITY: §1, NRS 445B.210.

A REGULATION relating to air pollution; adopting by reference certain provisions of federal regulations relating to air quality; and providing other matters properly relating thereto.

Section 1. NAC 445B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~{2010}~~ **2013**.

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 ~~{January 1, 2011}~~ **July 1, 2013**.

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July ~~{20, 2011}~~ **1, 2013**.

5. Appendix E of 40 C.F.R. Part 52 is hereby adopted by reference as it existed on July 1, ~~{2011}~~ **2013**.

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;~~ **2013;**

(b) Section 60.21 of Subpart B, as it existed on July 1, ~~2011;~~ **2013; and**

(c) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, *Ga*, H, I, J, *Ja*, 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 **and OOOO** as they existed on July 1, ~~2011;~~

~~(d) Subpart HHHHH, 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 III and JJJ as they existed on August 29, 2011;~~ **2013.**

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

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

~~(b) Appendices B and F as they existed on July 1, 2011;~~ **2013.**

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;~~ **2013.**

9. Appendix B of 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, ~~2010;~~ **2013.**

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 A, B, C, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYYY, ZZZZ, AAAAA, BBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, JJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, SSSSS, *UUUUU*, WWWW, YYYYYY, ZZZZZ, BBBBB, CCCCCC, DDDDD, EEEEE, FFFFF, GGGGGG, HHHHHH, JJJJJ, LLLLLL, MMMMMM, NNNNNN, OOOOO, PPPPP, QQQQQQ, RRRRR, SSSSSS, TTTTTT, VVVVVV, *WWWWW*, XXXXXX, ZZZZZZ, AAAAAA, BBBBBB, CCCCCC, ~~and~~ EEEEEEE ~~and~~ *HHHHHHH of 40 C.F.R. Part 63 are hereby adopted by reference* as they existed on July 1, ~~2011~~ and

~~---(c) Subpart WWWW as it existed on October 19, 2011. 2013.~~

11. Appendix A of 40 C.F.R. Part 63 is hereby adopted by reference as it existed on July 1, ~~2011~~ **2013**.

12. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~2011~~ **2013**. 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. R011-H, 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~~ **2013**. 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. R01-11, 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.~~ **is available** from the *National Technical Information Service of the* United States Department of ~~Labor~~ **Commerce** at the Internet address ~~http://www.dol.gov/~~ **<http://www.ntis.gov>**, for the price of \$42.

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~~ **Administration** for 10 cents per page.

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

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

(a) ASTM ~~D5504~~ **D5504-08**, "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~~ **D5504-08** is available ~~by mail~~ from ASTM International, 100 Barr

Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at ~~+(610) 832-9585~~ (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~+\$40.~~ **\$50.40.**

(b) ASTM ~~{D2234 and D2234M}~~ **D2234/D2234M-07** “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}~~ **D2234/D2234M-07** is available ~~{by mail}~~ from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at ~~+(610) 832-9585~~ (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~+\$40.~~ **\$50.40.**

(c) ASTM ~~{D2013}~~ **D2013-07**, “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}~~ **D2013-07** is available ~~{by mail}~~ from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at ~~+(610) 832-9585~~ (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~+\$46.~~ **\$57.60.**

(d) ASTM ~~{D6784}~~ **D6784-02(2008)**, “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}~~ **D6784-02(2008)** is available ~~{by mail}~~ from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at ~~+(610) 832-9585~~ (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~+\$46.~~ **\$48.**

(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, ~~MS-A110B,~~ Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~56,~~ \$58.

(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, ~~MS-A110B,~~ Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~56,~~ \$58.

(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, ~~MS-A110B,~~ Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~56,~~ \$58.

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.

NOTICE OF ADOPTION OF REGULATION

The Nevada Division of Environmental Protection adopted regulations assigned LCB File No. R041-13, which pertain to chapter 445B of the Nevada Administrative Code on December 4, 2013. A copy of the regulations as adopted is attached hereto.

Permanent Regulation - Informational 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: R041-13

Regulation R041-13: This regulation revises NAC 445B.221, *Adoption by reference and applicability of certain provisions of federal law and regulations*, by adopting applicable federal rules promulgated since the State regulation was last updated as of January 1, 2012. The update includes rulemakings under 40 CFR Part 52.21, "Prevention of significant deterioration of air quality" (PSD), related to the regulation of greenhouse gases, Part 60, "Standards of performance for new stationary sources" (NSPS), and Part 63, "National emission standards for hazardous air pollutants for source categories" (NESHAP).

1. Need for Regulation: The NDEP is delegated implementation of the federal PSD program in Nevada. NDEP must adopt amendments to the federal program into State regulation in order to retain full delegation of the program. The amendments to Part 52.21 relate to the federal program's emissions of greenhouse gases (GHG) from major sources under the PSD and Title V permitting programs. The update will adopt the U.S. Environmental Protection Agency's determination not to lower the current PSD and Title V applicability thresholds for GHG-emitting sources.

The NDEP is also delegated the implementation of the federal NSPS and NESHAP rules that apply in Nevada. The proposed amendments update the State's "adoption by reference" regulation so that Nevada can request delegation for the implementation of new and revised NSPS and NESHAP promulgated since the last update. This will allow for the regulatory oversight of Nevada's regulated industry to be maintained at the State level as opposed to receiving federal oversight.

2. 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 July 25, 2013, staff from NDEP conducted a public workshop on LCB's Proposed Draft Regulation R041-13. The workshop was held in Carson City and video conferenced to Las Vegas. The meeting location in Carson City was the Public Employees' Benefits Program Boardroom, 901 S. Stewart Street (Room 1002). In Las Vegas the meeting location was the Nevada Division of Environmental Protection, 2030 E. Flamingo Rd. Suite 230.

Although fourteen (14) people attended the workshop, there were no comments made regarding this regulation.

Summary minutes of the workshop are posted on the SEC website at:
http://sec.nv.gov/docs/r041-13_workshop_minutes.pdf

Following the workshop, the SEC held a formal regulatory hearing on December 4, 2013 at the Nevada Department of Conservation and Natural Resources on Stewart Street in Carson City, Nevada. A public notice and agenda for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of NDEP in Las Vegas, at the Division of Minerals in Carson City, at the Department of Wildlife in Reno, on the LCB website and was sent to the SEC mailing list.

The public notice and the proposed permanent regulation, R041-13, were posted at the locations noted above, and additionally, were made available at county libraries throughout the state.

The public notice for the proposed 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_1213.htm.

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

- (a) Attended December 4, 2013 hearing: 26 (approximately)
- (b) Testified on this Petition at the hearing: 1 (NDEP)
- (c) Submitted to the agency written comments: 0

4. 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 through e-mail, the public workshop and at the December 4th Commission hearing as noted in number 1 above.

5. 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 as a result of NDEP receiving no significant comments that would cause a need for change.

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

The adopted PSD, NSPS and NESHAP rules are federal rules which the regulated business/industry must comply with regardless of whether EPA or NDEP implements them. Therefore, there will be no added economic impact on the regulated industry due to NDEP's adopt-by-reference regulation update. The amendments have no economic effect on the public.

7. 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.

8. 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.

9. 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.

10. 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.