

**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  
August 6, 2009

---

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.300 establishes specific authority of the SEC regarding operating permit requirements for sources of air contaminants.

**SPECIFIC CHANGES:**

The NDEP is proposing to convert a temporary regulation that was adopted in June 2009 to a permanent one and to adopt certain federal test methods by reference. The temporary regulation updated NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations," by adopting federal *New Source Performance Standards* (NSPS) and *National Emission Standards for Hazardous Air Pollutants* (NESHAP) that were promulgated by the U.S. Environmental Protection Agency (EPA) since the NAC was last updated.

4. **NEED FOR AND PURPOSE:**

NDEP regularly adopts by reference into state regulation new and revised federal NSPS and NESHAP that have been promulgated by EPA since the NAC was last updated. NDEP is delegated the implementation of federal NSPS and NESHAP programs relevant to Nevada; however, it is necessary to keep the State's "adoption by reference" regulation up to date so that EPA can continue to delegate the implementation of these rules to the state. This delegation allows the regulated community to continue to work with the state as opposed to the EPA.

Because the June 2009 update to NAC 445B.221 was a temporary regulation that will expire on November 1, 2009, it is necessary to adopt those updates as a permanent regulation. Additionally, adopting the test methods will allow the NDEP to use methods approved by EPA and recognized by the scientific community to measure emissions from sources.

5. ECONOMIC EFFECTS:

(a) Regulated Business/Industry. The NSPS and NESHAP that we are proposing to adopt are federal rules, and the regulated business/industry must comply with them regardless of whether EPA or NDEP implements them. Therefore, there will be no added economic impacts on the regulated industry due to NDEP's proposed adopt-by-reference regulation update. In fact, industry prefers that NDEP implement the federal rules.

(a) Public. The proposed regulation will have no economic effect on the public.

(c) Enforcing Agency. The agency must spend staff time: reviewing new federal rules to determine whether and how they impact Nevada industry; incorporating them into facility permits; and assuring compliance. As the volume of federal rules increases and the rules become more complex, this will take increasingly more staff time. However, for the proposed regulation, the agency has determined that it will absorb these costs.

6. The proposed amendments adopt by reference federal regulations from 40 CFR Parts 51, 60, 61 and 63.

7. The proposed amendments are no more stringent than what is established by federal law.

8. The proposed amendments do not address fees.