

**ADOPTED REGULATION OF THE STATE**

**ENVIRONMENTAL COMMISSION**

**LCB File No. R103-02**

Effective December 17, 2002

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

AUTHORITY: §§ 1-42, 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 17, inclusive, of this regulation.

**Sec. 2.** *“Operating permit to construct” means an operating permit signed and issued by the director which:*

*1. Authorizes the construction and an initial period of operation of a proposed new Class I stationary source or modification to an existing Class I stationary source;*

*2. Includes the conditions which apply to the construction and the initial period of operation of the Class I stationary source or modification to an existing Class I stationary source; and*

*3. Includes the requirement that the holder of the operating permit to construct submit a complete application for a Class I operating permit or for a modification of an existing Class I operating permit within 12 months after the date of the initial start-up of the new or modified Class I stationary source.*

**Sec. 3.** *1. To establish a new Class I stationary source or modify an existing Class I stationary source, the owner or operator of a proposed new Class I stationary source or the existing Class I stationary source must:*

*(a) Apply for and obtain a new or revised operating permit to construct pursuant to NAC 445B.001 to 445B.3485, inclusive, and sections 2 to 17, inclusive, of this regulation; or*

*(b) Apply for and obtain a new or revised Class I operating permit pursuant to NAC 445B.001 to 445B.3485, inclusive, and sections 2 to 17, inclusive, of this regulation.*

*2. If an owner or operator obtains an operating permit to construct, the owner or operator is not required to obtain an operating permit or revised operating permit before commencing initial construction, start-up and operation of the proposed new Class I stationary source or the modification to the existing Class I stationary source.*

*3. If an owner or operator has a valid operating permit to construct, the owner or operator may continue to operate a new Class I stationary source or modifications to an existing Class I stationary source under that operating permit to construct if the owner or operator submits a complete application for a Class I operating permit within 12 months after the date of initial start-up of the new Class I stationary source or modifications to the existing Class I stationary source.*

**Sec. 4. 1.** *In addition to the information required pursuant to NAC 445B.295, an application for an operating permit to construct or for a revision to an operating permit to construct must include:*

*(a) Descriptions of all emissions of any regulated pollutants for which the source is defined as a major source.*

*(b) A description of all emissions of regulated air pollutants from all emission units.*

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

*(d) 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.*

*(e) Any other information required by any applicable requirement.*

*(f) The calculations on which the information described in this subsection are based.*

*(g) Citations to and a description of all applicable requirements.*

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

*2. In addition to the information required pursuant to NAC 445B.295 and section 8 of this regulation, an application for an operating permit to construct must contain:*

*(a) For a proposed new major source, as defined in 40 C.F.R. § 52.21, or a proposed major modification, as defined in 40 C.F.R. § 52.21, 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, as defined in NAC 445B.094, or a proposed modification, as defined in NAC 445B.099, 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.*

*3. In addition to the information required pursuant to subsections 1 and 2, an application for an operating permit to construct must include an environmental evaluation pursuant to NAC 445B.308, 445B.310 and 445B.311.*

*Sec. 5. 1. The director shall cite the legal authority for each condition contained in an operating permit to construct.*

*2. An operating permit to construct must contain the following conditions:*

*(a) The expiration date of the operating permit to construct must be defined as described in section 7 of this regulation.*

*(b) The holder of the operating permit to construct shall retain records of all required monitoring data and supporting information for 5 years after the date of the sample collection, measurement, report or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.*

*(c) Each of the conditions and requirements of the operating permit to construct is severable and, if any are held invalid, the remaining conditions and requirements continue in effect.*

*(d) The holder of the operating permit to construct shall comply with all conditions of the operating permit to construct. Any noncompliance constitutes a violation and is a ground for:*

*(1) An action for noncompliance;*

*(2) The revoking and reissuing, or the terminating, of the operating permit to construct by the director; or*

*(3) The reopening or revising of the operating permit to construct by the holder of the operating permit to construct as directed by the director.*

*(e) The need to halt or reduce activity to maintain compliance with the conditions of the operating permit to construct is not a defense to noncompliance with any condition of the operating permit to construct.*

*(f) The director may revise, revoke and reissue, reopen and revise, or terminate the operating permit to construct for cause.*

*(g) The operating permit to construct does not convey any property rights or any exclusive privilege.*

*(h) The holder of the operating permit to construct shall provide the director, within a reasonable time, with any information that the director requests in writing to determine whether cause exists for revoking or terminating the operating permit to construct, or to determine compliance with the conditions of the operating permit to construct.*

*(i) The holder of the operating permit to construct shall allow the director or any authorized representative of the director, upon presentation of credentials, to:*

*(1) Enter upon the premises of the holder of the operating permit to construct where:*

*(I) The stationary source is located;*

*(II) Activity related to emissions is conducted; or*

*(III) Records are kept pursuant to the conditions of the operating permit to construct;*

*(2) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the operating permit to construct;*

*(3) Inspect, at reasonable times, any facilities, practices, operations or equipment, including any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the operating permit to construct; and*

*(4) Sample or monitor, at reasonable times, substances or parameters to determine compliance with the conditions of the operating permit to construct or applicable requirements.*

*(j) A responsible official of the stationary source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the operating permit to construct are true, accurate and complete.*

*3. An operating permit to construct must contain:*

*(a) All applicable requirements, emission limits and standards;*

*(b) Monitoring methods adequate to show compliance;*

*(c) Adequate recordkeeping and reporting requirements as deemed by the director; and*

*(d) Any other requirements deemed necessary by the director.*

*Sec. 6. 1. Except for sources that are subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 45 days after the date of receipt of an application for an operating permit to construct, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director*

*determines that the application is incomplete within 45 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or the 46th day after the date of receipt, whichever is earlier. Within 90 days after the official date of submittal, the director shall issue or deny an operating permit to construct.*

*2. For sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 30 days after the date of receipt of an application for an operating permit to construct, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or the 31st day after the date of receipt, whichever is earlier. Within 180 days after the official date of submittal, the director shall issue or deny an operating permit to construct.*

*3. If, after the official date of submittal, the director discovers that additional information is required to act on the application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3485, inclusive, and sections 2 to 17, inclusive, of this regulation. The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the director on the*

*application submitted to the director.*

*4. The director's review and preliminary intent to issue or deny an operating permit to construct and the proposed conditions for the operating permit to construct must be made public and maintained on file with the director during normal business hours at 333 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 days to enable public and EPA participation and comment.*

*5. The director shall:*

*(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the stationary source is located or in a state publication designed to give general public notice;*

*(b) Provide written notice to persons on a mailing list developed by the director, including those persons who request in writing to be included on the list;*

*(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public;*

*(d) Provide a copy of the director's preliminary intent to issue or deny the operating permit to construct and the proposed operating permit to construct to the administrator; and*

*(e) Establish a 30-day period for comment from the public and the EPA.*

*Sec. 7. 1. If construction will occur in one phase, an operating permit to construct for a new or modified stationary source expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The director may extend the date on which the construction may be commenced upon a showing that the extension is justified.*



*2. If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the director. An operating permit to construct expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the director. The director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.*

*3. An operating permit to construct issued to a new stationary source or issued for a modification to an existing stationary source that is subject to the permitting requirements set forth in 40 C.F.R. § 52.21 is subject to the expiration requirements established in 40 C.F.R. § 52.21(r)(2).*

*4. An operating permit to construct expires if a complete application for a Class I operating permit or modification of an existing Class I operating permit is not submitted within 12 months after the date of initial start-up.*

**Sec. 8. 1.** *The information otherwise required by this section is not required if the owner or operator applied for an operating permit to construct and no changes have been made to the facility. The information provided in the application for the operating permit to construct must be resubmitted as part of the Class I operating permit application.*

*2. In addition to the information required pursuant to NAC 445B.295, 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 pursuant to 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 are based.*

*(f) Citations to 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 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. 9. 1.** *An owner or operator of any stationary source that is not subject to the requirements of NAC 445B.337 or 445B.3375 must submit an application for and obtain a Class II operating permit or, if applicable, a Class III operating permit pursuant to NAC 445B.3485.*

*2. For a proposed stationary source or a proposed modification to a stationary source that is not subject to the requirements of NAC 445B.337 or 445B.3375, an owner or operator must file an application and obtain a Class II operating permit or a revision to an existing Class II operating permit or, if applicable, a Class III operating permit or a revision to an existing Class III operating permit pursuant to NAC 445B.3485, before commencing construction of the proposed stationary source or the proposed modification.*

**Sec. 10.** *For the purposes of determining the effects of a Class II source on the quality of ambient air pursuant to NAC 445B.308, 445B.310 and 445B.311, the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.*

**Sec. 11. 1.** *Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class II operating permit or for the revision of a Class II operating permit, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working*

*days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. The director shall issue or deny a Class II operating permit or the revision of a Class II operating permit within 60 days after the official submittal of the application for the Class II operating permit or revision of a Class II operating permit.*

*2. If, after the official date of submittal, the director discovers that additional information is required to act on the application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3485, inclusive, and sections 2 to 17, inclusive, of this regulation. The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the director on the application submitted to the director.*

**Sec. 12.** *1. All Class II operating permits must be renewed 5 years after the date of issuance.*

*2. A complete application for renewal of a Class II operating permit must be submitted to the director on the form provided by the director with the appropriate fee at least 30 days before the expiration date of the current Class II operating permit.*

*3. An application for the renewal of a Class II operating permit must comply with all requirements for the issuance of an initial Class II operating permit as specified in section 11 of this regulation.*

*4. If an application for the renewal of a Class II operating permit is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing Class II operating permit until the permit is renewed or the application for renewal is denied. If such an application is not submitted in accordance with subsection 2, the stationary source may be required to cease operation when the Class II operating permit expires, and may not recommence the operation until the Class II operating permit is renewed.*

*5. The fee for the renewal of a Class II operating permit is specified in NAC 445B.327.*

