

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R117-00

Effective June 1, 2001

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

AUTHORITY: §§1-16, NRS 445B.210 and 445B.300.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Motor vehicle” has the meaning ascribed to it in NRS 485.050.*

Sec. 3. *“Nonroad engine” has the meaning ascribed to it in 40 C.F.R. § 89.2, as that section existed on December 31, 1997.*

Sec. 4. *“Nonroad vehicle” has the meaning ascribed to it in 40 C.F.R. § 89.2, as that section existed on December 31, 1997.*

Sec. 5. *“Special mobile equipment” has the meaning ascribed to it in NRS 482.123.*

Sec. 6. NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to 445B.395, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, *and sections 2 to 5, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 7. NAC 445B.094 is hereby amended to read as follows:

445B.094 1. Except as otherwise provided in subsection 3, “major source” means any stationary source that:

- (a) Is located on one or more contiguous or adjacent properties;
- (b) Is under the common control of the same person or persons;
- (c) Belongs to a single major industrial grouping as described in the *Standard Industrial Classification Manual*, as incorporated by reference in NAC 445B.221; and
- (d) Meets one of the following conditions:
 - (1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501 to 7515, inclusive;
 - (2) Directly emits or has the potential to emit:
 - (I) One hundred tons per year or more of any regulated air pollutant, excluding particulate matter more than 10 microns in diameter; or
 - (II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the commission; or
 - (3) Is located in a particulate matter (PM₁₀) “serious” nonattainment area and directly emits or has the potential to emit 70 tons per year or more of PM₁₀.

FLUSH The director shall consider fugitive emissions in determining whether a stationary source is major for any source category listed in 40 C.F.R. § 52.21(b)(1)(iii), as adopted by reference pursuant to NAC 445B.221, or whether a stationary source of a hazardous air pollutant is a major source. To determine whether a stationary source is a major source of hazardous air pollutants under 42 U.S.C. § 7412, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control.

2. In determining whether a stationary source is a major source, the director shall not consider the emissions from mobile sources subject to regulation under Title II of the federal Clean Air Act, 42 U.S.C. §§ 7521 to 7590, inclusive, or from nonroad engines. ~~[As used in this subsection, “nonroad engine” has the meaning ascribed to it in 40 C.F.R. § 89.2, as that section existed on December 31, 1997.]~~

3. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), the term “major source” is synonymous with the term “major stationary source” as that term is defined in 40 C.F.R. § 52.21(b)(1), as adopted by reference in NAC 445B.221.

Sec. 8. NAC 445B.187 is hereby amended to read as follows:

445B.187 1. “Stationary source” means all buildings, structures, facilities and installations, including temporary sources, which:

- (a) Belong to the same major industrial groupings described in the *Standard Industrial Classification Manual*, as incorporated by reference in NAC 445B.221;
- (b) Are located on one or more contiguous or adjacent properties;
- (c) Are owned or operated by the same person or by persons under common control; and
- (d) Emit or may emit any regulated air pollutant that is regulated under 42 U.S.C. §§ 7401 to 7671q, inclusive, or NAC 445B.001 to 445B.395, inclusive ~~[]~~, **and sections 2 to 5, inclusive, of this regulation.**

2. Contracted operations that support the primary operations of the stationary source are part of the stationary source, except that temporary construction activities, including, without limitation, the construction of emission units, are not part of the stationary source.

3. The term does not include motor vehicles, special mobile equipment, nonroad engines and nonroad vehicles.

Sec. 9. NAC 445B.194 is hereby amended to read as follows:

445B.194 “Temporary source” means any building, structure, facility or installation which:

1. Emits or may emit any regulated air pollutant;
2. May be moved from one location to another; ~~and~~
3. Is located or operated in a location for a period of less than 12 months ~~and~~; *and*
4. *Is not an affected source.*

Sec. 10. NAC 445B.287 is hereby amended to read as follows:

445B.287 1. ~~Unless exempted pursuant to~~ *Except as otherwise provided in subsection 2 and in* NAC 445B.288, an operating permit or permit to construct is required for each stationary source ~~[. A revision of an operating permit or of a permit to construct is required pursuant to the requirements of NAC 445B.321, 445B.322 and 445B.3225 before the stationary source may be modified.] and:~~

(a) If a stationary source is a Class I source, a revision of the operating permit or of the permit to construct is required pursuant to the requirements of NAC 445B.321 and 445B.322 before the stationary source may be modified.

