

LCB File No. R189-05

PROPOSED REGULATION OF THE STATE  
ENVIRONMENTAL COMMISSION

P2005-07

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

AUTHORITY: 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 30, inclusive, of this regulation.

**Sec. 2.** *“Effective date of the Nevada mercury air emissions control program” means the date on which the Commission adopts the program.*

**Sec. 3.** *“Existing thermal unit that emits mercury” means a thermal unit that emits mercury which is located at a stationary source and was constructed before the effective date of the Nevada mercury air emissions control program.*

**Sec. 4.** *“Mercury” means elemental mercury and all compounds of mercury.*

**Sec. 5.** *“Mercury early reduction credit” means an allowance granted by the Director for the installation of additional mercury emissions controls on a thermal unit that emits mercury.*

**Sec. 6.** *“Mercury operating permit to construct” means an operating permit signed and issued by the Director which:*

- 1. Includes the conditions that apply to an existing thermal unit that emits mercury;*
- 2. Authorizes the construction or modification of a thermal unit that emits mercury and an initial period of operation of a proposed new thermal unit that emits mercury or a modification to a thermal unit that emits mercury; or*
- 3. Includes the conditions which apply to a thermal unit that emits mercury and the initial period of operation of a thermal unit that emits mercury or a modification to a thermal unit that emits mercury.*

**Sec. 7.** *“Metals mining” has the meaning ascribed to it in major group 10 of the Standard Industrial Classification Manual, 1987 edition.*

**Sec. 8.** *“Modified thermal unit that emits mercury” means any physical change in or change in the method of operation of a thermal unit that emits mercury:*

- 1. For which an application is proposed on or after the effective date of the Nevada mercury air emissions control program; and*
- 2. Which increases the amount of mercury emitted to the atmosphere.*

**Sec. 9.** *“Nevada maximum achievable control technology” means an emission standard or other limitation determined by the Director.*

**Sec. 10.** *“New thermal unit that emits mercury” means a thermal unit that emits mercury which has obtained a permit that authorizes the construction of the unit on or after the effective date of the Nevada mercury air emissions control program.*

**Sec. 11.** *“Phase 1 application” means an application for a mercury operating permit to construct for an existing thermal unit that emits mercury for which the owner or operator requests methods of operation and maintenance for each thermal unit that emits mercury, associated mercury controls, mercury emissions sampling and testing, and methods of monitoring, recordkeeping and reporting.*

**Sec. 12.** *“Phase 2 application” means an application for the revision of a mercury operating permit to construct for an existing thermal unit that emits mercury that proposes a NvMACT.*

**Sec. 13.** *“Presumptive NvMACT” means the mercury controls identified in section 16 of this regulation.*

**Sec. 14.** *“De minimis mercury emissions ” means a level of mercury emissions determined by the Director.*

**Sec. 15.** *“Thermal unit that emits mercury” means an emission unit located at a metals mining stationary source that emits or has the potential to emit non-fugitive emissions of mercury generated by direct or indirect sources of heat energy.*

**Sec. 16.** *“Tier-1 thermal unit that emits mercury” means one of the following:*

- (a) Barrick Goldstrike Mines Inc. – Goldstrike Mine, list units.....*
- (b) Newmont Mining Corporation – Gold Quarry Operations Area, list units....*
- (c) Newmont Mining Corporation – Twin Creeks Mine, list units.....*
- (d) Placer Dome – Cortez Gold Mine , list units.....*
- (e) Queenstake – Jerritt Canyon Mine, list units.....*

**Sec. 17.** *“Tier-2 thermal unit that emits mercury” means an existing thermal unit that emits mercury which emits or has the potential to emit mercury emissions greater than de minimis and that is not a Tier-1 thermal unit that emits mercury.*

**Sec. 18.** *“Tier-3 thermal unit that emits mercury” means a thermal unit that emits mercury that is not a Tier-1 or Tier-2 thermal unit that emits mercury, and*

- 1. Does not have the potential to emit, not considering controls, mercury; or*
  - 2. Obtains appropriate permit conditions, not considering controls, to limit the potential to emit mercury to an amount not to exceed de minimis mercury emissions.*
- ↪ Operating permit conditions for a Tier-3 emission unit shall include a requirement to certify Tier-3 status.*

## General Provisions

**Sec. 19. Emissions of mercury: NvMACT.** *1. Except as otherwise provided in subsection 2, no owner or operator of a thermal unit that emits mercury may cause or permit the discharge of mercury into the atmosphere from:*

*(a) A Tier-1 thermal unit that emits mercury, or*

*(b) A Tier-2 thermal unit that emits mercury with mercury emissions greater than de minimis,*

*↳ without applying NvMACT for mercury emissions control pursuant to the schedules and requirements of sections 2 to 30, inclusive, of this regulation.*

*2. No owner or operator of a new thermal unit that emits mercury or a modified thermal unit that emits mercury may cause or permit the discharge of mercury into the atmosphere from a new thermal unit that emits mercury or a modified thermal unit that emits mercury without applying NvMACT for mercury emissions control pursuant to sections 2 to 30, inclusive, of this regulation.*

### Mercury Operating Permits to Construct Generally

**Sec. 20. Mercury operating permit to construct: General requirements; exceptions; restrictions on transfers.** *1. Except for a Tier-3 thermal unit that emits mercury, a mercury operating permit to construct is required for each thermal unit that emits mercury located at a metals mining stationary source pursuant to the ~~timing~~ schedules and requirements of sections 2 to 30, inclusive, of this regulation.*

*2. To establish a new thermal unit that emits mercury or a modified thermal unit that emits mercury at a stationary source, the owner or operator of a proposed new thermal unit that emits mercury or a modified thermal unit that emits mercury must apply for and obtain a new or revised mercury operating permit to construct prior to construction or modification pursuant to sections 2 to 30, inclusive, of this regulation.*

*3. A mercury operating 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 original mercury operating permit to construct pursuant to NAC 445B.319.*

### Mercury Operating Permits to Construct

**Sec. 21. Director's determination of de minimis mercury emissions.** *1. The Director will make an initial evaluation of de minimis mercury emissions on or before May 15, 2006 but no later than 60 days after the effective date of the Nevada mercury air emissions control program, whichever is later.*

*2. The Director may, upon written request and a satisfactory demonstration by an applicant, approve the mercury emissions from a thermal unit that emits mercury as de minimis. The Director will make an initial evaluation of de minimis mercury emissions within 60 days of receipt of a written request.*

*If there are multiple emission units, the Director may, after considering the impact of the combined mercury emissions of multiple emission units, determine whether to approve one or more of the specific emission units as de minimis.*

*3. The Director will make public and maintain on file the Director's preliminary determination of de minimis mercury emissions determined from subsection 1 or 2. The preliminary determination shall be maintained during normal business hours at 901 South Stewart Street, Carson City, Nevada, and in the air quality region where the source is located for 30 days to enable public participation and comment, and the Director shall:*

*(a) Cause to be published a prominent advertisement in a newspaper or newspapers of general circulation 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; and*

*(d) Establish a 30-day period for comment from the public.*

*4. The Director will make a final determination of de minimis mercury emissions within 90 days of the date of the notice of the preliminary determination, and make public the final determination in accordance with the provisions of paragraphs (a) to (c), inclusive, of subsection 3.*

**Sec. 22. Filing requirements.** *1. An owner or operator of a metals mining stationary source must file an application, on a form provided by the Director, and obtain a mercury operating permit to construct for:*

*(a) A Tier-1 thermal unit that emits mercury;*

*(b) A Tier-2 thermal unit that emits mercury; or*

*(c) A new thermal unit that emits mercury.*

*2. Notwithstanding the requirement of subsection 1, the owner or operator of a Tier-3 thermal unit that emits mercury is not required to file an application to obtain a mercury operating permit to construct. Within 90 days of the date of final notification of determination of de minimis mercury emissions, the owner or operator of a Tier-3 thermal unit that emits mercury must either:*

*(a) File an application to revise the stationary source's existing operating permit to include annual mercury reporting requirements and any requested limits; or*

*(b) File an application for a Class II operating permit to convert the stationary source's Class III operating permit, and include annual mercury reporting requirements and any requested limits.*

*3. An owner or operator of any Tier-1 thermal unit that emits mercury shall file a Phase 1 application with the Director within 90 days of the effective date of the Nevada mercury air emissions control program.*

*4. An owner or operator of any Tier-2 thermal unit that emits mercury with mercury emissions greater than de minimis shall file a Phase 1 application with the Director within 180 days of the effective date of the Nevada mercury air emissions control program.*

*5. Notwithstanding the requirements of subsections 3 and 4, if an owner or operator of a stationary source must file an application for both a Tier-1 thermal unit that emits mercury and a Tier-2 thermal unit that emits mercury for the same stationary source, the application must comply with the timelines established in subsection 3.*

*6. An owner or operator of a Tier-1 thermal unit that emits mercury or a Tier-2 thermal unit that emits mercury shall file a Phase 2 application with the Director to revise the mercury*

*operating permit to construct within 21 months of the effective date of the Nevada mercury air emissions control program.*

*7. Within 90 days of the date of final notification of determination of de minimis mercury emissions, the owner or operator of an existing thermal unit that emits mercury which emits or has the potential to emit greater than de minimis mercury emissions and that has not filed an application pursuant to subsections 1, 3 and 4 must file an amended Phase 1 application with the Director to include such Tier-2 thermal unit that emits mercury.*

*8. An owner or operator of a metals mining stationary source must file an application, on a form provided by the Director, and obtain a mercury operating permit to construct for a new thermal unit that emits mercury or a modified thermal unit that emits mercury.*

*9. For a modified thermal unit that emits mercury for which the owner or operator requests mercury early reduction credit, the owner or operator must file an application pursuant to subsection 7 of section 25 of this regulation.*

**Sec. 23. Mercury operating permit to construct: Phase 1 application.** *A mercury operating permit to construct Phase 1 application or an application for a revision of a mercury operating permit to construct for an existing thermal unit that emits mercury must include:*

*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.*

*2. An identification of each thermal unit that emits mercury.*

*3. A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each thermal unit that emits mercury which is a part of the stationary source.*

*4. An identification and a description of any equipment for the control of mercury, including the mercury controls that are presumptive NvMACT.*

*5. Limitations on the operation of the stationary source or any standards for work practices which affect emissions of mercury.*

*6. The location of any records that the applicant must keep pursuant to the requirements of the mercury operating permit to construct if the records are kept at a location other than the emitting stationary source.*

*7. For a Tier-1 thermal unit that emits mercury, a proposed monitoring plan that includes, but is not limited to:*

*(a) Operation and maintenance procedures that include process and emissions control monitoring and recordkeeping;*

*(b) A proposed schedule for mercury emissions sampling and testing and tests of performance that will be conducted on an annual basis and pursuant to NAC 445B.252. Initial mercury sampling and testing and tests of performance shall be submitted to the Director no later than December 31, 2006. Following the initial mercury sampling and testing and tests of performance, the plan may request the Director to consider an alternative to the annual frequency or waive the requirement for annual mercury sampling and testing upon adequate demonstration; and*

*(c) Reporting of mercury emissions on an annual basis. Mercury emissions reported will be based on mercury emissions test data.*

*(d) → Until a Phase 2 mercury operating permit to construct for a thermal unit that emits mercury is issued or revised, the owner or operator of a Tier-1 unit must comply with the monitoring plan.*

*8. For a Tier-2 thermal unit that emits mercury, a proposed monitoring plan that includes:*

*(a) Operation and maintenance procedures that include process and emissions control monitoring and recordkeeping;*

*(b) A proposed schedule for mercury emissions sampling and testing and tests of performance for each thermal unit that emits mercury; and*