**Sec. 13. 1.** *The director may issue a Class II general permit covering numerous similar stationary sources.*

*2. A Class II general permit must set forth the criteria by which stationary sources may qualify for the Class II general permit.*

*3. After the effective date of a Class II general permit, the owner or operator of any stationary source that meets the criteria set forth in the Class II general permit may request authority to operate under the Class II general permit. The request must be in writing and must include all the information required by the Class II general permit.*

*4. The director shall grant or deny authority to operate under a Class II general permit within 30 days after his receipt of a request for such authority. The director's decision to grant or deny an application for authority to operate under the terms of a Class II general permit is not subject to the requirements of section 11 of this regulation.*

*5. A person may challenge the provisions of a Class II general permit only at the time the Class II general permit is issued. The director's grant or denial of authority to operate under a*



*Class II general permit to a stationary source or stationary sources does not provide an opportunity for an administrative review or a judicial review of the Class II general permit.*

*6. The director shall not grant authority to operate under a Class II general permit to an affected source.*

*7. The term of a Class II general permit is 5 years.*

*8. The authority to operate under a Class II general permit expires after 5 years. An owner or operator of a stationary source operating under the authority of a Class II general permit shall apply to renew his authority to operate under the Class II general permit at least 30 days before his authorization expires.*

*9. A stationary source which obtains authorization to operate under a Class II general permit but is later determined not to qualify under the conditions of the Class II general permit may be subject to an action enforcing the prohibition against operating without a permit.*

**Sec. 14.** *For the purposes of determining the effects of a Class III source on the quality of ambient air pursuant to NAC 445B.308, 445B.310 and 445B.311, the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.*

**Sec. 15.** *In addition to the conditions set forth in NAC 445B.315, Class III operating permits must contain, as applicable:*

*1. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with the conditions of the Class III operating permit.*

2. *All requirements for monitoring, testing and reporting that apply to the stationary source.*
3. *A requirement that the owner or operator of the stationary source promptly report any deviations from any requirements of the Class III operating permit.*
4. *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 require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.*
5. *A schedule of compliance for stationary sources that are not in compliance with any applicable requirement or NAC 445B.001 to 445B.3485, inclusive, and sections 2 to 17, inclusive, of this regulation, at the time the Class III operating permit is issued, including:
  - (a) *Semiannual progress reports and a schedule of dates for achieving milestones;*
  - (b) *Prior notice of and explanations for missed deadlines; and*
  - (c) *Any preventive or corrective measures taken.**
6. *Requirements for compliance certification which reflect the terms and conditions of the Class III operating permit. A compliance certification must include:
  - (a) *An identification of each term or condition of the Class III operating permit that is the basis of the certification;*
  - (b) *The status of the stationary source's compliance with any applicable requirement;*
  - (c) *A statement of whether compliance was continuous or intermittent;*
  - (d) *The method used for determining compliance; and*
  - (e) *Any other facts that the director deems necessary to determine compliance.**

**Sec. 16. 1. Except as otherwise provided in NAC 445B.319 and 445B.342, within 10**

*working days after the date of receipt of an application for a Class III operating permit or for the revision of a Class III operating permit, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. The director shall issue or deny a Class III operating permit or the revision of a Class III operating permit within 30 days after the submittal of the application.*

*2. If, after the official date of submittal, the director discovers that additional information is required to act on the application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3485, inclusive, and sections 2 to 17, inclusive, of this regulation. The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the director on the application submitted to the director.*

**Sec. 17. 1.** *All Class III operating permits must be renewed 5 years after the date of issuance.*

*2. A complete application for renewal of a Class III operating permit must be submitted to the director on the form provided by the director with the appropriate fee at least 30 days before the expiration date of the current permit for the Class III source.*

*3. An application for the renewal of a Class III operating permit must comply with all requirements for the issuance of an initial Class III operating permit as specified in section 16 of this regulation.*

*4. If an application for the renewal of a Class III operating permit is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing Class III operating permit until the permit is renewed or the application for the renewal of the Class III operating permit is denied. If an application is not submitted in accordance with subsection 2, the stationary source may be required to cease operation when the Class III operating permit expires, and may not recommence the operation until the Class III operating permit is renewed.*

*5. The fee for the renewal of a Class III operating permit is as specified in NAC 445B.327.*

**Sec. 18.** NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 19.** NAC 445B.123 is hereby amended to read as follows:

445B.123 “Operating permit” has the meaning ascribed to it in NRS 445B.145. Unless otherwise specifically stated, the term includes a Class I, a Class II and a Class III operating permit [.] *and an operating permit to construct.*

**Sec. 20.** NAC 445B.22097 is hereby amended to read as follows:

445B.22097 1. The table contained in this section lists the minimum standards of quality for ambient air.

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NEVADA STANDARDS A			NATIONAL STANDARDS B			
POLLUTANT	AVERAGING TIME	CONCENTRATION	METHOD D	PRIMARY C, E	SECONDARY C, F	METHOD D
Ozone	1 Hour	235 µg/m <sup>3</sup> (0.12 ppm)	Chemiluminescent	235 µg/m <sup>3</sup> (0.12 ppm)	Same as Primary	Chemiluminescent
Ozone-Lake Tahoe Basin, #90	1 Hour	195 µg/m <sup>3</sup> (0.10 ppm)				
Carbon Monoxide less than 5,000' above Mean Sea Level		10,000 µg/m <sup>3</sup> (9.0 ppm)	Nondispersive Infrared	10 mg/m <sup>3</sup>	Same as Primary	Nondispersive Infrared
At or greater than 5,000' above Mean Sea Level	8 Hours	6,670 µg/m <sup>3</sup> (6.0 ppm)		(9.0 ppm)		
Carbon Monoxide at any elevation	1 Hour	40,000 µg/m <sup>3</sup> (35 ppm)		40 mg/m <sup>3</sup> (35 ppm)		
Nitrogen Dioxide	Annual Arithmetic Mean	100 µg/m <sup>3</sup> (0.05 ppm)	Chemiluminescent	100 µg/m <sup>3</sup> (0.05 ppm)	Same as Primary	Chemiluminescent
	Annual	80 µg/m <sup>3</sup>		80 µg/m <sup>3</sup>		

Sulfur Dioxide	Arithmetic Mean	(0.03 ppm)	Ultraviolet Fluorescence	(0.03 ppm)	Same as Primary	-Pararosaniline Method
	24 Hours	365 µg/m <sup>3</sup> (0.14 ppm)		365 µg/m <sup>3</sup> (0.14 ppm)		
	3 Hours	1,300 µg/m <sup>3</sup> (0.5 ppm)		None 1,300 µg/m <sup>3</sup> (0.5 ppm)		
Particulate Matter as PM10	Annual Arithmetic Mean	50 µg/m <sup>3</sup>	High Volume PM10 Sampling	50 µg/m <sup>3</sup>	Same as Primary	High Volume PM10 Sampling
	24 Hours	150 µg/m <sup>3</sup>		150 µg/m <sup>3</sup>		
Lead (Pb)	Quarterly Arithmetic Mean	1.5 µg/m <sup>3</sup>	High Volume Sampling, Acid Extraction and Atomic Absorption Spectrometry	1.5 µg/m <sup>3</sup>	Same as Primary	High Volume Sampling, Acid Extraction and Atomic Absorption Spectrometry
Visibility	Observation	In sufficient amount to reduce the prevailing visibility to less than 30 miles when humidity is less than 70%	Observer or camera	—	—	—
Hydrogen Sulfide	1 Hour	112 µg/m <sup>3</sup> (0.08 ppm)	Cadmium Hydroxide Stracetan Method	—	—	—

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POLLUTANT	AVERAGING TIME	NEVADA STANDARDSA		NATIONAL STANDARDSB		
		CONCENTRATION	METHOD	PRIMARYC, E	SECONDARYC, F	METHOD D
Ozone	1 hour	0.12 ppm (235 µg/m <sup>3</sup> )	Chemiluminescence	0.12 ppm (235 µg/m <sup>3</sup> )	Same as primary	Chemiluminescence
Ozone-Lake Tahoe Basin, #90	1 hour	0.10 ppm (195 µg/m <sup>3</sup> )	Chemiluminescence	--	--	--
Carbon monoxide less than 5,000' above mean sea level	8 hours	9 ppm (10,000 µg/m <sup>3</sup> )	Nondispersive infrared photometry	9 ppm (10,000 µg/m <sup>3</sup> )	None	Nondispersive infrared photometry
At or greater than 5,000' above mean sea level		6 ppm (6,670 µg/m <sup>3</sup> )				
Carbon monoxide at any elevation		1 hour				
Nitrogen dioxide	Annual arithmetic mean	0.053 ppm (100 µg/m <sup>3</sup> )	Gas phase chemiluminescence	0.053 ppm (100 µg/m <sup>3</sup> )	Same as primary	Gas phase chemiluminescence
	Annual arithmetic mean	0.03 ppm (80 µg/m <sup>3</sup> )		0.03 ppm (80 µg/m <sup>3</sup> )		

Sulfur dioxide	24 hours	0.14 ppm (365 µg/m <sup>3</sup> )	Ultraviolet fluorescence	0.14 ppm (365 µg/m <sup>3</sup> )	None	Pararosaniline method
	3 hours	0.5 ppm (1,300 µg/m <sup>3</sup> )		None	0.5 ppm (1,300 µg/m <sup>3</sup> )	
Particulate matter as PM <sub>10</sub> C	Annual arithmetic mean	50 µg/m <sup>3</sup>	High volume PM <sub>10</sub> sampling	50 µg/m <sup>3</sup>	Same as primary	High volume PM <sub>10</sub> sampling
	24 hours	150 µg/m <sup>3</sup>		150 µg/m <sup>3</sup>		
Lead (Pb)	Quarterly arithmetic mean	1.5 µg/m <sup>3</sup>	High volume sampling, acid extraction and atomic absorption spectrometry	1.5 µg/m <sup>3</sup>	Same as primary	High volume sampling, acid extraction and atomic absorption spectrometry
Visibility	Observation	In sufficient amount to reduce the prevailing visibility to less than 30 miles when humidity is less than 70%	Observer or camera	--	--	--
Hydrogen sulfide	1 hour	0.08 ppm (112 µg/m <sup>3</sup> )H	Cadmium hydroxide stractan method	--	--	--

Notes:

Note A: These standards must not be exceeded in areas where the general public has access.