(b) If a stationary source is a Class II source, a revision of the operating permit or of the permit to construct is required pursuant to the requirements of NAC 445B.3225 before the stationary source may be modified.

2. *A Class I source is not subject to the provisions of paragraph (a) of subsection 1 if the source is not a major source, an affected source or a solid waste incineration unit required to obtain a permit pursuant to 42 U.S.C. § 7429(e). For a Class I source which is not a major source and which subsequently becomes subject to a standard or other requirement under 42*

U.S.C. § 7411 or 7412, the administrator will determine whether to exempt the source from the requirement to obtain a Class I operating permit at the time that the new standard is adopted.

3. An operating permit or permit to construct may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the stationary source for the effective time remaining on the original operating permit pursuant to NAC 445B.319.

~~3.~~ 4. For the purposes of this section, “permit to construct” means a document issued and signed by the director before November 1, 1995, certifying that:

(a) Adequate empirical data for a stationary source has been received and constitutes approval of location; or

(b) All portions of NAC 445B.300 to 445B.313, inclusive, and any other provisions of NAC 445B.001 to 445B.395, inclusive, *and sections 2 to 5, inclusive, of this regulation* have been complied with and constitutes approval of location and for construction.

Sec. 11. NAC 445B.288 is hereby amended to read as follows:

445B.288 1. ~~Except as otherwise provided in subsection 2, no existing or new stationary source which is a major source is exempt from the requirement to obtain an operating permit.~~

~~2. The following stationary sources are exempt from the requirement to obtain an operating permit:~~

~~(a) A stationary source which would be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters; and~~

~~(b) A stationary source which would be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 61, Subpart M, Asbestos NESHAP, section 61.145.~~

~~—3. Except as otherwise provided in this subsection, the following existing and new emission units perform insignificant activities and are not required to obtain operating permits:~~

~~—(a) Air conditioning equipment or fuel burning equipment, except internal combustion engines, that individually have a rating:~~

~~——(1) Less than 4,000,000 Btu's per hour; or~~

~~——(2) Equal to or greater than 4,000,000 Btu's per hour, but operating less than 100 hours per calendar year.~~

~~—(b) Motor vehicles and special mobile equipment. As used in this paragraph, "special mobile equipment" has the meaning ascribed to it in NAC 445B.450.~~

~~—(c) Residential and commercial housekeeping vacuum systems.~~

~~—(d) Incinerators with less than 25 lb per hour rated burning capacity.~~

~~—(e) Agricultural land use.~~

~~—(f) Storage containers for petroleum liquid or storage facilities for volatile organic liquid having a capacity of less than 40,000 gallons which are not subject to 40 C.F.R. Part 60, Subparts K, Ka or Kb.~~

~~—(g) Equipment or contrivances used exclusively for the processing of food for human consumption.~~

~~—(h) Disturbing topsoil of less than 5 acres.~~

~~—(i) Maximum allowable throughput of less than 50 lb per hour, unless the emission unit directly emits or has the potential to emit a hazardous air pollutant.~~

~~—(j) Portable internal combustion engines that, individually, have a rating:~~

~~——(1) Less than 500 horsepower output; or~~

~~—(2) Equal to or greater than 500 horsepower output, but operating less than 100 hours per calendar year.~~

~~—(k) Stationary internal combustion engines that, individually, have a rating:~~

