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Governor



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June 25, 2008

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MEMBERS

Pete Anderson
State Forester
Division of Forestry

**Regulation R076-08: Adopt By Reference Air Pollution Control/ Air
Quality Planning**

Dear Ms. Corp:

Tony Lesperance
Director, Department of
Agriculture

Attached is a permanent regulation referenced above that was adopted by the State Environmental Commission (SEC) on June 17, 2008. Also attached is the filing statement required by NRS 233B.066 and the SEC form for filing administrative regulations with the Secretary of State.

Eugene Gans
Las Vegas, NV

Special Note: The State Environmental Commission adopted the regulation with several insignificant non-substantive changes. Those changes are being submitted as a separated document titled Exhibit 1. The agency revisions are underlined in green.

Kenneth Mayer - Director
Department of Wildlife

More information about this regulation such as workshop notices and related background information is available on the SEC website at:
http://sec.nv.gov/main/hearing_061708.htm

Ira Rackley
Las Vegas, NV

The contact person for this regulation is Ms. Adele Malone 697-9356.

Tracy Taylor
State Engineer
Division of Water Resources

If you have any questions about these documents please contact me at 687-9414.

Harry Shull
Las Vegas, NV

Sincerely,

Frances Barron
State Board of Health
Las Vegas, NV

John B Walker

Stephanne Zimmerman
Las Vegas, NV

John B. Walker
Executive Secretary

COUNSEL
Rose Marie Reynolds

STAFF
[John B. Walker](#)
Executive Secretary

[Robert Pearson](#)
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JBW

Enclosure

ecc: Rose Marie Reynolds, Deputy Attorney General

Colleen Cripps, Deputy Administrator

Mike Elges, BAQP

Greg Remer, BAPC

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R076-08 with agency revisions in green underline

June 17, 2008

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

AUTHORITY: §§1 and 2, NRS 445B.210; §3, NRS 445B.210 and 445B.300.

A REGULATION relating to air pollution; revising the definition of a Class III source; revising the provisions governing the adoption by reference of certain federal regulations; and providing other matters properly relating thereto.

Section 1. NAC 445B.038 is hereby amended to read as follows:

445B.038 “Class III source” means a stationary source which is subject to the requirements set forth in NAC 445B.001 to 445B.3791, inclusive, and:

1. Which emits or has the potential to emit, individually or in combination, a total of not more than 5 tons per year of PM₁₀, NO_x, SO₂, VOC and H₂S;
2. Which emits less than 1,000 pounds of lead per year;
3. Which is not subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive;
4. Which *does not exceed 750 horsepower and* is not subject to the requirements of 40 C.F.R.

Part 60, except for ~~[a]~~:

(a) A stationary compression ignition internal combustion engine subject to Subpart IIII ~~[and which does not exceed 750 horsepower;]~~; or

(b) A stationary spark ignition internal combustion engine subject to Subpart JJJJ;

5. Which is not subject to the requirements of 40 C.F.R. Part 61;

6. Which is not subject to the requirements of 40 C.F.R. Part 63 ~~[;]~~, *except for a reciprocating internal combustion engine subject to Subpart ZZZZ and which does not exceed 750 horsepower;*

7. Which is not a temporary source;

8. Which is not located at or a part of another stationary source;

9. Which does not operate a thermal unit that emits mercury, as defined in NAC 445B.3643;

and

10. Whose owner or operator:

(a) Is not seeking a limitation on emissions to avoid the requirements of 40 C.F.R. Part 63; or

(b) Is not required to obtain an operating permit to operate the stationary source solely to comply with NAC 445B.22037 relating to surface area disturbances.

Sec. 2. NAC 445B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s) and 51.100(nn) and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2007.

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

3. Appendix W of 40 C.F.R. Part 51 is hereby adopted by reference as it existed on July 1, 2007.

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, 2007.

5. ~~The~~ *Except as otherwise provided in subsection 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) and 60.11(e), as it existed on July 1, 2007;

(b) Section 60.21 of Subpart B, as it existed on July 1, 2006;

(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, WW, XX, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, DDDD, EEEE, FFFF, IIII and KKKK as they existed on July 1, 2007; ~~and~~

(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 set forth in Volume 70 of the Federal Register at pages 28606 et seq., May 18, 2005, and the amendments to Subpart HHHH as set forth in Volume 71 of the Federal Register at pages 33388 et seq., June 9, 2006 ~~[7]~~; *and*

(e) Subpart JJJJ as set forth in Volume 73 of the Federal Register at pages 3568 et seq., January 18, 2008.

