

# 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: R042-13

**Regulation R042-13:** This regulation revises NAC 445B.22097, “*Standards of quality for ambient air,*” and NAC 445B.308, “*Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.*” The revision changes Nevada’s ambient air quality standards table in NAC 445B.22097 to reflect the pertinent federal standards currently in effect. The regulation revises Nevada’s 2008 lead and ozone standards outlined in the ambient air quality standards table.

The regulation removes an obsolete subsection from NAC 445B.308. Subsection 5 of NAC 445B.308 contained requirements for obtaining an operating permit in a basic ozone nonattainment area for the 1997 ozone national ambient air quality standards (NAAQS). The U.S. Environmental Protection Agency (USEPA) has withdrawn the “basic” category of ozone nonattainment area classifications; thus, subsection 5 of NAC 445B.308 was unnecessary.

1. **Need for Regulation:** The NDEP amended the ambient air quality standards table in response to a rulemaking by the USEPA. On September 27, 2012, USEPA identified deficiencies in Nevada’s state implementation plan (SIP) with respect to Nevada’s minor sources permitting program. USEPA determined that Nevada’s permitting regulations did not adequately address the 2006 fine particulate or the 2008 lead NAAQS. The NDEP identified a similar deficiency with respect to the 2008 ozone NAAQS.

USEPA’s rulemaking triggered an obligation for it “to promulgate a Federal Implementation Plan unless the State of Nevada corrects the deficiencies, and EPA approves the related plan revisions within two years” of the rulemaking. 77 FR 59321. Thus, these amendments are necessary in order to avoid a federal plan being imposed upon the State.

The proposed deletion of outdated material from NAC 445B.308 lies in accordance with the President’s and Governor Sandoval’s directives to agencies to streamline regulations, use clear and concise language, and remove unnecessary requirements.

**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 R042-13. 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.

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

Mr. Jeanne Thames, representing the Paiute Tribe Environmental Office  
Mr. John Allen, Enel Green Power

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/r041-13\\_workshop\\_minutes.pdf](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, R042-13, 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](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 and responded to through e-mail and telephone exchanges, the public workshop, and at the December 4<sup>th</sup> 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 with changes, as approved by the State Environmental Commission. The changes include three (3) items that are necessary to ensure NDEP's program is approvable by USEPA so NDEP can maintain the regulatory oversight at the State level. The first change is in the table found in section 445B.22097. Stricken is the phrase "Nevada: Quarterly arithmetic mean." The second change is in Note D of the same section, the word "the" is stricken. Finally, the third change approved by the SEC is Note I, which is stricken in its entirety. Note J then becomes Note I. The reason for this change is that USEPA has requested further discussion on the issue of particulate matter of this type and NDEP wants to ensure the information codified is permanent in nature.

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

There will be no economic effect on the regulated business/industry or the public as a result of this regulation amendment.

**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.