~~—(1) Less than 250 horsepower output; or~~

~~—(2) Equal to or greater than 250 horsepower output, but operating less than 100 hours per calendar year.~~

~~—(l) Emergency generators.~~

~~—(m) Other emission units exempted by the director from the requirement of obtaining an operating permit. The director may:~~

~~—(1) Exempt emission units from the requirement of obtaining an operating permit only if he determines that:~~

~~—(I) The operation of the emission unit will not result in emissions of hazardous air pollutants that exceed 1 pound per hour or 1,000 pounds per year;~~

~~—(II) The operation of the emission unit will not result in emissions of regulated air pollutants that exceed 4,000 pounds per year;~~

~~—(III) The operation of the emission unit will not result in emissions of regulated air pollutants that exceed any other emissions limitation pursuant to an applicable requirement; and~~

~~—(IV) The operation of the emission unit will not result in emissions of regulated air pollutants that adversely impact public health or safety.~~

~~—(2) Consider the impacts of the combined emissions of multiple emission units to determine whether to exempt a specific emission unit.~~

FLUSH ~~The potential emissions from the emission units listed in this subsection must be included in the determination of whether a stationary source is a major source, except for the potential emissions~~

~~from motor vehicles and special mobile equipment, residential and commercial housekeeping vacuum systems, agricultural land use and disturbing top soil of less than 5 acres.~~

~~—4.— As used in this section:~~

~~—(a) “Emergency generator” means an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages.~~

~~—(b) “Internal combustion engine” means any fuel burning, heat generating engine, except engines in the motor vehicles or the special mobile equipment described in NRS 445B.740, 445B.745 and 445B.750 and NAC 445B.450.]~~ *The following categories of sources are not*

required to obtain an operating permit:

(a) A source that would otherwise be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.

(b) A source that would otherwise be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos, section 61.145.

(c) Agricultural equipment used in the normal operation of a farm, other than agricultural equipment which is classified as, or located at, a source for which a permit is required under Title V of the Act or which is subject to any standard set forth in 40 C.F.R. Part 60 or 61.

2. The following emission units are considered to be insignificant activities unless the emission unit is otherwise subject to another specific applicable requirement, including, without limitation, any requirement or standard set forth in 40 C.F.R. Part 60, 61 or 63:

(a) Any equipment or other contrivance used exclusively for the processing of food for human consumption.

(b) An incinerator which has a rated burning capacity that is less than 25 pounds per hour.

(c) An emission unit that has a maximum allowable throughput or batch load rate of less than 50 pounds per hour, unless the emission unit directly emits, or has the potential to emit, a hazardous air pollutant.

(d) A storage container for petroleum liquid, or a storage facility for volatile organic liquid, that has a capacity of less than 40,000 gallons.

(e) Except as otherwise provided in paragraphs (f), (g) and (h), air-conditioning equipment or fuel-burning equipment that, individually, has a rating which is:

(1) Less than 4,000,000 Btu's per hour; or

(2) Equal to or greater than 4,000,000 Btu's per hour if the equipment operates less than 100 hours per calendar year.

(f) A portable internal combustion engine that has a rating for output which is:

(1) Less than 500 horsepower; or

(2) Equal to or greater than 500 horsepower if the engine operates less than 100 hours per calendar year.

(g) A stationary internal combustion engine that has a rating for output which is:

(1) Less than 250 horsepower; or

(2) Equal to or greater than 250 horsepower if the engine operates less than 100 hours per calendar year.

(h) An emergency generator. Except as otherwise provided in this paragraph, an emergency generator qualifies as an insignificant activity pursuant to this paragraph only if the emergency generator is an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages. An

emergency generator that is owned or operated by a Class II source and whose potential to emit is calculated on the basis of less than 500 hours of operation does not qualify as an insignificant activity.

3. If an emission unit is considered an insignificant activity and is subject to a limitation on its hours of operation pursuant to subsection 2, the owner or operator of the emission unit shall maintain an operating log of the hours of operation of the emission unit. The operating log must be maintained at the site of the emission unit and made available to the director upon his request. The owner or operator shall retain the operating log for not less than 5 years.

4. The director may, upon written request and a satisfactory demonstration by an applicant, approve an emission unit as an insignificant activity if the emission unit is not otherwise subject to another specific applicable requirement, including, without limitation, any requirement or standard set forth in 40 C.F.R. Part 60, 61 or 63. To be approved as an insignificant activity, an emission unit must meet the following criteria:

(a) The operation of the emission unit, not considering controls or limits on production, type of materials processed, combusted or stored, or hours of operation, will not result in:

(1) Emissions of a hazardous air pollutant that exceed 1 pound per hour or 1,000 pounds per year, as appropriate;

(2) Emissions of regulated air pollutants that exceed 4,000 pounds per year;

(3) Emissions of regulated air pollutants that exceed any other limitation on emissions pursuant to any other applicable requirement; or

(4) Emissions of regulated air pollutants that adversely impact public health or safety, or exceed any ambient air quality standards; and

(b) The emissions from the emission unit are not relied on to avoid any other applicable requirements.

FLUSH *If there are multiple emission units, the director may, after considering the impact of the combined emissions of multiple emission units, determine whether to approve one or more of the specific emission units as an insignificant activity.*

5. Except as otherwise provided in NAC 445B.094, emissions from insignificant activities, as determined pursuant to this section, must be included in any determination of whether a stationary source is a major source.

6. A stationary source is not required to obtain an operating permit pursuant to NAC 445B.001 to 445B.395, inclusive, and sections 2 to 5, inclusive, of this regulation for any emission unit determined to be an insignificant activity in accordance with this section, as long as the stationary source is not otherwise subject to any other requirement to obtain an operating permit under Title V of the Act. Such an exclusion from the requirements relating to permitting is not an exclusion or exemption from any other requirement set forth in NAC 445B.001 to 445B.395, inclusive, and sections 2 to 5, inclusive, of this regulation relating to the operation of the emission unit determined to be an insignificant activity.

7. A stationary source which consists solely of insignificant activities as determined pursuant to this section and which is not otherwise subject to any other requirement to obtain an operating permit under Title V of the Act is not required to obtain an operating permit to operate as a stationary source. Such an exclusion from the requirements relating to permitting is not an exclusion or exemption from any other requirement set forth in NAC 445B.001 to 445B.395, inclusive, and sections 2 to 5, inclusive, of this regulation relating to the operation of the stationary source or any insignificant activity that is a part of the stationary source.

Sec. 12. NAC 445B.289 is hereby amended to read as follows:

445B.289 **1.** An owner or operator *of a stationary source* must file a Class I-A application, *on a form provided by the director*, and obtain a Class I operating permit for:

~~{1. An existing major source;~~

~~—2. An existing major}~~

(a) A Class I existing stationary source;

(b) A Class I existing stationary source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the stationary source is subject only to the requirements of 42 U.S.C. § 7412(r);

~~{3. An existing major}~~

(c) A Class I existing stationary source in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a);

~~{4.}~~ *(d)* An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e); or

~~{5.}~~ *(e)* An affected source.

2. *If an existing stationary source becomes subject to the requirements of a Class I stationary source, the owner or operator of the existing source must submit a Class I-A application to the director within 12 months after the date on which the stationary source becomes subject to the requirements for Class I sources.*

Sec. 13. NAC 445B.290 is hereby amended to read as follows:

445B.290 **1.** An owner or operator *of a stationary source* must file a Class I-B application, on a form provided by the director, and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

~~[1.] A proposed new major source;~~

~~2.] (a) A Class I existing stationary source;~~

(b) A proposed modification for which a revision of an operating permit is requested pursuant to NAC 445B.321 or 445B.322 ~~[,]~~ to a ~~[major]~~ *Class I* stationary source;

~~[3.] (c) A modification to a Class II source that results in total emissions of any regulated air pollutant above the thresholds defined in NAC 445B.094 for a major source;~~

~~[4.] (d) A proposed new Class I stationary source;~~

(e) A proposed new ~~[major]~~ *Class I stationary* source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the ~~[major]~~ *Class I stationary* source is subject only to the requirements of 42 U.S.C. § 7412(r); or

~~[5.] (f) A proposed new stationary source which is included in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a).~~

2. If a new stationary source becomes subject to the requirements of a Class I stationary source, the owner or operator of the new stationary source must submit a Class I-B application to the director within 12 months after the date on which the new stationary source becomes subject to the requirements for Class I sources.

3. An affected source that is not a major source and is not otherwise subject to the requirements of paragraph (f) of subsection 1 may apply for a Class II operating permit. If an affected source obtains a Class II operating permit pursuant to this subsection, the affected source must file with the director:

(a) A completed application for an acid rain permit before the source commences operation; and

(b) A Class I-B application within 12 months after the date on which the Class II operating permit was issued to the affected source.

Sec. 14. NAC 445B.295 is hereby amended to read as follows:

445B.295 1. An application for an operating permit must include:

(a) Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and his agent, and the name and telephone number of the manager of the plant or another appropriate person to contact;

(b) A description of the stationary source's processes and products by Standard Industrial Classification Code, including any processes and products associated with an alternative operating scenario identified by the owner or operator;

(c) A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each emission unit which is a part of the stationary source;

(d) An identification and a description of any equipment for the control of air pollution and any devices or activities for monitoring compliance with emission limitations;

(e) Limitations on the operation of the stationary source or any standards for work practices which affect emissions for all regulated air pollutants at the stationary source;

(f) An explanation of any proposed exemption from any applicable requirement;

(g) The location of any records that the applicant must keep pursuant to the requirements of the operating permit, if the records are kept at a location other than the emitting facility; and

(h) Other specific information that the director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

2. In addition to the information required pursuant to subsection 1, an application for a Class I operating permit must include:

(a) Descriptions of all emissions of any pollutants for which the source is major and all emissions of regulated air pollutants from all emission units.

(b) An identification and a description of all points of emissions and all activities which may generate emissions of the regulated air pollutants described in paragraph (a) in sufficient detail to establish the basis for the applicability of standards and fees.

(c) The emission rates of all regulated air pollutants that are subject to an emissions limitation pursuant to an applicable requirement. The emission rates must be described in tons per year and in such terms as are necessary to establish compliance using the applicable standard reference test method.

(d) Any other information required by any applicable requirement.

(e) The calculations on which the information in *this subsection and* subsection 1 ~~and this subsection~~ are based.

(f) A citation of and a description of all applicable requirements.

(g) A reference to any applicable test method used for determining compliance with each applicable requirement.

(h) A compliance plan that contains ~~[, with respect to all applicable requirements, each of the following:~~

~~—— (1) A narrative description of the compliance status of the stationary source.~~

~~—— (2) A compliance certification by a responsible official of the stationary source, stating that the owner or operator must comply in a timely manner with any new applicable requirement that becomes effective during the term of the operating permit. This certification must include a~~

~~description of the test methods and the requirements for monitoring, enhanced monitoring, recordkeeping and reporting that the stationary source will use to comply with the new applicable requirement, fuel use, the rate of production, raw materials and operating schedules which are used to determine the compliance status of the stationary source.~~

~~—— (3) If the stationary source is not in compliance with any applicable requirements at the time of the issuance of the operating permit, a narrative description and a schedule for achieving compliance which includes remedial measures to be taken, an enforceable sequence of actions with milestones, and certified progress reports that must be submitted every 6 months. This schedule must be at least as stringent as that contained in any consent decree rendered by a federal court, a court of this state or an administrative order which applies to the stationary source.~~

~~—— (4) A schedule for the submission of compliance certifications during the term of the operating permit that provides for the submission of certifications at least annually or more frequently if required by an applicable requirement or the director.] *the following:*~~

(1) A description of the compliance status of the stationary source with respect to all applicable requirements.

(2) A description that includes the following:

(I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.

(II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis.

(III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a narrative description of how the stationary source will achieve compliance with each such requirement.

(3) Schedules of compliance as follows:

(I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.

(II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis, unless the applicable requirement expressly requires a more detailed schedule for compliance.

(III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a schedule of compliance for each applicable requirement. Such a schedule must include a schedule of remedial measures, including, without limitation, an enforceable sequence of actions with milestones, leading to compliance with the applicable requirements with which the stationary source is not in compliance. If the stationary source is subject to a judicial consent decree or an administrative order regarding its noncompliance, the schedule must resemble and be at least as stringent as any schedule contained in the decree or order. Such a schedule of compliance must be supplemental to, and must not sanction noncompliance with, the applicable requirements on which it is based.

(4) A schedule for the submission of certified progress reports at least once every 6 months for a schedule of compliance to remedy a violation. Such progress reports must contain the following:

(I) Dates for performing activities or achieving milestones or compliance required in the schedule of compliance, and the dates when the activities, milestones or compliance occurred or were achieved; and

(II) An explanation as to why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measures adopted.

FLUSH *The content requirements of the compliance plan specified in this paragraph apply and must be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations adopted pursuant to Title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the emissions limitations relating to acid rain.*

(i) Requirements for compliance certification, including:

(1) A certification of compliance with all applicable requirements by a responsible official, consistent with this section and 42 U.S.C. § 7414(a)(3);

(2) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping and reporting requirements, and methods of testing;

(3) A schedule for submission of certifications of compliance during the term of the permit to be submitted not less frequently than annually, or more frequently if so specified by the underlying applicable requirement or the permitting authority; and

(4) A statement indicating the status of compliance by the stationary source with any applicable enhanced monitoring and compliance certification requirements of the Act.

3. In addition to the information required pursuant to subsections 1 and 2, a Class I-B application for a Class I operating permit must contain:

(a) For a proposed new major source or a proposed significant modification to an existing stationary source which is subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, as adopted pursuant to NAC 445B.221:

(1) All information required by 40 C.F.R. § 52.21; and

(2) Any other information that the director determines is necessary to process the application.

(b) For a proposed new major source or a proposed significant modification to an existing stationary source which is not subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality:

(1) All information required by NAC 445B.308 to 445B.313, inclusive;

(2) Any other information that the director determines is necessary to process the application; and

(3) For stationary sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501-7515, inclusive, all information required by 42 U.S.C. § 7503.

(c) For a proposed new major source or a proposed significant modification to an existing stationary source which is subject to the requirements of 42 U.S.C. § 7412 regarding hazardous air pollutants:

(1) All information required by NAC 445B.308 to 445B.313, inclusive; and

(2) Any other information that the director determines is necessary to process the application.

Sec. 15. NAC 445B.316 is hereby amended to read as follows:

445B.316 1. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit must ~~+~~ *include all applicable requirements and:*

(a) Include emission limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of the issuance of the operating permit.

(b) Specify the origin of and authority for each term or condition of the operating permit and explain any difference in form between a term or condition of the operating permit and the applicable requirement upon which the term or condition is based.

(c) Contain requirements for monitoring that are sufficient to ensure compliance with the conditions of the operating permit, including:

(1) All procedures or test methods for monitoring and analyzing emissions required pursuant to the applicable requirements or adopted pursuant to 42 U.S.C. §§ 7414(a)(3) or 7661c(b).

(2) If the applicable requirement does not require periodic testing or monitoring, periodic monitoring that is sufficient to yield reliable data from the relevant period which is representative of the stationary source's compliance with the conditions of the operating permit. Such monitoring requirements must use terms, test methods, units, averaging periods and other statistical conventions consistent with the applicable requirement.

(3) As necessary, requirements concerning the use, maintenance and the installation of equipment, or methods for monitoring.

(d) Incorporate all applicable requirements for recordkeeping and require, where applicable:

(1) Records of monitoring information required by the conditions of the permit, including the date, the location, and the time of the sampling or the measurements and the operating conditions at the time of the sampling or measurements; and

(2) The date on which the analyses were performed, the company that performed them, the analytical techniques that the company used and the results of such analyses.

(e) Incorporate all applicable reporting requirements and require:

(1) Submittal of reports of any required monitoring every 6 months, within 8 weeks after the end of the reporting period;

(2) Prompt reporting of all deviations from the requirements of the operating permit; and

(3) The probable cause of all deviations and any action taken to correct the deviations to be reported.

(f) Contain the terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the stationary source in his application and approved by the director. Such terms and conditions must ensure that all applicable requirements are met, and must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.

(g) ~~Contain~~ *If the applicant for the permit requests the trading of emissions increases and decreases, contain* the terms and conditions ~~[of any federally enforceable emissions cap which has been approved by the director and the terms and conditions of any trading of emissions under the cap which has been approved by the director.]~~ *for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading increases and decreases without a case-by-case approval of each such trade. The terms and conditions:*

- (1) Must include all terms required by this section to determine compliance;*
- (2) May extend the permit shield described in subsection 2 to all terms and conditions that allow such increases and decreases in emissions; and*
- (3) Must meet all applicable requirements and requirements set forth in NAC 445B.001 to 445B.395, inclusive, and sections 2 to 5, inclusive, of this regulation for a Class I source.*

(h) Contain terms and conditions requested by the applicant and approved by the director, including all terms required by this section to determine compliance, which allow for the trading of emissions increases and decreases within the permitted facility without requiring a revision of the permit, solely to comply with a federally enforceable emissions cap that is established in the permit independent of any applicable requirements that would otherwise apply. Provisions relating to the trading of emissions for any emission units for which emissions are not quantifiable or for which there are not replicable procedures to enforce the emissions trades will not be allowed. Any requests for the trading of emissions must be made pursuant to NAC 445B.320. The permit must also require compliance with all applicable requirements, and contain the replicable procedures and terms of the permit which ensure that the trade of emissions is quantifiable and enforceable. The permit shield described in subsection 2 may, upon request, be extended to the terms and conditions that allow such increases and decreases in emissions.

*(i) Contain a schedule of compliance for **the** stationary ~~sources that are not in compliance with any applicable requirement at the time the operating permit is issued, including:~~*

- ~~—— (1) Semiannual progress reports with dates for achieving milestones;~~
- ~~—— (2) Prior notice of and explanations for missed deadlines; and~~
- ~~—— (3) Any preventive or corrective measures taken.~~

~~(i)~~ *source that contains all the elements required in the schedule for compliance provided in the application pursuant to paragraph (h) of subsection 2 of NAC 445B.295.*

(j) Contain requirements for compliance certification with any applicable requirement that reflect the terms and conditions of the operating permit. The permit must contain the approved deadlines for the submittal of the compliance certification. The compliance certification must be submitted annually, or more frequently if required by an applicable requirement, to the director. A copy of the compliance certification must be submitted to the administrator. A compliance certification must include:

- (1) An identification of each term or condition of the operating permit that is the basis of the certification;
- (2) The status of the stationary source's compliance with any applicable requirement;
- (3) A statement of whether compliance was continuous or intermittent;
- (4) The method used for determining compliance; and
- (5) Any other facts the director determines to be necessary to determine compliance.

~~(i) Include~~

2. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit may provide a permit shield within the Class I permit that must include a statement that compliance with the conditions of the operating permit shall be deemed to be compliance with any applicable requirements as of the date of the issuance of the operating permit, if:

~~(1)~~ (a) Such applicable requirements are included and are specifically identified in the operating permit; or

~~(2)~~ (b) The director, in acting on the application for or the revision of an operating permit, determines in writing that other requirements specifically identified are not applicable to the

stationary source and the operating permit includes the determination or a concise summary of the determination.

