

LCB File No. R102-01

NOTICE OF INTENT TO ACT UPON A REGULATION

NEVADA STATE ENVIRONMENTAL COMMISSION NOTICE OF PUBLIC HEARING

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Tuesday, December 11, 2001, at the Nevada Division of Wildlife's Conference Room B, 1100 Valley Road, Reno, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission. **Petition 2002-01 (LCB File No. R-096-01)**, the Water Pollution Control regulation in NAC 445A for diffuse source and rolling stock permits was previously noticed on August 20, August 29 and September 6, 2001 for hearing on September 18, 2001. The adoption on this regulation was deferred on September 18, 2001 until the next regularly scheduled regulatory hearing.

1. Petition 2002-02 (LCB R-102-01) is a permanent amendment to NAC 445B.400 to 445B.774, the vehicle emission control program. The amendment adopts by reference a State of California regulation that became effective on July 25, 2001. The amendment requires model year 2005 and 2006 new heavy-duty diesel engines (HDDEs) with a Gross Vehicle Weight Rating (GVWR) of 14,001 pounds and greater to meet supplemental emission tests. Definitions added include the applicable Executive Order, heavy-duty diesel engine, model year, new motor vehicle, new motor vehicle engine, ultimate purchaser, ultra-small volume manufacturer, and urban bus.

The regulation will not have a significant economic impact, either immediate or long-term, on the regulated community, the heavy-duty diesel engine manufacturers. The State of California, by a consent decree, is requiring manufacturers to comply with supplemental test procedures for model year 2003 and 2004 engines. The regulation does not have an immediate or long-term impact upon the public. There will be no additional cost to the agency for enforcement of the regulation. There are no other Nevada regulations that the amendment overlaps or duplicates. This regulation adopts a California regulation, Title 13, Section 1956.8 and Section 2065 of the California Code of Regulations, as effective on July 25, 2001. The regulation is more stringent than federal requirements, since the federal rule as promulgated by the U.S. EPA in 65 FR 59896 on October 6, 2000, begins regulation of heavy-duty diesel engines beginning on model year 2007. There are no fees associated with this regulation.

2. Petition 2002-03 (LCB R-128-01) is a permanent amendment to NAC 445A.119 to 445A.225, the pollution control standards for water quality. The petition amends the standards for various reaches of the East and West forks of the Walker River. Amendments are proposed for NAC 445A.159 through 445A.169, inclusive including Sweetwater Creek and Desert Creek of the Walker River. Revised area of water quality standards includes pH, the nitrite in the lower reaches, the time period for dissolved oxygen beneficial use standard, the Topaz Lake dissolved oxygen standard, the replacement of the narrative color standard with a numeric standard, establishing sulfate requirements to maintain existing higher quality

(RMHQ), replacement of existing fecal coliform standard with E. Coli standard and to establish a total suspended RMHQ for Sweetwater Creek. It is proposed to revise the time period that adult Lahontan cutthroat trout may be present in the reach from Walker Lake to Weber Reservoir.

The proposed regulation will not have an adverse economic impact on businesses, since the amendments do not directly regulate business. The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public. The implementation of the proposed regulation is not expected to result in any additional cost by the Division of Environmental Protection for enforcement. There are no other state or government agency regulations which the proposed amendments duplicate. The federal government has delegated the responsibility of establishing water quality standards to the state, therefore, there is no federal regulation for water quality standards for the Walker River Basin. This regulation is no more restrictive or stringent than federal requirements. This regulation does not provide for any new or increased fees.

3. Petition 2002-04 (LCB R-129-01) is a permanent amendment to NAC 445A.119 through 445A.225, the pollution control standards for water quality. The permanent regulation establishes water quality standards for Walker Lake. The regulation establishes beneficial uses and water quality standards to protect those uses. Proposed standards for Walker Lake include pH, dissolved oxygen, total suspended solids, temperature, dissolved oxygen, nitrite, total inorganic nitrogen, total phosphorus and E. Coli.

The proposed regulations do not directly regulate businesses, therefore, they are not expected to have any direct economic effect on the regulated community. In the long-term, there is a possibility of secondary adverse economic effects on the agricultural community if the proposed standards are used by other government agencies to acquire water rights for the benefit of Walker Lake. Conversely, the long-term protection of Walker Lake will have a beneficial economic effect on tourism related businesses. The regulation is not expected to have any economic effect on the public both immediately and long-term. The regulation is not expected to result in additional cost by the agency for enforcement. There are no other state or government agency regulations which the proposed amendments duplicate. The federal government has delegated the responsibility of establishing water quality standards to the state, therefore, there is no federal regulation for water quality standards for the Walker River Basin. This regulation is no more restrictive or stringent than federal requirements. This regulation does not provide for any new or increased fees.