Note B: These standards, other than for ozone, *particulate matter*, and those based on annual averages, must not be exceeded more than once per year. The *1-hour* ozone standard is attained when the expected number of days per calendar year with a maximum hourly average concentration above the standard is equal to or less than one. *The PM<sub>10</sub> 24-hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above the standard, rounded to the nearest 10 µg/m<sup>3</sup>, is equal to or less than one. The expected number of days per calendar year is generally based on an average of the number of times the standard has been exceeded per year for the last 3 years.*

Note C: ~~[Concentration]~~ Where applicable, *concentration* is expressed first in units in which it was adopted. ~~[and is based upon a reference temperature of 25°C and a reference pressure of 760 mm of mercury.]~~ All measurements of air quality *that are expressed as mass per unit volume, such as micrograms per cubic meter*, must be corrected to a reference temperature of 25°C and a reference pressure of 760 mm of Hg (1,013.2 millibars); ppm in this table refers to ppm by volume, or micromoles of regulated air pollutant per mole of gas.

Note D: Any reference method specified in accordance with 40 C.F.R. Part 50 or any reference method or equivalent method designated in accordance with 40 C.F.R. Part 53 may be substituted.

Note E: National primary standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health.

Note F: National secondary standards are the levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a regulated air pollutant.

Note G: For the purposes of this section, prevailing visibility means the greatest visibility which is attained or surpassed around at least half of the horizon circle, but not necessarily in continuous sectors.

Note H: The ambient air quality standard for hydrogen sulfide does not include naturally occurring background concentrations.

2. All values are corrected to reference conditions.

3. As used in this section:

(a) “ $\mu\text{g}/\text{m}^3$ ” means micrograms per cubic meter.

(b) “ppm” means part per million by volume.

4. These standards of quality for ambient air are minimum goals, and it is the intent of the ~~[state environmental]~~ commission in this section to protect the existing quality of Nevada’s air to the extent that it is economically and technically feasible.

**Sec. 21.** NAC 445B.221 is hereby amended to read as follows:



445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, 51.100(nn), 51.165 and 52.21, and Appendix S and Appendix W of Title 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~[1998.]~~ **2000**.

2. The following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, ~~[1998.]~~ **2000**:

(a) Subpart A, General Provisions.

(b) *Subpart C, Emission Guidelines and Compliance Times.*

(c) *Subpart Cb, Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed On or Before September 20, 1994.*

(d) *Subpart Cc, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.*

(e) *Subpart Cd, Emission Guidelines and Compliance Times for Sulfuric Acid Production Units.*

(f) *Subpart Ce, Emission Guidelines for Hospital/Medical/Infectious Waste Incinerator.*

(g) Subpart D, Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

~~[(e)]~~ (h) Subpart Da, Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

~~[(d)]~~ (i) Subpart Db, Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

~~[(e)]~~ (j) Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

~~[(f)]~~ (k) Subpart E, Standards of Performance for Incinerators.

~~(g)~~ (l) Subpart Ea, Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 , and On or Before September 20, 1994.

~~(h)~~ (m) *Subpart Eb, Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994, or for Which Modification or Reconstruction is Commenced After June 19, 1996.*

(n) *Subpart Ec, Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.*

(o) Subpart F, Standards of Performance for Portland Cement Plants.

~~(i)~~ (p) Subpart G, Standards of Performance for Nitric Acid Plants.

~~(j)~~ (q) Subpart H, Standards of Performance for Sulfuric Acid Plants.

~~(k)~~ (r) Subpart I, Standards of Performance for Hot Mix Asphalt Facilities.

~~(l)~~ (s) Subpart J, Standards of Performance for Petroleum Refineries.

~~(m)~~ (t) Subpart K, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.

~~(n)~~ (u) Subpart Ka, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.

~~(o)~~ (v) Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.

~~(p)~~ (w) Subpart L, Standards of Performance for Secondary Lead Smelters.

~~[(q)]~~ (x) Subpart M, Standards of Performance for Secondary Brass and Bronze Production Plants.

~~[(r)]~~ (y) Subpart N, Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.

~~[(s)]~~ (z) Subpart Na, Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.

~~[(t)]~~ (aa) Subpart O, Standards of Performance for Sewage Treatment Plants.

~~[(u)]~~ (bb) Subpart P, Standards of Performance for Primary Copper Smelters.

~~[(v)]~~ (cc) Subpart Q, Standards of Performance for Primary Zinc Smelters.

~~[(w)]~~ (dd) Subpart R, Standards of Performance for Primary Lead Smelters.

~~[(x)]~~ (ee) Subpart S, Standards of Performance for Primary Aluminum Reduction Plants.

~~[(y)]~~ (ff) Subpart T, Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

~~[(z)]~~ (gg) Subpart U, Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

~~[(aa)]~~ (hh) Subpart V, Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

~~[(bb)]~~ (ii) Subpart W, Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.

~~[(ee)]~~ (jj) Subpart X, Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

~~[(dd)]~~ (kk) Subpart Y, Standards of Performance for Coal Preparation Plants.

~~[(ee)]~~ (ll) Subpart Z, Standards of Performance for Ferroalloy Production Facilities.

~~[(ff)]~~ *(mm)* Subpart AA, Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and ~~[(on)]~~ *On* or Before August 17, 1983.

~~[(gg)]~~ *(nn)* Subpart AAa, Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August ~~[(7)]~~ *17*, 1983.

~~[(hh)]~~ *(oo)* Subpart BB, Standards of Performance for Kraft Pulp Mills.

~~[(ii)]~~ *(pp)* Subpart CC, Standards of Performance for Glass Manufacturing Plants.

~~[(jj)]~~ *(qq)* Subpart DD, Standards of Performance for Grain Elevators.

~~[(kk)]~~ *(rr)* Subpart EE, Standards of Performance for Surface Coating of Metal Furniture.

~~[(H)]~~ *(ss)* Subpart GG, Standards of Performance for Stationary Gas Turbines.

~~[(mm)]~~ *(tt)* Subpart HH, Standards of Performance for Lime Manufacturing Plants.

~~[(nn)]~~ *(uu)* Subpart KK, Standards of Performance for Lead-Acid Battery Manufacturing Plants.

~~[(oo)]~~ *(vv)* Subpart LL, Standards of Performance for Metallic Mineral Processing Plants.

~~[(pp)]~~ *(ww)* Subpart MM, Standards of Performance for Automobile and ~~[(Light-Duty)]~~ *Light Duty* Truck Surface Coating Operations.

~~[(qq)]~~ *(xx)* Subpart NN, Standards of Performance for Phosphate Rock Plants.

~~[(rr)]~~ *(yy)* Subpart PP, Standards of Performance for Ammonium Sulfate Manufacture.

~~[(ss)]~~ *(zz)* Subpart QQ, Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

~~[(tt)]~~ *(aaa)* Subpart RR, Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

~~[(uu)]~~ *(bbb)* Subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances.

~~[(vv)]~~ *(ccc)* Subpart TT, Standards of Performance for Metal Coil Surface Coating.

~~[(ww)]~~ *(ddd)* Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

~~[(xx)]~~ *(eee)* Subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

~~[(yy)]~~ *(fff)* Subpart WW, Standards of Performance for the Beverage Can Surface Coating Industry.

~~[(zz)]~~ *(ggg)* Subpart XX, Standards of Performance for Bulk Gasoline Terminals.

~~[(aaa)]~~ *(hhh)* *Subpart AAA, Standards of Performance for New Residential Wood Heaters.*

*(iii)* *Subpart BBB, Standards of Performance for Rubber Tire Manufacturing Industry.*

*(jjj)* Subpart DDD, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

~~[(bbb)]~~ *(kkk)* Subpart FFF, Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

~~[(eee)]~~ *(lll)* Subpart GGG, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.

~~[(ddd)]~~ *(mmm)* Subpart HHH, Standards of Performance for Synthetic Fiber Production Facilities.

~~[(eee)]~~ *(nnn)* Subpart III, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

~~[(fff)]~~ *(ooo)* Subpart JJJ, Standards of Performance for Petroleum Dry Cleaners.

~~[(ggg)]~~ *(ppp)* Subpart KKK, Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.

~~[(hhh)]~~ *(qqq)* Subpart LLL, Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions.

~~[(iii)]~~ *(rrr)* Subpart NNN, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

~~[(jjj)]~~ *(sss)* Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.

~~[(kkk)]~~ *(ttt)* Subpart PPP, Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.

~~[(HH)]~~ *(uuu)* *Subpart QQQ, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Petroleum Refinery Wastewater Systems.*

*(vvv)* *Subpart RRR, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.*

*(www)* *Subpart SSS, Standards of Performance for Magnetic Tape Coating Facilities.*

*(xxx)* *Subpart TTT, Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.*

*(yyy)* Subpart UUU, Standards of Performance for Calciners and Dryers in Mineral Industries.

~~[(mmm)]~~ *(zzz)* *Subpart VVV, Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.*

(aaaa) Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills.

3. ~~[Title 40 C.F.R. Part 60, Subpart Ec, Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996, is hereby adopted by reference as it existed on September 15, 1997. A copy of Subpart Ec may be obtained free of charge from the Nevada Bureau of Air Quality, 333 West Nye Lane, Carson City, Nevada 89706-0851.~~

~~—4.]~~ The following subparts of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, ~~[1998:]~~ 2000:

(a) Subpart A, General Provisions.

(b) *Subpart B, National Emission Standards for Radon Emissions from Underground Uranium Mines.*

(c) Subpart C, National Emission Standard for Beryllium.

~~[(e)]~~ (d) Subpart D, National Emission Standard for Beryllium Rocket Motor Firing.