~~[2.]~~

FLUSH *A Class I permit that does not expressly state that a permit shield exists is presumed not to provide such a shield. A permit shield authorized pursuant to this subsection does not and may not apply to a minor revision to a Class I operating permit.*

3. All provisions of a Class I operating permit or the modification of such a permit regarding the prevention of significant deterioration of air quality must be contained in a clearly identified and separate portion of the operating permit. This portion of the operating permit must state that:

(a) The operating permit will expire if construction is:

- (1) Not commenced within 18 months after the issuance of the operating permit; or
- (2) Delayed for 18 months after it is commenced;

(b) The operating permit becomes effective 30 days after the issuance of the director's final determination; and

(c) The provisions of the operating permit regarding the prevention of significant deterioration of air quality are subject to the requirements of 40 C.F.R. Part 124, Subparts A and C.

Sec. 16. NAC 445B.331 is hereby amended to read as follows:

445B.331 1. The fee for the replacement of a lost or damaged operating permit is \$200.

2. The fee for a request for a change of the location of an emission unit is \$100. Such a request must be made in writing to the director and submitted with the fee for each operating permit *as follows:*

(a) For a Class I source, at least 10 days in advance of each change of location.

(b) For a Class II source, at least 10 days before the commencement of the operation of the emission unit at the new location. An owner or operator must not operate the emission unit at the new location until the director approves the location.

NOTICE OF ADOPTION OF TEMPORARY REGULATION R117-00

The State Environmental Commission adopted this regulation on May 10, 2001.

Notice date: 1/16/01, 1/25/01& 1/30/01

Date of Adoption by Agency: 5/10/01

Hearing date: 10/27/00, 10/28/00 & 10/5/00

Filing date: 6/1/01

LCB File No. R117-00

INFORMATIONAL STATEMENT

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PERMANENT PETITION 2000-12 (R-117-00)
STATE ENVIRONMENTAL COMMISSION

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B. This permanent regulation deals with amendments to the air pollution operating permit program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2000-12 (R-117-00), was noticed three (3) times: on January 16, 2001, January 25 and January 30, 2001 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. A report was prepared that summarized the public meetings. Regulatory workshops were conducted by the Nevada Division of Environmental Protection's Bureau of Air Quality on September 27, 2000 in Reno, September 28, 2000 in Las Vegas and October 5, 2000 in Elko. A second round of workshops was held April 18, 2001 in Reno, April 19, 2001 in Las Vegas. The regulated community was mailed the proposed rules. The regulation was adopted by the State Environmental Commission on May 10, 2001. The US Navy appeared at the hearing with concerns regarding what type of mobile equipment would be affected by the proposed regulation. The issues raised were dealt with by amendments the regulations. US Navy personnel also made oral comments regarding their concerns dealing with tactical vehicles and off-road operations. See exhibits #10 and #11. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

| | | | |
|-----|--|-----------|----------|
| (a) | Attended each hearing; | 35 | |
| (b) | Testified at each hearing: | 2 | |
| (c) | Submitted to the agency written comments: | | 2 |

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral testimony was received that opposed or supported the permanent regulation. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. 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 permanent regulation was adopted by the State Environmental Commission on May 10, 2001 with amendments.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

The proposed amendments will require additional review time for industry to evaluate insignificant activities. The proposed amendments will not have an adverse short-term or long-term economic impact upon the regulated communities.

(b) Estimated economic effect on the public;

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement.

7. 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.

There is no overlap or duplication of any other state or government agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The proposed amendments are no more stringent than what is required in 40 CFR Part 70, the State Operating Permit Program regulations, as established by federal law.

9. 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.

This regulation does not provide for any new or increased fees.