Pursuant to NRS 233B.0603 the provisions of NRS 233B.064 (2) are hereby provided:

"Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption."

Persons wishing to comment on the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Carson City, Nevada 89706-0851. Written submissions must be received at least five days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library and Archives, 100 Stewart Street and the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City and at the Division of Environmental Protection, 555 E. Washington - Suite 4300, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notices have been deposited at major library branches in each county in

Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at **<http://www.leg.state.nv.us>**. In addition, the State Environmental Commission maintains an Internet site. It is at **<http://www.ndep/state.nv.us/admin/envir01.htm>**. This site contains the public notice, agenda, codified regulations, and petitions for pending and past commission actions.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of David Cowperthwaite, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-4670 Extension 3118, no later than 5:00 p.m. on December 5, 2001.

This public notice has been posted at the following locations: Clark County Public Library and Grant Sawyer Office Building in Las Vegas, Washoe County Library and Division of Wildlife in Reno, Division of Environmental Protection and Department of Museums, Library and Arts in Carson City, the Lyon County Courthouse in Yerington, and Mineral County Courthouse in Hawthorne.

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**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

PROPOSED AMENDMENTS

**NEVADA ADMINISTRATIVE CODE
CHAPTER 445B.400-774**

EMISSIONS FROM ENGINES

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

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the following new Part or section or whatever:

CONTROL OF EMISSIONS: NEW HEAVY-DUTY DIESEL ENGINES

445B . . . Definitions. As used in this part, unless the context otherwise requires, the words and terms defined in NAC 445B . . . to NAC 445B . . ., inclusive, shall have the meanings ascribed to them in those sections.

445B . . . “Executive Order” defined. “Executive Order” means a document issued by the California Air Resources Board certifying that a specified engine family or model year vehicle has met all applicable Title 13 California Code of Regulations (CCR) requirements for certification and sale in California

445B . . . “Heavy-duty diesel engine” defined. “Heavy-duty diesel engine” means a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater.

[NOTE: This definition is different from that found in NAC 445B.426 and .749, which are different from each other. A decision needs to be made whether to make the above definition applicable to this section only (current version), revise HDD definitions for all of NAC 445B or simply use the entire phrase, “a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater” **in this section** (cumbersome).]

445B . . . “Heavy-duty motor vehicle” defined. “Heavy-duty motor vehicle” means a motor vehicle with a Gross Vehicle Weight Rating of 14,001 pounds or greater. [See note under definition of “Heavy-duty diesel engine.”]

445B . . . “Model year” defined. “Model year” means the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual

production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

445B . . . “New motor vehicle” defined. “New motor vehicle” means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser.

445B . . . “New motor vehicle engine” defined. “New motor vehicle engine” means a new engine in a motor vehicle.

445B . . . “Ultimate purchaser” defined. “Ultimate purchaser” means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

445B . . . “Ultra-small volume manufacturer” defined. “Ultra-small volume manufacturer” means any manufacturer with California sales less than or equal to 300 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines per model year based on the average number of vehicles and engines sold by the manufacturer in the previous three consecutive model years. [Note: Confirm use of heavy-duty.]

445B . . . “Urban bus” defined. “Urban bus” means a passenger-carrying vehicle powered by a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating of 33,000 pounds or greater, or of a type normally powered by a diesel engine that is used to propel a motor vehicle with a Gross Vehicle Weight Rating of 33,000 pounds or greater, with a load capacity of fifteen (15) or more passengers and intended primarily for intra-city operation, i.e., within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-operating entrance and exit doors would normally be installed. Since fares are usually paid in cash or token, rather than purchased in advance in the form of tickets, urban buses would normally have equipment installed for the collection of fares. Urban buses are also typically characterized by the absence of equipment and facilities for long distance travel, e.g., restrooms, large luggage compartments, and facilities for stowing carry-on luggage.

445B . . . Applicability.

These rules apply to heavy-duty diesel produced for the 2005 and 2006 model years, and to new motor vehicles containing such engines.