~~[(d)]~~ (e) Subpart E, National Emission Standard for Mercury.

~~[(e)]~~ (f) Subpart F, National Emission Standard for Vinyl Chloride.

~~[(f)]~~ (g) *Subpart H, National Emission Standards for Emissions of Radionuclides Other than Radon from Department of Energy Facilities.*

(h) *Subpart I, National Emission Standards for Radionuclide Emissions from Federal Facilities other than Nuclear Regulatory Commission Licensees and not Covered by Subpart H.*

(i) *Subpart J, National Emission Standards for Equipment Leaks (Fugitive Emission Sources) of Benzene.*

*(j) Subpart K, National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants.*

*(k) Subpart L, National Emission Standards for Benzene Emissions from Coke By-Product Recovery Plants.*

*(l) Subpart M, National Emission Standards for Asbestos.*

*(m) Subpart N, National Emission Standards for Inorganic Arsenic Emissions from Glass Manufacturing Plants.*

*(n) Subpart O, National Emission Standards for Inorganic Arsenic Emissions from Primary Copper Smelters.*

*(o) Subpart P, National Emission Standards for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.*

*(p) Subpart Q, National Emission Standards for Radon Emissions from Department of Energy Facilities.*

*(q) Subpart R, National Emission Standards for Radon Emissions from Phosphogypsum Stacks.*

*(r) Subpart T, National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings.*

*(s) Subpart V, National Emission Standards for Equipment Leaks (Fugitive Emission Sources).*

*(t) Subpart W, National Emission Standards for Radon Emissions from Operating Mill Tailings.*

*(u) Subpart Y, National Emission Standards for Benzene Storage Vessels.*



(v) Subpart BB, National Emission Standard for Benzene Emissions from Benzene Transfer Operations.

~~(g)~~ (w) Subpart FF, National Emission Standard for Benzene Waste Operations.

~~5.~~ 4. The following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, ~~1998.~~ 2000:

(a) Subpart A, General Provisions.

(b) Subpart B, Requirements for Control Technology Determinations ~~[, sections 63.40 to 63.44, inclusive.]~~ *for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j).*

(c) *Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.*

(d) *Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.*

(e) *Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.*

(f) *Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.*

(g) *Subpart L, National Emission Standards for Coke Oven Batteries.*

(h) Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

~~(d)~~ (i) Subpart N, National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

~~[(e)]~~ (j) *Subpart O, Ethylene Oxide Emissions Standards for Sterilization Facilities.*

(k) Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

~~[(f)]~~ (l) *Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).*

(m) *Subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.*

(n) Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

~~[(g)]~~ (o) *Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.*

(p) *Subpart W, National Emission Standards for Hazardous Air Pollutants for Epoxy Resin Production and Non-Nylon Polyamides Production.*

(q) *Subpart X, National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.*

(r) *Subpart Y, National Emission Standards for Hazardous Air Pollutants for Marine Tank Vessel Loading Operations.*

(s) *Subpart AA, National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants.*

(t) *Subpart BB, National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants.*

(u) *Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.*

*(v) Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.*

*(w) Subpart EE, National Emission Standards for Hazardous Air Pollutants for Magnetic Tape Manufacturing Operations.*

*(x) Subpart GG, National Emission Standards for Hazardous Air Pollutants for Aerospace Manufacturing and Rework Facilities.*

*(y) Subpart HH, National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities.*

*(z) Subpart II, National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating).*

*(aa) Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.*

~~(bb)~~ *(bb) Subpart KK, National Emission Standards for the Printing and Publishing Industry.*

~~(cc)~~ *(cc) Subpart LL, National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.*

*(dd) Subpart OO, National Emission Standards for Tanks - Level 1.*

~~(ee)~~ *(ee) Subpart PP, National Emission Standards for Containers.*

~~(ff)~~ *(ff) Subpart QQ, National Emission Standards for Surface Impoundments.*

~~(gg)~~ *(gg) Subpart RR, National Emission Standards for Individual Drain Systems.*

~~(hh)~~ *(hh) Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.*

*(ii) Subpart TT, National Emission Standards for Equipment Leaks – Control Level 1.*

*(jj) Subpart UU, National Emission Standards for Equipment Leaks – Control Level 2 Standards.*

*(kk) Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.*

~~(6)~~ *(ll) Subpart WW, National Emission Standards for Storage Vessels (Tanks) – Control Level 2.*

*(mm) Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.*

*(nn) Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants.*

*(oo) Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.*

*(pp) Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.*

*(qq) Subpart GGG, National Emission Standards for Pharmaceuticals Production.*

*(rr) Subpart HHH, National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities.*

*(ss) Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.*

*(tt) Subpart JJJ, National Emission Standards for Hazardous Air Pollutants Emissions: Group IV Polymers and Resins.*

*(uu) Subpart LLL, National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry.*

(vv) *Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.*

(ww) *Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.*

(xx) *Subpart OOO, National Emission Standards for Hazardous Air Pollutants Emissions: Manufacture of Amino/Phenolic Resins.*

5. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~[1998.]~~ **2000**. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation*, the provisions of 40 C.F.R. Part 72 apply.

~~[7.]~~ **6.** Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, ~~[1998.]~~ **2000**. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation*, the provisions of 40 C.F.R. Part 76 apply.

~~[8.]~~ **7.** Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, and the amendments to section 7412 contained in 40 C.F.R. Part 63, Subpart C, are hereby adopted by reference as they existed on July 1, ~~[1998.]~~ **2000**.

~~[9.]~~ **8.** 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 from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 ~~[for 301 Second, Marathon Plaza, Suite 1415, San Francisco, California 94107-1366,]~~ for the price of ~~[\$30.~~

~~—10. Except as otherwise provided in subsections 3 and 9, a] \$38.~~

9. A copy of the publications which contain these provisions may be obtained from the:

(a) Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 .

~~for 301 Second, Marathon Plaza, Suite 1415, San Francisco, California 94107-1366.~~ The price

is:

- (1) For the volume containing §§ 51.100(s), 51.100(hh) to 51.100(kk),  
inclusive, 51.100(nn), 51.165 and Appendices S and W of Part 51 .....~~[\$24]~~ \$38
- (2) For § 52.21 ..... ~~[33]~~ 50
- (3) For Part 60 (*Sections 60.1 to end*) ..... 53
- (4) *For Part 60 (Appendices)* ..... 51
- (5) For ~~[Part]~~ *Parts 61 - 62* ..... ~~[18]~~ 38
- ~~[(5)]~~ (6) For Part 63 (*Sections 63.1 to 63.599*) ..... ~~[57]~~ 53
- ~~[(6)]~~ (7) *For Part 63 (Sections 63.600 to 63.1199)* ..... 44
- (8) For the volume containing Parts 72 and 76 ..... ~~[36]~~ 55

(b) Division of state library and archives of the department of cultural affairs for 15 cents per page.

~~[(11)]~~ 10. For the purposes of the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section, the director may not approve alternate or equivalent test methods or alternative standards or work practices.

~~[(12)]~~ 11. Except as otherwise provided in subsections ~~[6 and 7,]~~ *5 and 6*, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation* for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~13.~~ **12.** For the purposes of this section, “administrator” as used in the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the director.

**Sec. 22.** NAC 445B.275 is hereby amended to read as follows:

445B.275 1. Failure to comply with any requirement of NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation*, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

- (a) Failure to apply for and obtain an operating permit;
- (b) Failure to construct a stationary source in accordance with the application for an operating permit as approved by the director;
- (c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;
- (d) Commencing construction or modification of a stationary source without applying for and receiving an operating permit or a modification of an operating permit as required by NAC 445B.001 to 445B.3485, inclusive ~~13.~~, *and sections 2 to 17, inclusive, of this regulation*;
- (e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit; or
- (f) Failure to pay fees as required by NAC 445B.327 . ~~for 445B.331.~~

2. The written notice must specify the provision of NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation*, the condition of the operating permit or the applicable requirement that is being violated.

3. Written notice shall be deemed to have been served if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person.

**Sec. 23.** NAC 445B.281 is hereby amended to read as follows:

445B.281 1. Except as otherwise provided in NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation*, any violation of the provisions of those sections is classified as a major violation, and a fine up to \$10,000 per day per violation may be levied.

2. For Class II and Class III sources, violations of subsections 3 and 4 of NAC 445B.232, subsection 8 of NAC 445B.252, subsection 2 of NAC 445B.265, paragraph ~~(d)~~ (e) of subsection 1 of NAC 445B.275, and NAC 445B.22037, 445B.22067, 445B.2207, 445B.22087 and 445B.331 are classified as minor or lesser violations, unless there are four or more violations of any one of those sections by a person, occurring within a period of 60 consecutive months.

3. The schedule of fines for minor violations is as follows:

	First	Second	Third
	Offense	Offense	Offense
NAC 445B.22037, fugitive dust .....	\$125	\$250	\$500
NAC 445B.22067, open burning .....	50	100	200
NAC 445B.2207, incinerator burning, equal to or less than			
25 lbs per hour .....	50	100	200
greater than 25 lbs per hour .....	50	100	200
NAC 445B.22087, odors .....	100	200	400



Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions .....	125	250	500
Subsection 8 of NAC 445B.252, testing and sampling reporting .....	100	200	400
Subsection 2 of NAC 445B.265, reporting of monitoring systems .....	100	200	400
Paragraph <del>(d)</del> (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	50	100	200
NAC 445B.331, change of location .....	100	200	400

4. All minor violations become major violations upon the occurrence of the fourth violation of the same section within a period of 60 consecutive months.

**Sec. 24.** NAC 445B.287 is hereby amended to read as follows:

445B.287 1. Except as otherwise provided in subsection 2 and in NAC 445B.288, an operating permit, *operating permit to construct* or permit to construct is required for each stationary source and:

(a) If a stationary source is a Class I source ~~[-a]~~ :

(I) A revision of the operating permit or of the permit to construct is required pursuant to the requirements of NAC 445B.3425 and 445B.344 before the stationary source may be modified ~~[-]~~; *or*

*(2) A revision of the operating permit to construct is required pursuant to the requirements of paragraph (a) of subsection 1 of section 3 of this regulation before the stationary source may be modified, as appropriate.*

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(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.3465 before the stationary source may be modified.

(c) If a stationary source is a Class III source, a revision of the operating permit is required pursuant to the requirements of NAC 445B.348 before the stationary source may be modified.

2. A Class I source is not subject to the provisions of *subparagraph (1) 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, *operating permit to construct* 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.

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 sections 10 and 14 of this regulation*, and any other provisions of NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation* have been complied with and ~~constitutes~~ *constitute* approval of location and for construction.

**Sec. 25.** NAC 445B.295 is hereby amended to read as follows:

445B.295 ~~{H}~~ An application for an operating permit must include:

~~{a}~~ **1.** 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}~~ **2.** 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}~~ **3.** 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}~~ **4.** 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}~~ **5.** 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}~~ **6.** An explanation of any proposed exemption from any applicable requirement;

~~[(g)]~~ 7. 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)]~~ 8. 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 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 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. 26.** NAC 445B.300 is hereby amended to read as follows:

1. Except as otherwise provided in this subsection, ~~[and NAC 445B.303,]~~ within 60 calendar days after the date on which an application for a Class I operating permit or for the significant revision of ~~[such an]~~ *a Class I* operating permit is received, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine that the application is complete. Unless the director determines that the application is incomplete within 60 days after the date of receipt, the official date of submittal shall be deemed to be the date on which the director determines that the application is complete or 61 days after the date of receipt, whichever is earlier.

2. Except as otherwise provided in this subsection, ~~[and NAC 445B.303,]~~ within 180 calendar days after the official date of submittal of an application for a Class I operating permit or for the revision of a Class I operating permit, the director shall make a preliminary determination to issue or deny the *Class I* operating permit or the revision of the *Class I* operating permit. The director shall give preliminary notice of his intent to issue or deny the



*Class I* operating permit or the revision of the *Class I* operating permit within 180 calendar days after the official date of submittal.

3. Within 10 working days after the receipt of an application for a minor revision of a Class I operating permit, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine the application to be incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working days after the date on which the director receives the application, the official date of submittal is the date on which the director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier.

~~4. [Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class II or Class III operating permit or for the revision of a Class II or Class III operating permit, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. The director shall issue or deny such an operating permit or the revision of such an operating permit:~~

~~—(a) For a Class II operating permit, within 60 days after the official date of submittal of the application.~~

~~—(b) For a Class III operating permit, within 30 days after the official date of submittal of the application:~~

~~—5. If, after the official date of submittal, the director discovers that additional information is required to act on an application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3485, inclusive. The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the director on the application submitted to the director.~~

~~—6.]~~ The director's review and preliminary intent to issue or deny a Class I operating permit and the proposed conditions for the *Class I* operating permit must be made public and maintained on file with the director during normal business hours at 333 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 calendar days to enable public participation and comment and a review by any affected states.

~~[7. For Class I operating permits, the]~~

**5. The** director shall:

(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the *Class I* stationary source is located or in a state publication designed to give general public notice;

(b) Provide written notice to:

(1) Persons on a mailing list developed by the director, including those persons who request in writing to be included on the list; and

(2) Any affected state;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public and affected states;

(d) Provide a copy of the director's review of the application, the director's preliminary intent to issue or deny the *Class I* operating permit and the proposed *Class I* operating permit to the Administrator; and

(e) Establish a 30-day period for public comment.

~~{8-}~~ 6. The provisions of subsections ~~{6 and 7}~~ 4 and 5 do not apply to an administrative amendment to a Class I operating permit made pursuant to NAC 445B.319, a change without revision to a Class I operating permit made pursuant to NAC 445B.342 or a minor revision of a Class I operating permit made pursuant to NAC 445B.3425.

~~{9-}~~ 7. The notice required for a Class I operating permit pursuant to subsection ~~{7}~~ 5 must identify:

(a) The affected facility and the name and address of the applicant;

(b) The name and address of the authority processing the *Class I* operating permit;

(c) The activity or activities involved in the *Class I* operating permit and the emissions change involved in any revision of the *Class I* operating permit;

(d) The name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the *Class I* operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the *Class I* operating permit and which are relevant to the determination of the issuance of the *Class I* operating permit; and

(e) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

~~{H0.}~~ 8. All comments on the director's review and preliminary intent for the issuance or denial of a Class I operating permit must be submitted in writing to the director within 30 calendar days after the public announcement. The director shall give notice of any public hearing at least 30 days before the date of the hearing. The director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

~~{H1.}~~ 9. Except as otherwise provided in subsection ~~{H2.}~~ 10 and NAC 445B.319, 445B.342 and 445B.3425, within 12 months after the official date of submittal of a Class I-B application, the director shall issue or deny the application for ~~{an}~~ a *Class I-B* operating permit or for a revision of the *Class I-B* operating permit. The director shall make his decision by taking into account written comments from the public, affected states, and the Administrator and the comments made during public hearings on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the state, and national ambient air quality standards contained in NAC 445B.22097 and the control strategy contained in the air quality plan. The director shall send a copy of the final *Class I-B* operating permit to the Administrator.

~~{H2.}~~ 10. For stationary sources subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, adopted pursuant to NAC 445B.221, the director shall issue or deny an application for ~~{an}~~ a *Class I* operating permit, or for the revision or renewal of ~~{such an}~~ a *Class I* operating permit, within 12 months after receiving a complete application.

~~{H3.}~~ 11. The director shall not issue ~~{an}~~ a *Class I* operating permit, or a revision ~~{of or a}~~ *or* renewal of ~~{an}~~ a *Class I* operating permit, if the Administrator objects to its issuance in

writing within 45 days after the Administrator's receipt of the proposed conditions for the *Class I* operating permit and the necessary supporting information.

~~{14.}~~ *12.* Any person may petition the Administrator to request that he object to a Class I operating permit as provided in 40 C.F.R. § 70.8(d).

~~{15.}~~ *13.* If the Administrator objects to the issuance of a Class I operating permit of his own accord or in response to a public petition, the director shall submit revised proposed conditions for the *Class I* operating permit in response to the objection within 90 days after the date on which he is notified of the objection.

~~{16.}~~ *14.* If construction will occur in one phase, ~~{an}~~ *a Class I* operating permit or the revision of ~~{an}~~ *a Class I* operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

~~{17.}~~ *15.* If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the director. ~~{An}~~ *A Class I* operating permit or the revision of ~~{an}~~ *a Class I* operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the director. The director may extend only the date

on which the initial phase of construction may be commenced upon a showing that the extension is justified.

**Sec. 27.** NAC 445B.308 is hereby amended to read as follows:

445B.308 1. Before an operating permit or a revision of an operating permit may be issued for a new or modified stationary source, in accordance with NAC 445B.308 to 445B.313, inclusive, *and sections 10 and 14 of this regulation*, the applicant must submit to the director an environmental evaluation and any other information the director deems necessary to make an independent air quality impact assessment. ~~[The environmental evaluation must have approval for any street or highway changes or improvements from the county, regional or state highway agency having jurisdiction over the streets and highways affected by the stationary source before submittal to the director.]~~

2. The director shall not issue an operating permit or a revision of an operating permit for any stationary source if the environmental evaluation submitted by the applicant shows, or if the director determines, in accordance with the provisions of this section, that the stationary source:

(a) Will prevent the attainment and maintenance of the state or national ambient air quality standards. ~~[.]~~ *For purposes of this paragraph, only those ambient air quality standards that have been established in NAC 445B.22097 need to be considered in the environmental evaluation.*

(b) Will cause a violation of the applicable control strategy contained in the approved air quality plan. ~~[.]~~

(c) Will cause a violation of any applicable requirement. ~~[; or]~~

(d) Will not comply with subsection 3.

3. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, who proposes to construct in an area designated nonattainment for the regulated air pollutant or pollutants for which the stationary source or modification is major must:

(a) Comply with the provisions of 40 C.F.R. § 51.165, as incorporated by reference in NAC 445B.221.

(b) Adopt as an emission limitation for the stationary source the lowest achievable emission rate for each nonattainment regulated air pollutant from the stationary source.

(c) Demonstrate that all other stationary sources within this state which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3485, inclusive, *and sections 2 to 17, inclusive, of this regulation*, and all other applicable requirements and conditions of the permit.

(d) Conduct an analysis of any anticipated impact on visibility in any federal Class I area which may be caused by emissions from the stationary source.

(e) Conduct an analysis of alternative sites, sizes, processes of production and techniques for environmental control for the proposed stationary source. Except as otherwise provided in this paragraph, the analysis must demonstrate that the benefits of the proposed stationary source significantly outweigh the detrimental environmental and social effects that will result from its location, construction or modification. If the major stationary source or major modification proposes to locate in an area designated as marginal nonattainment for ozone, the analysis must demonstrate an offset ratio of 1.2 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source which is major for volatile organic

compounds or nitrogen oxides shall be deemed major for ozone if it proposes to locate in an area designated as nonattainment for ozone.

(f) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area which have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area which have received their respective permits before the proposed stationary source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the Administrator as one to be targeted for economic development, demonstrate that the emission from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

FLUSH For the purposes of this paragraph, offsets must comply with the provisions of Appendix S of 40 C.F.R. Part 51, as incorporated by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

4. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 52.21, who proposes to construct in any area designated as attainment or unclassifiable under 42 U.S.C. § 7407(d), must comply with the provisions of 40 C.F.R. § 52.21, as incorporated by reference in NAC 445B.221.



5. The director may impose any reasonable conditions on his approval, including conditions requiring the owner or operator of the stationary source to:

(a) Conduct monitoring of the quality of the ambient air at the facility site for a reasonable period before the commencement of construction or modification and for any specified period after operation has begun at the stationary source; and

(b) Meet standards for emissions that are more stringent than those found in NAC 445B.001 to 445B.3485, inclusive ~~§ 1~~, *and sections 2 to 17, inclusive, of this regulation.*

6. Where a proposed stationary source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in NAC 445B.308 to 445B.313, inclusive, *and sections 10 and 14 of this regulation*, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

7. Approval and issuance of an operating permit or a revision of an operating permit for any stationary source does not affect the responsibilities of the owner or owners to comply with any other portion of the control strategy.

8. An owner or operator of a Class II source may request an exemption from the requirement to submit an environmental evaluation. Within 30 days after receipt of a written request for an exemption, the director shall grant or deny the request and notify the owner or operator in writing of his determination.

9. As used in this section:

(a) “Lowest achievable emission rate” has the meaning ascribed to it in 40 C.F.R. § 51.165, as incorporated by reference in NAC 445B.221.

(b) “Offset ratio” means the percentage by which a reduction in an emission must exceed the corresponding increase in that emission.

(c) “Reasonable further progress” means the annual incremental reductions in emissions of the relevant regulated air pollutant that are required by 42 U.S.C. §§ 7501 to 7515, inclusive, or are required by the Administrator to ensure attainment of the applicable standard for national ambient air quality by the applicable date.

**Sec. 28.** NAC 445B.311 is hereby amended to read as follows:

445B.311 1. An environmental evaluation which is required for a new or modified stationary source pursuant to NAC 445B.308 to 445B.313, inclusive, *and sections 10 and 14 of this regulation*, or as required by the director must contain a careful and detailed assessment of the environmental aspects of the proposed stationary source and must also contain:

- (a) The name and address of the applicant;
- (b) The name, address and location of the stationary source;
- (c) A description of the proposed stationary source, including the normal hours of operation of the facility and the general types of activities to be performed;
- (d) A map showing the location of the stationary source and the topography of the area, including existing principal streets, roads and highways within 3 miles of the stationary source;
- (e) A site plan showing the location and height of buildings on the site; and
- (f) Any additional information or documentation which the director deems necessary to determine the effect of the stationary source on the quality of the ambient air, including measured data on the quality of the ambient air at the proposed site before construction or modification.

2. Where approval is sought for stationary sources to be constructed in phases, the information required by subsection 1 must be submitted for each phase of the construction project.

3. An environmental evaluation must also contain adequate environmental safeguards to be put into operation by the applicant to provide for the maintenance of acceptable air quality and must consider:

(a) Concentrations in the ambient air before, during and after construction, empirically calculated with recognized methods as approved by the director. Existing concentrations in the ambient air may be measured with approved methods at approved site locations for not less than 1 year. Estimates must be empirically determined for concentrations in the ambient air immediately adjacent to the facility and at the predicted point of maximum concentration within the surrounding region.

(b) Alternate proposals which could be put into effect as conditions of approval.

(c) In the narrative portion of the evaluation, other probable environmental effects before, during and after construction.

4. Diffusion models used to determine the location and estimated value of highest concentration of regulated air pollutants must contain:

(a) Assumptions and premises;

(b) Evaluation at the most adverse meteorological conditions recorded in the last 10 years;

(c) Evaluation at the most adverse meteorological conditions recorded in the last year;

(d) A description of the geographic area considered in the evaluation;

(e) Dispersion equations;

(f) The predicted buildup of regulated air pollutants;

(g) Location, type and amount of emissions; and

(h) Meteorological information.

**Sec. 29.** NAC 445B.313 is hereby amended to read as follows:

445B.313 ~~[1.—For the purposes of determining the effects of Class II and Class III sources on the quality of ambient air pursuant to NAC 445B.308 to 445B.313, inclusive, the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.~~

~~—2.]~~ For the purposes of determining the effects of Class I sources on the quality of ambient air and determining the applicability of a federally enforceable standard or requirement to an emission unit, the heat input will be determined by using the appropriate method of the American Society for Testing and Materials (ASTM) contained in 40 C.F.R. Parts 51, 52, 60 and 61.

**Sec. 30.** NAC 445B.315 is hereby amended to read as follows:

445B.315 1. *Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to operating permits to construct.*

2. The director shall cite the legal authority for each condition contained in an operating permit.

~~[2.]~~ 3. An operating permit must contain the following conditions:

(a) The term of the operating permit is 5 years.

(b) The holder of the operating permit shall retain records of all required monitoring data and supporting information for 5 years after the date of the sample collection, measurement, report or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.

(c) Each of the conditions and requirements of the operating permit is severable and, if any are held invalid, the remaining conditions and requirements continue in effect.

(d) The holder of the operating permit shall comply with all conditions of the operating permit. Any noncompliance constitutes a violation and is a ground for:

(1) An action for noncompliance;

(2) Revising, revoking, reopening and revising, or terminating the operating permit by the director; or

(3) Denial of an application for a renewal of the operating permit by the director.

(e) The need to halt or reduce activity to maintain compliance with the conditions of the operating permit is not a defense to noncompliance with any condition of the operating permit.

(f) The director may revise, revoke and reissue, reopen and revise, or terminate the operating permit for cause.

(g) The operating permit does not convey any property rights or any exclusive privilege.

(h) The holder of the operating permit shall provide the director, within a reasonable time, with any information that the director requests in writing to determine whether cause exists for revising, revoking and reissuing, reopening and revising, or terminating the operating permit, or to determine compliance with the conditions of the operating permit.

(i) The holder of the operating permit shall pay fees to the director in accordance with the provisions set forth in NAC 445B.327 and 445B.331.

(j) The holder of the operating permit shall allow the director or any authorized representative, upon presentation of credentials, to:

(1) Enter upon the premises of the holder of the operating permit where:

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

(III) Records are kept pursuant to the conditions of the operating permit;

(2) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the operating permit;

(3) Inspect, at reasonable times, any facilities, practices, operations or equipment, including any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the operating permit; and

(4) Sample or monitor, at reasonable times, substances or parameters to determine compliance with the conditions of the operating permit or applicable requirements.

(k) A responsible official of the stationary source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the operating permit are true, accurate and complete.

**Sec. 31.** NAC 445B.323 is hereby amended to read as follows:

445B.323 1. All *Class I* operating permits must be renewed 5 years after the date of issuance.

2. A complete application for renewal of ~~an~~ a *Class I* operating permit must be submitted to the director on the form provided by the director with the appropriate fee ~~is~~

~~—(a) At~~ at least 180 calendar days, but no earlier than 18 months, before the expiration date of the current *Class I* operating permit for ~~[Class I stationary sources;~~

~~—(b) At least 30 calendar days before the expiration date of the current operating permit for Class II stationary sources; or~~

~~—(c) At least 30 calendar days before the expiration date of the current operating permit for Class III stationary sources.] stationary sources.~~

3. Applications for *the* renewal *of a Class I operating permit* must comply with all requirements for the issuance of an initial *Class I* operating permit as specified in NAC 445B.300.

4. If an application for *the* renewal *of a Class I operating permit* is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing *Class I* operating permit until the *Class I* operating permit is renewed or the application for renewal is denied. If an application is not submitted in accordance with subsection 2, the stationary source may be required to cease operation when the *Class I* operating permit expires, and may not recommence the operation until the *Class I* operating permit is renewed.

5. The fee for the renewal of ~~an~~ *a Class I* operating permit is as specified in NAC 445B.327.

**Sec. 32.** NAC 445B.327 is hereby amended to read as follows:

445B.327 1. Except as otherwise provided in ~~subsection 2,~~ *this section, if a stationary source is not subject to the permitting requirements of 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221,* the fees for an operating permit are as follows:

<del>[(a) Class I operating permit]</del>	<del>[\$30,000]</del>
<i>(a) Class I operating permit to construct</i>	<i>\$20,000</i>
<i>(b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase</i>	<i>5,000</i>
<i>(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)</i>	<i>5,000</i>
<i>(d) Modification to an operating permit to construct</i>	<i>5,000</i>
<i>(e) Revision of an operating permit to construct</i>	<i>5,000</i>

<i>(f) Class I operating permit</i>	<b>30,000</b>
<del>(b)</del> <i>(g)</i> Significant revision of a Class I operating permit	20,000
<del>(e)</del> <i>(h)</i> Minor revision of a Class I operating permit	5,000
<del>(d)</del> <i>(i)</i> Renewal of a Class I operating permit	5,000
<del>(e)</del> <i>(j)</i> Class II operating permit	3,000
<del>(f)</del> <i>(k)</i> Revision of a Class II operating permit	2,000
<del>(g)</del> <i>(l)</i> Renewal of a Class II operating permit	2,000
<del>(h)</del> <i>(m)</i> Class II general permit	400
<del>(i)</del> <i>(n)</i> Class III operating permit	300
<del>(j)</del> <i>(o)</i> Revision of a Class III operating permit	200
<del>(k)</del> <i>(p)</i> Renewal of a Class III operating permit	250
<del>(l)</del> <i>(q) Surface area disturbance permit</i>	<b>400</b>
<i>(r) Revision of a surface area disturbance permit</i>	<b>200</b>
<i>(s)</i> Administrative amendment of an operating permit	200
<i>(t) Replacement of a lost or damaged operating permit to construct or an operating permit</i>	<b>200</b>
<i>(u) Request for change of location of an emission unit</i>	<b>100</b>

FLUSH An applicant must pay the entire fee when he submits an application to the director.

2. The fee to revise an operating permit so that the operating permit is consistent with any guidelines established by the division of environmental protection of the state department of conservation and natural resources pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire fee when he submits an application to the director.



3. ~~[[~~ *Except as otherwise provided in this section, if* a stationary source is subject to ~~participation in the program for the prevention of significant deterioration of air quality pursuant to~~ *the permitting requirements of* 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. The fees for such an operating permit are as follows:

- |   |               |
|---|---------------|
| (a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality  | \$50,000      |
| (b) Revision of an operating permit for a stationary source subject to the <del>program for the prevention of significant deterioration of air quality</del> <i>permitting requirements of 40 C.F.R. § 52.21</i> to authorize a major modification of the stationary source | \$50,000      |
| (c) <i>Class I operating permit to construct</i>  | <i>50,000</i> |
| (d) <i>Conversion of an operating permit to construct into a Class I operating permit involving only one phase</i>  | <i>5,000</i>  |
| (e) <i>Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)</i>  | <i>5,000</i>  |
| (f) <i>Revision of an operating permit to construct</i>   | <i>5,000</i>  |
| (g) <i>Revision of an operating permit for a modification that is not a major modification, as defined in 40 C.F.R. § 52.21, of a stationary source</i>   | <i>10,000</i> |
| (h) <i>Administrative amendment of an operating permit or operating permit to construct</i>   | <i>200</i>    |
| (i) <i>Replacement of a lost or damaged operating permit to construct or an operating permit</i>  | <i>200</i>    |

(j) *Request for the change of location of an emission unit*

100

FLUSH

An applicant must pay the entire fee when he submits an application to the director.

4. *If no changes need to be made to convert an operating permit to construct into a Class I operating permit, no fee will be assessed.*

5. Except as otherwise provided in this subsection, the annual fee based on emissions for a stationary source is \$5.60 per ton times the total tons of each regulated pollutant emitted during the preceding calendar year. The annual fee based on emissions does not apply to:

- (a) Emissions of carbon monoxide; or
- (b) Class III stationary sources.

~~[5:]~~ 6. To determine the fee set forth in subsection ~~[4:]~~ 5:

(a) Emissions must be calculated using:

- (1) The emission unit's actual operating hours, rates of production and in-place control equipment;

- (2) The types of materials processed, stored or combusted; and

- (3) Data from:

- (I) A test for emission compliance;

- (II) A continuous emission monitor;

- (III) The most recently published issue of *Compilation of Air Pollutant Emission Factors*, EPA Publication No. AP-42; or

- (IV) Other emission factors or methods which the director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

~~[6.]~~ 7. The annual fee for maintenance of a stationary source is:

- |  |          |
|--|----------|
| (a) For a Class I source   | \$12,500 |
| (b) For a Class II source that has the potential to emit 50 tons or more per year of any one regulated air pollutant except carbon monoxide                                | \$3,000  |
| (c) For a Class II source that has the potential to emit 25 tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide | \$1,000  |
| (d) For a Class II source that has the potential to emit less than 25 tons per year of any one regulated air pollutant except carbon monoxide                              | \$250    |
| (e) For a Class III source   | \$250    |
| (f) For a surface area disturbance   | \$250    |

~~[7.]~~ 8. The state department of conservation and natural resources shall collect all fees required pursuant to subsections ~~[4 and 6]~~ 5 and 7 not later than July 1 of each year.

~~[8.—The fees required pursuant to subsections 4 and 6 are due and payable to the “Nevada State Treasurer, Environmental Protection” within 45 days after the date of the invoice.]~~

*9. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his annual fees installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late fee must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the director concerning his annual fees.*

**Sec. 33.** 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~~ 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)}~~ 1. For a Class I source, at least 10 days in advance of each change of location.

~~{(b)}~~ 2. 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.

**Sec. 34.** NAC 445B.335 is hereby amended to read as follows:

445B.335 1. The director may issue a *Class I* general permit covering numerous similar stationary sources.

2. A *Class I* general permit must set forth the criteria by which stationary sources may qualify for the *Class I* general permit.

3. A *Class I* general permit which covers stationary sources that would otherwise be required to be covered by a Class I operating permit must:

(a) Ensure compliance with all applicable requirements; and

(b) Not be granted until the requirements for public participation and comment and a review by any affected states and the Administrator pursuant to NAC 445B.300 have been completed.

4. If the Administrator does not object within 45 days after receiving a proposed *Class I* general permit which covers stationary sources that would otherwise be required to apply for a Class I operating permit, the general permit becomes effective at the end of the 45-day period. If the Administrator objects to the *Class I* general permit, the *Class I* general permit becomes effective when the objection is resolved.

5. After the effective date of a *Class I* general permit, the owner or operator of any stationary source that meets the criteria set forth in the *Class I* general permit may request authority to operate under the *Class I* general permit. The request must be in writing and must include all the information required by the *Class I* general permit.

6. The director shall grant or deny authority to operate under a *Class I* general permit within 30 days after his receipt of a request for such authority. The director's decision to grant or deny an application for authority to operate under the terms of a *Class I* general permit is not subject to the requirements of NAC 445B.300.

7. A person may challenge the provisions of a *Class I* general permit only at the time the *Class I* general permit is issued. The director's grant or denial of authority to operate under a *Class I* general permit to a stationary source or stationary sources does not provide an opportunity for an administrative review or a judicial review of the *Class I* general permit.

8. The director shall not grant authority to operate under a *Class I* general permit to an affected source.

9. The term of a *Class I* general permit is 5 years.

10. The authority to operate under a *Class I* general permit expires after 5 years. An owner or operator of a stationary source operating under the authority of a *Class I* general permit shall apply to renew his authority to operate under the *Class I* general permit at least 30 days before his authorization expires.

11. A stationary source which obtains authorization to operate under a *Class I* general permit but is later determined not to qualify under the conditions of the *Class I* general permit may be subject to an action enforcing the prohibition against operating without a permit.

**Sec. 35.** NAC 445B.338 is hereby amended to read as follows:

445B.338 1. ~~[Except as otherwise provided in subsection 2, an]~~ *An* owner or operator subject to the provisions of NAC 445B.337 shall file a Class I-A application in accordance with the schedule established by the director pursuant to NAC 445B.3385.

~~[2. For affected sources, an owner or operator must file an application for a Class I operating permit within 12 months after the effective date of the program, or on or before January 1, 1996, whichever is earlier.]~~

~~[3.]~~ 2. All permits to construct and operating permits issued to existing sources which are in effect before the effective date of the program remain in effect until the director issues or denies the applicant's Class I operating permit as provided in NAC 445B.001 to 445B.3485, inclusive ~~[4.]~~ , *and sections 2 to 17, inclusive, of this regulation.*

3. Except as otherwise provided in this subsection, if the owner or operator subject to the provisions of NAC 445B.337 submits a completed Class I-A application for an operating permit or a renewal of a permit in a timely manner, he shall not be deemed to be in violation of the requirement for an operating permit during the time the director considers the application. The owner or operator shall be deemed to violate the requirement for an operating permit if the director requests additional information in writing following a determination that the application is complete and the owner or operator fails to submit the requested information within a reasonable time as specified in the director's request.

**Sec. 36.** NAC 445B.3385 is hereby amended to read as follows:

445B.3385 1. Within 30 days after the approval of the program by the Administrator, the director shall:

(a) Establish a schedule for filing a Class I-A application to obtain a Class I operating permit for:

- (1) An existing major source;
- (2) An existing major source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the source is subject only to the requirements of 42 U.S.C. § 7412(r);
- (3) An existing major source in a category of sources designated by the Administrator pursuant to 42 U.S.C. § 7661a(a); or
- (4) An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § ~~749(e).~~ *7429(e).*

(b) Notify the owners and operators of the sources listed in paragraph (a) regarding the schedule established by the director.

2. The schedule established by the director pursuant to subsection 1:

(a) Must require the submission of Class I-A applications within 12 months ~~of~~ *after* the effective date of the program.

(b) May require the early submission of Class I-A applications by specified stationary sources if early submission is necessary for the state department of conservation and natural resources to process all Class I-A applications pursuant to NAC 445B.300 . ~~[and 445B.303.]~~

(c) Must be based upon the number of emission units to be addressed in the *Class I* operating permit for each stationary source so that the stationary sources with the least number of emission units will submit applications first and those sources with the largest number of emission units will submit applications last.

**Sec. 37.** NAC 445B.3405 is hereby amended to read as follows:

445B.3405 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) If the applicant for the permit requests the trading of emissions increases and decreases, contain the terms and conditions 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.3485, inclusive, *and sections 2 to 17, 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.342. 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 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.~~ *section 8 of this regulation.*

(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.

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:

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

(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.

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. 38.** NAC 445B.3425 is hereby amended to read as follows:

445B.3425 1. A minor revision may be made to a Class I operating permit if the revision:

- (a) Does not violate any applicable requirement;
- (b) Does not involve significant changes to the existing requirements for monitoring, reporting or recordkeeping;
- (c) Does not require or change:
  - (1) A determination of an emission limitation or other standard on a case-by-case basis;
  - (2) A determination of the ambient impact for any temporary source; or
  - (3) A visibility or increment analysis;
- (d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:
  - (1) A federally enforceable emissions cap; or
  - (2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5);

(e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive;  
and

(f) Does not result in an increase in allowable emissions that exceeds any of the following specified thresholds:

- (1) Carbon monoxide, 100 tons per year.
- (2) Nitrogen oxides, 40 tons per year.
- (3) Sulfur dioxide, 40 tons per year.
- (4) PM<sub>10</sub>, 15 tons per year.
- (5) Ozone, 40 tons per year of volatile organic compounds.
- (6) Sulfuric acid mist, 7 tons per year.
- (7) Hydrogen sulfide (H<sub>2</sub>S), 10 tons per year.

2. An owner or operator must request a minor revision on an application form provided by the director. The application must include:

- (a) A description of the modification;
- (b) A description of the emissions resulting from the modification;
- (c) An identification of any new applicable requirements that will apply because of the modification;
- (d) Suggested conditions of the operating permit;
- (e) Certification by a responsible official of the stationary source that the proposed modification complies with the criteria for a minor revision set forth in subsection 1; and
- (f) Any relevant information concerning the proposed change which is required by NAC 445B.295 ~~H~~ *and section 8 of this regulation.*

3. The director shall:

- (a) Determine, in accordance with subsection 3 of NAC 445B.300, whether the application for a minor revision is complete.
- (b) Transmit the application to the Administrator within 5 working days after the official date of submittal of the application.
- (c) Provide notice to any affected state within 5 working days after the official date of submittal of the application for a minor revision.
- (d) Provide a 30-day period for comment by any affected state concerning the application.
- (e) Within 45 days after the official date of submittal of the application:
  - (1) Determine whether the proposed minor revision meets the criteria for a minor revision set forth in this section;
  - (2) Determine whether the proposed conditions of the operating permit are adequate; and
  - (3) If the director determines that the proposed modification does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant and the Administrator.
- (f) If the director determines that the applicant's proposed conditions of the operating permit are not adequate, draft appropriate conditions for the operating permit. Proposed conditions drafted by the director must be submitted to the Administrator for review.
- (g) Notify the Administrator of any recommendations from an affected state which the director does not accept.

4. The director may issue the minor revision upon notification by the Administrator that the Administrator does not object to the minor revision. If the Administrator does not notify the director within 45 days after the date on which the Administrator received the notification pursuant to this section or within 45 days after the date on which the Administrator receives the

director's proposed conditions, whichever is later, the Administrator shall be deemed to have not objected to the minor revision.

5. If the Administrator objects to the minor revision, the director shall:

(a) Deny the application for the minor revision;

(b) Determine whether the minor revision should be reviewed under the procedures for a significant revision; or

(c) Revise the proposed revision of the operating permit and forward it to the Administrator for review.

6. The director shall take action pursuant to subsection 4 or 5 within 90 days after the official date of submittal of an application for a minor revision or within 15 days after the Administrator's 45-day review period ends, whichever is later.

**Sec. 39.** NAC 445B.344 is hereby amended to read as follows:

445B.344 1. The holder of an operating permit may request a significant revision of a Class I operating permit if it does not qualify as a change that may be made pursuant to NAC 445B.342, or as an administrative amendment or a minor revision. A significant revision includes, but is not limited to, a revision:

(a) Of an existing condition of the operating permit relating to monitoring or making the requirements for reporting or recordkeeping less stringent;

(b) Which requires or changes:

(1) A determination of an emission limitation on a case-by-case basis;

(2) A determination of ambient impact for any temporary source; or

(3) A visibility or increment analysis;

(c) Which would establish or change a condition of the operating permit and which is requested or assumed by the owner or operator of the stationary source in order to avoid any applicable requirement;

(d) Subject to 40 C.F.R. § 52.21 or 40 C.F.R. Part 60, as adopted pursuant to NAC 445B.221;  
or

(e) Subject to 42 U.S.C. § 7412.

2. An application for a significant revision must comply with the requirements for an application for a Class I operating permit set forth in NAC 445B.295 and 445B.297 ~~and~~ *and section 8 of this regulation*, including public participation and comment and a review by any affected states and the Administrator pursuant to NAC 445B.300.

3. An application for a significant revision must be accompanied by the fee set forth in NAC 445B.327.

**Sec. 40.** NAC 445B.3465 is hereby amended to read as follows:

445B.3465 1. The owner or operator of a stationary source with a Class II operating permit may request, on an application form provided by the director, a revision of the operating permit to allow for a modification to the stationary source.

2. An application for a revision of a Class II operating permit must include:

(a) The name and address of the owner or operator of the stationary source;

(b) The location of the stationary source;

(c) A description of:

(1) The existing emission units undergoing the modification and the applicable control systems; and

(2) The proposed modification to such emission units;



- (d) The allowable emission rates from the existing emission units of each regulated air pollutant to which a standard applies, as determined in accordance with NAC 445B.239, which exist at the time of the application before the modification and which would exist after the modification takes place;
- (e) A description of any proposed new emission units and applicable control systems;
- (f) The potential to emit of the proposed new emission units for each regulated air pollutant to which a standard applies;
- (g) A description of the procedures and methods used to determine the emission rates;
- (h) A discussion of all applicable requirements to which the new or modified operations will be subject;
- (i) An explanation of any proposed exemption from any applicable requirement;
- (j) An environmental evaluation conducted in accordance with NAC 445B.308 ~~to 445B.313, inclusive;~~, *445B.310 and 445B.311, and section 10 of this regulation;* and
- (k) Any other information that the director determines is necessary to process the application and issue a Class II operating permit pursuant to this section and NAC 445B.001 to 445B.3485, inclusive ~~to 445B.3485, inclusive;~~, *and sections 2 to 17, inclusive, of this regulation.*

**Sec. 41.** NAC 445B.3485 is hereby amended to read as follows:

445B.3485 1. If a stationary source operating under a Class II operating permit is a Class III source, as defined in NAC 445B.038, the owner or operator of the stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the stationary source.

2. If a new stationary source is a Class III source, as defined in NAC 445B.038, the owner or operator of the new stationary source may submit an application with the appropriate fee and

obtain a Class III operating permit for the new stationary source. An operating permit must be obtained before commencing construction on a new stationary source.

*3. An owner or operator of a proposed modification to a stationary source that meets the requirements for a Class III source, as that term is defined in NAC 445B.038, may submit an application for and obtain a Class III operating permit for the stationary source, proposed stationary source or proposed modification to a stationary source. Such an owner or operator shall not commence construction of the proposed modification to the stationary source before filing an application for and obtaining a Class III operating permit.*

**Sec. 42.** NAC 445B.291 and 445B.303 are hereby repealed.

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## TEXT OF REPEALED SECTIONS

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**445B.291 Class II and Class III operating permits: Filing requirements. (NRS 445B.210, 445B.300)** An owner or operator of any stationary source that is not subject to the requirements of NAC 445B.337 or 445B.3375 must submit an application for and obtain a Class II operating permit pursuant to this section or, if applicable, a Class III operating permit pursuant to NAC 445B.3485. For a proposed stationary source or a proposed modification to a stationary source that is not subject to the requirements of NAC 445B.337 or 445B.3375, an owner or operator must file an application and obtain a Class II operating permit or a revision to an existing Class II operating permit, as appropriate, pursuant to this section or, if applicable, a

Class III operating permit pursuant to NAC 445B.3485 before commencing construction of the proposed stationary source or the proposed modification.

**445B.303 Operating permits: Initial periods for action on applications. (NRS 445B.210, 445B.300)**

1. During the first 3 years of the program, the times set forth in subsections 1 and 11 of NAC 445B.300 for the issuance of an operating permit do not apply to Class I-A applications.

2. The director shall:

(a) Issue Class I operating permits for one-third of the applications received from existing stationary sources each year for 3 years.

(b) Issue Class I operating permits for all affected sources no later than December 31, 1997.

(c) Process Class I-B applications and applications for Class II and Class III operating permits in accordance with the times set forth in NAC 445B.300.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R103-02**

The State Environmental Commission adopted regulations assigned LCB File No. R103-02 which pertain to chapter 445B of the Nevada Administrative Code on November 19, 2002.

**Notice date:** 8/7/2002, 8/12/2002, 8/14/2002, 8/20/2002, 8/27/2002

**Hearing date:** 11/19/2002

**Date of adoption by agency:** 11/19/2002

**Filing date:** 12/17/2002

**INFORMATIONAL STATEMENT**

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

**Petition 2002-09 (LCB File No. R103-02)**, was noticed on August 7, August 12, August 14, August 20 and August 27, 2002 as a permanent regulation in the Las Vegas Review Journal and the Reno-Gazette-Journal newspapers. Regulatory workshops were conducted by the Division of Environmental Protection's Bureau of Air Pollution Control and Air Quality Planning on August 14, 2002 in Reno, August 19, 2002 in Elko and August 27, 2002 in Las Vegas. The regulation was adopted by the State Environmental Commission as a permanent regulation on November 19, 2002. There were three oral comments and no written testimony received by the Commission from the public during permanent adoption. The Nevada Mining Association and Great Basin Mine Watch expressed support for the regulation. Great Basin Mine Watch expressed concern about the rounding of air quality standards values and whether staffing levels would be adequate to process permits. The Nevada Seniors Coalition expressed concern about the Clark County air pollution program and emissions from diesel vehicles and the need for tarps for trucks. The Coalition requested an audit of the Clark County air pollution program. Issues of the Seniors Coalition were outside the pale of the adopted regulation. 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) 687-9308, or writing to the Commission at 333 W. Nye Lane, Room 138, Carson City, Nevada 89706-0851.

**2. The number of persons who:**

<b>(a) Attended each hearing:</b>	25
<b>(b) Testified at each hearing:</b>	3
<b>(c) Submitted to the agency written comments:</b>	1

**3. A description of how comment was solicited from affected businesses, a summary of the 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 comments were received

and one written comment from Newmont Corp. (see exhibit #10) was received supporting the adopted regulation. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-9308 or writing to the Commission at 333 W. Nye Lane, 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 regulation was adopted by the State Environmental Commission on November 19, 2002 with amendments (see exhibit #9).

**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 amendments will benefit the regulated stationary sources by providing for a Operating Permit to Construct Program and shorten the timeframe for major stationary sources to modify their processes and to begin construction of new facilities. New fees for the Permit to Construct program are established and will have a short and long term the cost to the regulated community. However, the regulated community will not be appreciable affected, since this an optional program and that the permitting timeframes for the operating permit program will coincide with the permit to construct program resulting in minor increases in overall fees for the regulated community. There is not expected to be a net gain or loss in revenue for the Division of Environmental Protection from regulated sources.

(b) Estimated economic effect on the public:

The proposed amendments are not expected to have any economic short or long-term adverse impact upon the public.

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

The implementation of the adopted regulation is not expected to result in any additional cost by the Division of Environmental Protection.

**7. A description of any regulations of other state or government agencies which the 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.**

The regulations do not overlap or duplicate any regulations of another state or local governmental 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.**

This regulation is no more restrictive or stringent than federal requirements.

**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.**

The amendments contain fees for the Operating Permit to Construct Program. The amount of fees is difficult to estimate since the Permit to Construct is an optional program for the regulated community. Fees collected will be used to support the air quality permitting, planning and enforcement programs of the Division of Environmental Protection. The late fee is also difficult to calculate because of the uncertainty in determining the default rate of regulated sources.