6. *The amendments to Subpart A of Title 40 C.F.R. Part 60 as set forth in Volume 73 of the Federal Register at pages 3568 et seq., January 18, 2008, are hereby adopted by reference.*

7. Appendices B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, 2007.

~~[7]~~ 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, 2007.

~~[8]~~ 9. *Except as otherwise provided in subsection 10, the following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference:*

(a) 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, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, SSSSS, DDDDDD, EEEEE, FFFFFFF and GGGGGG ~~[of 40 C.F.R. Part 63 are hereby adopted by reference]~~ as they existed on July 1, 2007 ~~[7]~~

~~9]~~;

(b) Subpart WWWW as set forth in Volume 72 of the Federal Register at pages 73611 et seq., December 28, 2007;

(c) Subpart YYYYY as set forth in Volume 72 of the Federal Register at pages 74088 et seq., December 28, 2007;

(d) Subpart ZZZZ as set forth in Volume 73 of the Federal Register at pages 226 et seq., January 2, 2008;

~~*(e) Subparts BBBB and CCCC as set forth in Volume 73 of the Federal Register at pages 1916 et seq., January 10, 2008;*~~

~~*(f) Subpart HHHHH as set forth in Volume 73 of the Federal Register at pages 1738 et seq., January 9, 2008;*~~

(g) Subparts LLLLL, MMMMM, NNNNN, OOOOO, PPPPP and QQQQQ as set forth in Volume 72 of the Federal Register at pages 38864 et seq., July 16, 2007; and

(h) Subparts RRRRR, SSSSS and TTTTT as set forth in Volume 72 of the Federal Register at pages 73180 et seq., December 26, 2007.

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

(a) Subparts A and ZZZZ as set forth in Volume 73 of the Federal Register at pages 3568 et seq., January 18, 2008;

(b) Subpart DDDD as set forth in Volume 72 of the Federal Register at pages 61060 et seq., October 29, 2007;

(c) Subpart EEEEE as set forth in Volume 73 of the Federal Register at pages 7210 et seq., February 7, 2008;

~~*(d) Subparts BBBB and CCCC as set forth in Volume 73 of the Federal Register at pages 12275 et seq., March 7, 2008;*~~

(e) Subparts EEEEEEE and FFFFFFF as set forth in Volume 72 of the Federal Register at pages 36363 et seq., July 3, 2007;

~~*(f) Subpart HHHHHHH as set forth in Volume 73 of the Federal Register at pages 8408 et seq., February 13, 2008; and*~~

(g) Subparts LLLLLL, MMMMMM, NNNNNN, OOOOOO, PPPPPP and QQQQQQ as set forth in Volume 73 of the Federal Register at pages 15923 et seq., March 26, 2008.

11. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2007. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3791, inclusive, the provisions of 40 C.F.R. Part 72 apply.

~~**10.**~~ **12.** Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2007. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3791, inclusive, the provisions of 40 C.F.R. Part 76 apply.

~~**11.**~~ **13.** 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.

~~**12.**~~ **14.** 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>.

~~**13.**~~ **15.** A copy of the publications which contain the provisions adopted by reference in subsections 1 to ~~**11.**~~ **13**, 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>.

~~[14.]~~ **16.** 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.

~~[15.]~~ **17.** Except as otherwise provided in subsections ~~[9]~~ **11** and ~~[10.]~~ **12**, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3791, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~[16.]~~ **18.** 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 pursuant to this section, means the Director.

Sec. 3. NAC 445B.3637 is hereby amended to read as follows:

445B.3637 “Precious metals mining” means the mining of gold or silver ore by the owner or operator of a stationary source that belongs to Industry Group 104, Gold and Silver Ores, of Major Group 10, Metal Mining, of the *Standard Industrial Classification Manual*, which is adopted by reference ~~[pursuant to subsection 12 of]~~ **in** NAC 445B.221.