

FORM # 1

**FORM FOR PETITIONING THE STATE ENVIRONMENTAL COMMISSION FOR
ADOPTION, FILING AMENDMENTS OR REPEAL OF COMMISSION REGULATIONS**

1. Nevada Division of Environmental Protection
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249
(775) 687-4670
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Michael Elges
Chief, Bureau of Air Quality Planning
(775) 687-9329

Greg Remer
Chief, Bureau of Air Pollution Control
(775) 687-9359

2. The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is an environmental regulatory agency.
3. Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.310 establishes specific authority of the SEC regarding operating permit requirements for sources of air contaminants.

SPECIFIC CHANGES:

The NDEP is proposing to amend NAC 445B.001 to 445B.3497 of the State "Air Pollution" regulations, by:

- ASIP: Revising the operating permits regulations in response to the U.S. Environmental Protection Agency's (EPA) review of NDEP's proposed update to the Nevada State Implementation Plan (ASIP). The revisions are minor, including clarifications; aligning the state definition of "federally enforceable" with the federal definition; adding public participation requirements for Class II general permits.
- Fines:
 - For all regulations except fugitive dust, increasing the fine for the third occurrence of a minor violation of the same regulation; and
 - Increasing the fine for the first violation of the fugitive dust regulation and changing the second and third violations to minor violations with fines of \$1,000 and \$2,000, respectively.
- ICEs: Revising the definition of a "Class III source" to allow a stationary compression ignition internal combustion engine (CI-ICE) that is subject to 40

CFR 60 Subpart IIII and does not exceed 750 horsepower to qualify as a Class III source.

4. NEED FOR AND PURPOSE:

- ASIP: NDEP submitted a major update to Nevada's ASIP in February 2005 with a revision in January 2006. To date, EPA has approved pieces of the submittal. In the Federal Register on April 17, 2007, EPA recommended certain revisions to Nevada's permitting provisions. The proposed amendments are in response to EPA concerns regarding Nevada's ASIP and will make the agency-requested ASIP update more approvable by EPA.
- Fines: Assembly Bill 67 was passed by the 2007 Legislature, increasing the maximum allowable fine for a minor violation to \$2000. The last increase in the maximum allowable fine was 20 years ago. With this new authority, NDEP proposes to change the fine structure for minor violations to make the amounts more commensurate with today's economy. The higher fine amounts will provide a greater deterrent to violating the NAC.
- ICEs: At the September 7, 2007 Hearing, the SEC adopted by reference the federal rule, "Standards of Performance for Stationary Compression Ignition Internal Combustion Engines" (40 CFR 60 Subpart IIII). The NAC defines a Class III source as, among other things, one that is not subject to 40 CFR Part 60. This means that with the adoption of the Part 60 standard for CI-ICEs, any owner/operator of a stationary CI-ICE could not qualify as a Class III source. This would force businesses with stand-alone emergency or backup generators, for example, to apply for and obtain a Class II permit. The time and cost required in obtaining a Class II permit for stationary CI-ICEs that do not exceed 750 horsepower would impose undue hardship on business/industry. The proposed regulation alleviates this hardship.

5. ECONOMIC EFFECTS:

(a) Regulated Business/Industry.

- ASIP: There are no economic impacts on industry of the ASIP-related permitting revisions.
- Fines: Unless the NAC is violated, there will be no economic impact on the regulated community attendant to the increase in fines for minor violations. If a minor violation does occur, the penalty for a third violation will be twice the current amount in most cases; for fugitive dust violations, the penalty for the first violation is doubled, and the second and third violations are no longer major violations, but set at \$1000 and \$2000, respectively.
- ICEs: This regulation will have a beneficial economic effect on businesses or industries that would otherwise have been required to apply for and obtain a Class II operating permit with associated fees and a longer, more involved application process. The application fee for a Class II permit is \$3000; annual maintenance fees are also assessed.

(b) Public. These proposed amendments will have no economic effects on the public.

(c) Enforcing Agency. There will be no additional costs to the agency for administering the proposed regulation.

6. The proposed regulations do not overlap or duplicate any regulations of other state or government agencies.
7. The proposed regulations are no more stringent than what is established by federal law.
8. The proposed amendments do not address fees.