445B . . . Requirements for Vehicle Transactions. No person who is a resident of this state, or who operates an established place of business within this state, shall sell, lease, rent, import, deliver, purchase, acquire, or receive in this state, or offer for sale, lease, or rental in this state (or attempt or assist in any such prohibited action) any of the following types of motor vehicles or engines that are intended primarily for use or for registration in this state, unless the manufacturer of the engine has received an Executive Order for such engine, certifying that the engine complies with the applicable exhaust emission standards under Title 13, section 1956.8 of the California Code of Regulations, as in effect upon October 1, 2001:

- (a) a 2005 or 2006 model year heavy-duty diesel engine,*
- (b) a new motor vehicle equipped with a 2005 or 2006 model year heavy-duty diesel engine; or*
- (c) a motor vehicle with a new 2005 or 2006 model year heavy-duty diesel engine.*

445B . . . Requirements for Vehicle Registration. *No new motor vehicle equipped with a 2005 or 2006 model year heavy-duty diesel may be registered with the Department of Motor Vehicles unless the applicant presents documentation showing that the California Air Resources Board has issued an Executive Order for such engine, certifying that the engine complies with the applicable exhaust emission standards under Title 13, section 1956.8 of the California Code of Regulations, as in effect upon October 1, 2001.*

445B . . . Exemptions and Technology Review. *Notwithstanding section 445B _____ [immediately above], the requirements of this [Part or section or whatever] shall not apply to:*

(a) *a model year 2005 or 2006 heavy-duty diesel engine manufactured by an ultra-small volume manufacturer or intended for use in an urban bus;*

(b) *an engine if, following a technology review, the California Air Resources Board determines that it is inappropriate to require compliance for diesel engines of that particular model year and engine family;*

(c) *a vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen;*

(d) *a vehicle transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction;*

(e) *a motor vehicle having a certificate of conformity issued pursuant to the Clean Air Act (42 U.S.C. §7401 et seq.) and originally registered in another state by a resident of that state who subsequently establishes residence in this state and who, upon registration of the vehicle in this state provides satisfactory evidence to the Department of Motor Vehicles of the previous residence and registration;*

(f) *an emergency vehicle;*

(g) *a military tactical vehicle or equipment; or*

(h) *any other vehicles exempted by the California Health and Safety Code, section 43656.*

445B . . . Manufacturer Compliance With California Orders. *Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any heavy-duty diesel engine requirements adopted by such Board on December 8, 2000 shall be applicable to all such engines and motor vehicles subject to this [Part or section or whatever], sold, leased, or rented, offered for sale, lease, or rental, or registered in Nevada, except where the manufacturer demonstrates to the Nevada Division of Environmental Protection's satisfaction, within 21 days of issuance of such California Air Resources Board action, that this action is not applicable to such engines or vehicles in Nevada.*

NAC 445B . . . Voluntary Recalls. *Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to Title 13, sections 2113 through 2121 of the California Code of Regulations shall extend to all applicable engines and motor vehicles subject to this [Part or section or whatever], sold, leased, or rented, offered for sale, lease, or rental, or registered in Nevada, except where the manufacturer demonstrates to the Nevada Division of Environmental Protection's satisfaction, within 21 days of approval of the*

campaign by the California Air Resources Board, that this campaign is not applicable to such engines or vehicles in Nevada.

445B . . . Severability. Each section of this [Part or section or whatever] shall be deemed severable. If any section of this [Part, section etc.] is held to be invalid, the remainder shall continue in full force and effect.

COPIES OF CALIFORNIA DOCUMENTS

Add a section saying that any California Code of Regulations or Health and Safety Code referred to above may be obtained from the Mobile Sources Branch of the Bureau of Air Quality, Nevada Division of Environmental Protection at or on the web at

Question for LCB: which of the following California documents do I need to make available? Are there ones I've missed?

- Title 13 CCR (<http://ccr.oal.ca.gov>)
- Title 13 CCR §1956.8 (effective 10/01/01): see Final Regulation Order below.
- Title 13 CCR §§2113-2121 (voluntary recalls)
- Calif. Health & Safety Code (www.arb.ca.gov/bluebook/bb01/bb01.htm)
sec. 43656 (www.arb.ca.gov/bluebook/bb01/toc.htm#hs26)

The following three documents are available at www.arb.ca.gov/regact/ntetest/ntetest.htm

- State of California Air Resources Board, Staff Report: Initial Statement of Reasons, October 20, 2000
- State of California Air Resources Board, Updated Informative Digest: Amendments To Adopt Not-To-Exceed And Euro III European Stationary Cycle Emission Test Procedures For The 2005 And Subsequent Model Year Heavy-Duty Diesel Engines, adopted December 8, 2000, filed with CA Sec'y of State July 25, 2001
- Final Regulation Order
 - Final Test Procedures (Amendments to the California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles)