

**ADOPTED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R096-05**

Effective October 31, 2005

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

AUTHORITY: §§1-17 and 24, NRS 445B.210; §§18-23, NRS 445B.210 and 445B.300.

A REGULATION relating to air quality; revising provisions governing allowable emissions of regulated air pollutants; revising provisions governing the construction or modification of a stationary source or affected facility; revising provisions governing operating permits; revising provisions governing environmental evaluations; and providing other matters properly relating thereto.

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

**Sec. 2. 1.** *“Dispersion technique” means any technique that attempts to affect the concentration of a pollutant in the ambient air by:*

- (a) Using that portion of a stack which exceeds good engineering practice stack height;*
- (b) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or*
- (c) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters or stack parameters, combining exhaust gases from several existing stacks into one stack or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.*

**2.** *The term does not include:*

*(a) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.*

*(b) The merging of exhaust gas streams where:*

*(1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;*

*(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of “dispersion techniques” applies only to the emission limitation for the pollutant affected by such a change in operation; or*

*(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence before the merging, an increase in the quantity of pollutants actually emitted before the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such an intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source.*

*(c) Smoke management in agricultural or silvicultural prescribed burning programs.*

*(d) Episodic restrictions on residential woodburning and open burning.*

*(e) Techniques under paragraph (c) of subsection 1 which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.*

**Sec. 3.** *“Excessive concentration” means, for the purpose of determining good engineering practice stack height:*

*1. For sources seeking credit for stack height exceeding that established under paragraph (b) of subsection 1 of section 4 of this regulation, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to 40 C.F.R. § 52.21, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 5, inclusive, of this regulation, must be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate must be established in consultation with the source owner or operator.*

*2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under paragraph (b) of subsection 1 of section 4 of this regulation, either:*

*(a) A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection 1, except that the emission rate specified by any applicable state limit or, in the absence of such a limit, the actual emission rate, must be used;*  
*or*

*(b) The actual presence of a local nuisance caused by the existing stack, as determined by the Director.*

*3. For sources seeking credit after January 12, 1979, for a stack height determined under paragraph (b) of subsection 1 of section 4 of this regulation, where the Director requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in paragraph (b) of subsection 1 of section 4 of this regulation, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.*

**Sec. 4. 1. “Good engineering practice stack height” means the stack height that is the greater of:**

*(a) Two hundred thirteen feet, measured from the ground-level elevation at the base of the stack;*

*(b) A height determined as follows:*

*(1) For stacks that commenced construction on or before January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required pursuant to 40 C.F.R. Parts 51 and 52 and NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 5, inclusive, of this regulation, the height determined by use of the equation  $H_g = 2.5H$ , so long as the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation; and*

*(2) For all other stacks, the height determined by use of the equation  $H_g = H + 1.5L$ , except that the Director may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or*

*(c) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes or eddy effects created by the source itself, nearby structures or nearby terrain features.*

*2. For the purposes of this section:*

*$H_g$  = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;*

*H = height of nearby structures measured from the ground-level elevation at the base of the stack; and*

*L = lesser dimension, height or projected width, of nearby structures.*

**Sec. 5.** *“Nearby” means, as used in sections 3 and 4 of this regulation, with respect to a specific structure or terrain feature:*

*1. For the purpose of using the equations set forth in paragraph (b) of subsection 1 of section 4 of this regulation, that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than one-half mile; and*

*2. For the purpose of conducting demonstrations under paragraph (c) of subsection 1 of section 4 of this regulation, not greater than one-half mile, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if the feature achieves a height one-half mile from the stack that is at least 40 percent of the good engineering practice stack height determined by using the equation set forth in subparagraph (2) of paragraph (b) of subsection 1 of section 4 of this regulation or 85 feet, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.*

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

445B.001 As used in NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, *and sections 2 to 5, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 7.** NAC 445B.013 is hereby amended to read as follows:

445B.013 “Allowable emissions” means the emissions from a stationary source at its designed maximum capacity or at its actual maximum capacity, whichever is greater, except as reduced by any federally enforceable limitations on its emissions which are established:

1. By Nevada laws or regulations;
2. By any applicable requirement; or

3. By conditions of the stationary source's operating permit, imposed on the emission rate, the type or amount of materials combusted or processed, the operating rates, the hours of operation, or any other factor limiting production or emission, whichever is most stringent.

~~[→ For Class II sources that are not subject to federal requirements, emission limitations need not be federally enforceable.]~~

**Sec. 8.** NAC 445B.044 is hereby amended to read as follows:

445B.044 "Construction" means *any physical change or change in the method of operation of an emission unit, including, without limitation, the fabrication, erection, ~~[or]~~ installation or modification* of an emission unit.

**Sec. 9.** NAC 445B.063 is hereby amended to read as follows:

445B.063 "Excess emissions" means any emission which exceeds any applicable emission limitation prescribed by NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 5, inclusive, of this regulation*, or that is contained in an operating permit ~~[.]~~, *except that this does not preclude the use, including the exclusive use, of any credible evidence or information relevant to the determination of whether a source would have been in compliance with the applicable requirements if the appropriate performance or compliance test or procedure had been performed to determine excess emissions.*

**Sec. 10.** NAC 445B.153 is hereby amended to read as follows:

445B.153 "Regulated air pollutant" means:

1. Nitrogen oxides or any volatile organic compounds;
2. Any pollutant subject to:

(a) A national ambient air quality standard ~~[H]~~ *and any constituents or precursors for such pollutants identified by the Administrator;*

(b) A standard or requirement adopted pursuant to 42 U.S.C. § 7411 ; or ~~[7412; or]~~

(c) A standard established pursuant to NAC 445B.22097; ~~[or]~~

3. Any Class I or Class II substance subject to a standard adopted pursuant to 42 U.S.C. §§ 7671 to 7671q, inclusive ~~[H]~~ ; *or*

*4. Any pollutant that otherwise is subject to regulation under the Act, except that any hazardous air pollutant regulated under 42 U.S.C. § 7412 is not a regulated air pollutant unless the hazardous air pollutant is also regulated as a constituent or precursor of an air pollutant listed pursuant to 42 U.S.C. § 7408.*

**Sec. 11.** NAC 445B.22057 is hereby amended to read as follows:

445B.22057 The allowable emission of sulfur from fossil fuel-fired power generating units ~~[Number]~~ *Numbers* 1, 2 and 3 of Nevada Power Company's Reid Gardner Station, located in Air Quality Control Region 13, Basin 218, California Wash, must not be greater than 0.275 pounds per million Btu's (0.504 *(0.495)* kilograms per million kg-cal).

**Sec. 12.** NAC 445B.2206 is hereby amended to read as follows:

445B.2206 The allowable emission of sulfur from fossil fuel-fired power generating unit Number 4 of Nevada Power Company's Reid Gardner Station, located in Air Quality Control Region 13, Basin 218, California Wash, must not be greater than 0.145 ~~[lb/10 Btu (0.09 kg/10)]~~ *pounds per million Btu's (0.261 kilograms per million kg-cal)*. The efficiency of the capture of sulfur must be maintained at a minimum of 85 percent, based on a 30-day rolling average.

**Sec. 13.** NAC 445B.22063 is hereby amended to read as follows:

445B.22063 The allowable emission of sulfur from fossil fuel-fired power generating unit Number 2 Sierra Pacific Power Company's North Valmy Station, located in Air Quality Control Region 147, Basin 64, Clovers Area, must not be greater than 0.3 ~~[lb/10<sup>6</sup> Btu (0.135 kg/10<sup>6</sup>)]~~ *pounds per million Btu's (0.540 kilograms per million kg-cal)*. The efficiency of the capture of sulfur must be maintained at a minimum of 70 percent, based on a 30-day rolling average.

**Sec. 14.** NAC 445B.22083 is hereby amended to read as follows:

445B.22083 1. Except as otherwise provided in subsections 2 and 3, a person shall not make a major modification to an existing plant or construct a new plant to generate electricity using steam produced by the burning of fossil fuels within:

- (a) The Las Vegas Valley, Hydrographic Area 212;
- (b) The El Dorado Valley, Hydrographic Area 167;
- (c) The Ivanpah Valley, Hydrographic Areas 164 a and 164 b; or
- (d) The city limits of Boulder City.

2. Fossil fuel-fired power generating units Numbers 1, 2 and 3 at Clark Station and fossil fuel-fired power generating unit Number 1 at Sunrise Station may be relocated to the Ivanpah Valley and ~~[retain their operating permits if the emission units that are relocated use the best available control technology.]~~ *must comply with the provisions of NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 5, inclusive, of this regulation.*

3. If an emission unit is relocated to Ivanpah Valley:

(a) The previously used emission unit must be deactivated and removed from the previous site when the relocated unit begins operation.

(b) Any credit for reduced emission is not available as an offset credit.

4. As used in this section, “major modification” has the meaning ascribed to it in 40 C.F.R. § 51.165, as ~~incorporated~~ *adopted* by reference in NAC 445B.221.

**Sec. 15.** NAC 445B.22093 is hereby amended to read as follows:

445B.22093 1. Solvents or other volatile compounds such as paints, acids, alkalies, pesticides, fertilizers and manure must be processed, stored, used and transported in such a manner and by such means as to minimize the tendency to evaporate, leak, escape or be otherwise discharged into the ambient air causing or contributing to air pollution. If methods of control are available and feasible effectively to reduce the contribution to air pollution from evaporation, leakage or discharge, as determined by the Director, the installation and use of such methods, devices or equipment for control is mandatory.

2. No person may place, store or hold in any new reservoir, stationary tank or other container with a capacity equal to or greater than 40,000 gallons (150 kiloliters) any gasoline, petroleum distillate, or volatile organic compound having a vapor pressure of 1.5 lb/square inch absolute (1,055 kg/square meter) or greater under actual storage conditions unless the tank, reservoir or other container is a pressure tank maintaining working pressure sufficient at all times to prevent loss of vapor or gas to the atmosphere or is equipped with one of the following devices properly installed, in good working order, and in operation:

(a) A floating roof which consists of a pontoon type or double-deck roof which rests on the surface of the liquid contents and is equipped with a seal to close the space between the roof eave and tank wall or a vapor balloon or a vapor dome designed in accordance with accepted standards of the petroleum industry. This control equipment is not permitted if the gasoline or petroleum distillate has a vapor pressure of 11 lb/square inch absolute (7,734 kg/square meter) or

greater under actual conditions. All gauging and sampling devices for tanks must be gastight except when gauging or sampling is taking place.

(b) Other equipment proven to be of equal efficiency for preventing discharge of gases and vapors to the atmosphere.

3. Any tank for the storage of any other petroleum or volatile organic compound which is constructed or extensively remodeled on or after November 7, 1975, must be equipped with a submerged fill pipe ~~for the equivalent, as approved by the Director,~~ for the control of emissions.

4. All facilities for dock loading of products consisting of petroleum or other volatile organic compounds having a vapor pressure of 1.5 lb/square inch absolute (1,055 kg/square meter) or greater at loading pressure must have facilities for submerged filling by a submerged fill pipe ~~for an acceptable equivalent,~~ for the control of emissions.

**Sec. 16.** NAC 445B.235 is hereby amended to read as follows:

445B.235 1. When requested to do so by an owner or operator, the Director will make a determination of whether action taken or intended to be taken by the owner or operator constitutes construction, including reconstruction, or modification or the commencement thereof within the meaning of NAC 445B.236.

2. The Director will respond to any request for a determination under subsection 1 within ~~30~~ 60 days after receipt of the request.

**Sec. 17.** NAC 445B.236 is hereby amended to read as follows:

445B.236 1. When requested to do so by an owner or operator, the Director will review plans for construction or modification to provide technical advice to the owner or operator. A separate request must be submitted for each construction or modification project. Each request must identify the location of such projects and be accompanied by technical information

describing the proposed nature, size, design and method of operation of each affected facility involved in the project, including information on any equipment to be used for measurement or control of emissions.

2. *The Director shall respond to any request for review of plans under subsection 1 within 60 days after receipt of the request.*

3. Neither a request for a review of plans nor advice furnished by the Director in response to such request:

(a) Relieves an owner or operator of legal responsibility for compliance with any provision of *this section or* NAC 445B.235 , ~~for this section,~~ or of any applicable state or local requirement; or

(b) Prevents the Director from carrying out or enforcing any provision of *this section or* NAC 445B.235 , ~~for this section,~~ or taking any other action authorized by the Act.

**Sec. 18.** NAC 445B.250 is hereby amended to read as follows:

445B.250 Any owner or operator subject to the provisions of NAC ~~445B.235 to 445B.250,~~ *445B.001 to 445B.3497*, inclusive, *and sections 2 to 5, inclusive, of this regulation* shall furnish the Director written notification of:

1. The date that construction ~~[,]~~ or reconstruction ~~[as defined under NAC 445B.247,]~~ of an affected facility is commenced, postmarked no later than 30 days after such date. This requirement does not apply in the case of mass-produced facilities which are purchased in completed form.

2. The anticipated date of initial start-up of an affected facility, postmarked not more than 60 days ~~[nor]~~ *and not* less than 30 days before such date.

3. The actual date of initial start-up of an affected facility, postmarked within 15 days after such date.

4. ~~[Any physical or operational change to an existing facility which may increase the emission rate of any regulated air pollutant to which a standard applies, unless that change is specifically exempted under an applicable section or in NAC 445B.239 or 445B.242 and the exemption is not denied under those sections. The notice must be postmarked 60 days or as soon as practicable before the change is commenced and must include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Director may request additional relevant information subsequent to this notice.~~

~~—5.]~~ The date upon which demonstration of the continuous monitoring system performance commences in accordance with NAC 445B.256 to 445B.267, inclusive. Notification must be postmarked not less than 30 days before such date.

**Sec. 19.** NAC 445B.308 is hereby amended to read as follows:

445B.308 1. ~~[Before]~~ *In any area designated as attainment or unclassifiable for a regulated air pollutant, before* an operating permit or a revision of an operating permit may be issued:

- (a) For a new or modified stationary source;
- (b) For a pollution control project;
- (c) For a plantwide applicability limitation; or
- (d) To allow a plantwide applicability limitation to expire and not be renewed,

↳ in accordance with NAC 445B.308 to 445B.314, inclusive, the applicant must submit to the Director an environmental evaluation and any other information the Director determines is necessary to make an independent air quality impact assessment.

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 the 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.

(d) Will not comply with subsection ~~[3.]~~ 4.

3. *The Director shall not issue an operating permit or a revision of an operating permit for any stationary source if the Director determines that the degree of emission limitation required for control of an air pollutant under this section is affected by that amount of the stack height of any source as exceeds good engineering practice stack height, or any other dispersion technique.*

4. Except as otherwise provided in subsection ~~[4.]~~ 5, 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~~ *adopted* 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.3497, inclusive, *and sections 2 to 5, 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 the proposed location of the major stationary source or major modification is 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, the owner or operator must 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.

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

~~4.~~ 5. 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, *as adopted by reference in NAC 445B.221*, who proposes to construct in an area designated as basic nonattainment for ozone must:

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

(b) Adopt as an emission limitation for the stationary source the best available control technology for volatile organic compounds and nitrogen oxides from the stationary source.

(c) Demonstrate that all other stationary sources within this State that are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 5, inclusive, of this regulation*, and all other applicable requirements and conditions of the permit.

(d) Demonstrate an offset ratio of 1 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source that is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if the proposed location of the major stationary source or major modification is located in an area designated as basic nonattainment for ozone.

(e) 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 that 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 that 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, the owner or operator must demonstrate that the emissions 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.

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

~~5.~~ **6.** 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 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~~ *adopted* by reference in NAC 445B.221.

~~6.~~ **7.** 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.3497, inclusive ~~7.~~

~~7.~~, *and sections 2 to 5, inclusive, of this regulation.*

**8.** 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.314, inclusive, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

~~[8.]~~ **9.** 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.

~~[9.—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.]~~

10. 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~~ *adopted* 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. 20.** NAC 445B.310 is hereby amended to read as follows:

445B.310 **1.** An applicant for an operating permit, a revision to an operating permit or a request for a change of location, which is not subject to the provisions of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, must submit with the application an environmental evaluation for:

~~[1.]~~ **(a)** A new stationary source which emits, or has the potential to emit, greater than 25 tons of a regulated air pollutant per year;

~~{2.}~~ (b) A modification to an existing stationary source that meets the following criteria:

~~{(a)}~~ (1) The existing stationary source has the potential to emit greater than 25 tons of a regulated air pollutant per year; and

~~{(b)}~~ (2) The proposed modification has the potential to emit greater than 10 tons of a regulated air pollutant per year;

~~{3.}~~ (c) The approval of a pollution control project, the approval of a plantwide applicability limitation or the approval to allow a plantwide applicability limitation to expire and not be renewed; or

~~{4.}~~ (d) Upon written notice from the Director, any other source or combination of sources.

*2. An owner or operator of a Class II source may request an exemption from the requirement to submit an environmental evaluation with the application. 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. If such an exemption is granted, the Director shall perform the environmental evaluation.*

**Sec. 21.** NAC 445B.311 is hereby amended to read as follows:

445B.311 *Except as otherwise provided in paragraph (c) of subsection 4:*

1. An environmental evaluation which is required for a new or modified stationary source pursuant to NAC 445B.308 to 445B.314, inclusive, 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 *and meteorological conditions* at the proposed site before construction or modification ~~}; and~~

*(g) A dispersion analysis of each regulated air pollutant.*

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]~~ *consider good engineering practice stack height. If the Director considers an analysis of a source based on a good engineering practice stack height that exceeds the height specified in paragraph (a) or (b) of subsection 1 of section 4 of this regulation, the Director shall:*

*(a) Notify the public of the availability of the demonstration study performed pursuant to paragraph (c) of subsection 1 of section 4 of this regulation; and*

*(b) Provide an opportunity for a public hearing on the demonstration study in accordance with the requirements for a Class I operating permit set forth in subsections 7, 9 and 10 of NAC 445B.3395.*

*4. A dispersion analysis* used to determine the location and estimated value of *the* highest concentration of *each* regulated air ~~[pollutants must contain:~~

~~—(a) Assumptions]~~ *pollutant must include:*

*(a) A dispersion model based on the applicable models, bases and other requirements specified in the “Guideline on Air Quality Models,” which is Appendix W of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, except that the Director may authorize the modification of a model specified in the “Guideline on Air Quality Models” or the use of a model not included in the “Guideline on Air Quality Models” if the Director determines that the modification or use is appropriate;*

*(b) A narrative report describing:*

*(1) If applicable, 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.] used in the analysis, including, without limitation:~~

- (I) Model options chosen;*
- (II) Urban versus rural selection;*
- (III) Background concentrations;*
- (IV) Characterization of emission sources as point, area or volume;*
- (V) Emission discharge points; and*
- (VI) Rate of emission from each emission unit; and*

*(2) The geographic area considered in the analysis, including, without limitation, information concerning:*

- (I) The nearest significant terrain features;*
- (II) The receptor grid or grids; and*
- (III) Restrictions on public access to the stationary source; and*

*(c) Valid meteorological information pursuant to the provisions of Appendix W of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, which:*

*(1) For sources that are not subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221:*

*(I) Is site specific, if the information exists pursuant to subsection 1 of this section or subsection 7 of NAC 445B.308, and which covers a period of not less than 1 year;*

*(II) Has been obtained from an off-site location representative of the proposed site and which covers a period of not less than 1 year;*

*(III) Represents the worst-case meteorological conditions, as approved by the Director for synthetic data; or*

*(IV) Has been obtained over the last 5 years at the nearest National Weather Service site; or*

*(2) For sources that are subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, is representative of the source site location and source emissions and which covers a period of not less than 1 year.*

**Sec. 22.** NAC 445B.342 is hereby amended to read as follows:

445B.342 1. The owner or operator of a stationary source operating in compliance with an operating permit may make changes which contravene an express term of the operating permit without a revision of the operating permit if the changes do not:

(a) Constitute modifications pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive, or constitute a modification as that term is defined in NAC 445B.099;

(b) Violate any provision of NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 5, inclusive, of this regulation*, or any other applicable requirement; or

(c) Exceed the allowable emissions set forth in the operating permit for any emissions unit.

2. Any conditions of an operating permit that are requirements for monitoring, methods of testing, recordkeeping, reporting or compliance certification may not be changed pursuant to this section.

3. For each change made pursuant to this section, the holder of the operating permit shall provide a written notification to the Director and the Administrator at least 7 days before making the change. This notification must include:

(a) A detailed description of the change;

(b) The date on which the change will occur;

(c) Any change in emissions, as determined in accordance with NAC ~~445B.239;~~ ***445B.001 to 445B.3497, inclusive, and sections 2 to 5, inclusive, of this regulation;***

(d) Any condition of the operating permit which will no longer apply because of the change;  
and

(e) For a change that includes the trading of emissions made pursuant to paragraph (h) of subsection 1 of NAC 445B.3405, a detailed description of how the increase or decrease in emissions, or both, resulting from the change complies with the terms and conditions of the operating permit.

4. The holder of the operating permit, the Director and the Administrator, as appropriate, shall attach a copy of the written notification to his respective copy of the permit.

**Sec. 23.** 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, 445B.310, 445B.311 and 445B.3135; 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.3497, inclusive ~~[,]~~, *and sections 2 to 5, inclusive, of this regulation.*

**Sec. 24.** NAC 445B.010 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**445B.010 “Air contaminant” defined. (NRS 445B.210)** “Air contaminant” has the meaning ascribed to it in NRS 445B.110.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R096-05**

The State Environmental Commission adopted regulations assigned LCB File No. R096-05 which pertain to chapter 445B of the Nevada Administrative Code on October 4, 2005.

**Notice date:** 8/30/2005  
**Hearing date:** 10/14/2005

**Date of adoption by agency:** 10/4/2005  
**Filing date:** 10/31/2005

**INFORMATIONAL STATEMENT**

The permanent regulation is necessary to supplement the February 2005 submittal of Nevada's Applicable State Implementation Plan (ASIP) to EPA, allowing EPA to approve the updated ASIP.

The regulation revises several sections in the permitting provisions of NAC 445B. It adds provisions to ensure good engineering practice regarding stack height and emission limitations, requires "Prevention of Significant Deterioration" review when relocating certain fossil-fueled power generating units, and updates and clarifies environmental evaluation information requirements.

Additionally, the regulation removes Director's discretion for dealing with the handling of organic solvents and other volatile compounds, adds a timeframe for the State's response to requests for technical advise regarding plans for construction or modification of a facility, and increases the time allowed for the State to respond to a request from a source to determine whether an action constitutes construction or modification.

Finally, the proposed regulation modifies the requirements for a Class II application for revision of an operating permit, to include information on actual emission rates. Other changes include correcting certain redundant provisions and making several clarifications, technical corrections and updates.

**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.**

The Nevada Division of Environmental Protection (NDEP), Bureaus of Air Pollution Control and Air Quality Planning held workshops on the above referenced regulation at the following locations.

<p><b>Reno</b> Thursday, May 12, 2005 1:00 pm - 3:00 pm South Valleys Library, Olympic Room 15650A Wedge Parkway Reno, Nevada</p>
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Notification of the proposed changes was sent out to all interested parties included on NDEP's mailing list. Notification was posted at the Nevada Division of Environmental Protection offices in Carson City and Las Vegas, at the State Library in Carson City, and in county or community

libraries in Austin, Battle Mountain, Elko, Ely, Fallon, Fernley, Las Vegas, Lovelock, Pahrump, Reno, Wells, and Winnemucca.

The proposed regulation was also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates (September 05, 19, 26, 2005). The public was subsequently mailed a public notice and meeting agenda for the SEC regulatory hearing, which was held in Reno on October 04, 2005; the SEC mailing list was used for both mailings.

At the SEC hearing, there were no public comments received by the Commission during the adoption of the referenced regulation.

**2. The number persons who:**

- (a) Attended October 04, 2005 hearing; 18
- (b) Testified on this Petition at the hearing: 1 (NDEP Staff)
- (c) Submitted to the agency written comments: (none)

**3. 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 State Environmental Commission adopted the regulation on October 4, 2005. Several changes were made to the regulation that were non-substantive and reflected only technical corrections.

**4. The estimated economic effect of the adopted regulation on the business, which it is to regulate, and on the public.**

No anticipated economic effects will result from adoption of this regulation.

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

There will be no additional costs to the Nevada Division of Environmental Protection for implementing this regulation.

**6. A description of any regulations of other state or government agencies, which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary.**

The regulation does not overlap or duplicate any regulations of other state, federal or local agencies.

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

The regulation is no more stringent than what is established by federal law.

**8. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not address fees changes.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not address fees changes.