*(c) Reporting of mercury emissions on an annual basis. Mercury emissions reported will be based on mercury emissions test data.*

*9. Additional mercury emissions controls to be placed on a Tier-1 or Tier-2 thermal unit that emits mercury for each mercury early reduction credit requested.*

*10. Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.*

**Sec. 24. Mercury operating permit to construct: Phase 2 application.** *A mercury operating permit to construct Phase 2 application or an application for a revision of a mercury operating permit to construct for an existing thermal unit that emits mercury must include:*

*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.*

*2. An identification of each thermal unit that emits mercury.*

*3. A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each thermal unit that emits mercury which is a part of the stationary source.*

*4. Limitations on the operation of the stationary source or any standards for work practices which affect emissions of mercury.*

*5. The location of any records that the applicant must keep pursuant to the requirements of the mercury operating permit to construct if the records are kept at a location other than the emitting stationary source.*

*6. For a Tier-1 or a Tier-2 thermal unit that emits mercury, a NvMACT analysis that includes, but is not limited to:*

*(a) A list of similar emission units and their associated mercury controls;*

*(b) Emissions associated with each listed mercury control technology;*

*(c) The design level of mercury emissions reduction for each listed mercury control technology;*

*(d) Costs associated with emissions reductions for each listed mercury control technology;*

*(e) Costs associated with energy for each listed mercury control technology; and*

*(f) Other non-air quality environmental impacts for each listed mercury control technology.*

*7. For a Tier-1 or a Tier-2 thermal unit that emits mercury, a proposed monitoring plan that includes, but is not limited to:*

*(a) Operation and maintenance procedures that include process and emissions control monitoring and recordkeeping;*

*(b) A proposed schedule for mercury emissions sampling and testing and tests of performance that will be conducted on an annual basis and pursuant to NAC 445B.252.*

*Initial mercury sampling and testing and tests of performance shall be submitted to the Director no later than December 31, 2006. Following the initial mercury sampling and testing and tests of performance, the plan may request the Director to consider an alternative to the annual frequency or waive the requirement for annual mercury sampling and testing upon adequate demonstration; and*

*(c) Reporting of mercury emissions on an annual basis. Mercury emissions reported will be based on mercury emissions test data.*

*(d) → Until a Phase 2 mercury operating permit to construct for a thermal unit that emits mercury is issued or revised, the owner or operator of a Tier-1 or a Tier-2 unit must comply with the monitoring plan.*

*8. Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.*

**Sec. 25. Mercury operating permit to construct: Application for new or modified mercury-emitting unit.** *An application for a mercury operating permit to construct or an application for a revision of a mercury operating permit to construct for a new or modified thermal unit that emits mercury must include, but is not limited to:*

*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.*

*2. An identification of the thermal unit that emits mercury.*

*3. A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for the thermal unit that emits mercury which is a part of the stationary source.*

*4. Limitations on the operation of the stationary source or any standards for work practices which affect emissions of mercury.*

*5. The location of any records that the applicant must keep pursuant to the requirements of the mercury operating permit to construct if the records are kept at a location other than the emitting stationary source.*

*6. For a new or modified thermal unit that emits mercury, a NvMACT analysis that includes:*

*(a) A list of similar emission units and their associated mercury controls;*

*(b) Emissions associated with each listed mercury control technology;*

*(c) The design level of mercury emissions reduction for each listed mercury control technology;*

*(d) Costs associated with emissions reductions for each listed mercury control technology;*

*(e) Costs associated with energy for each listed mercury control technology; and*

*(f) Other non-air quality environmental impacts for each listed mercury control technology.*

*7. For a modified thermal unit that emits mercury for which an application is submitted between the effective date of the Nevada mercury air emissions control program and 21 months after the effective date of the Nevada mercury air emissions control program, the additional mercury emissions controls to be placed on the modified thermal unit that emits mercury for each mercury early reduction credit requested.*

*8. Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.*

**Sec. 26. Mercury operating permit to construct: Action by director on Tier-1 or Tier-2 application: Notice; public comment and hearing.** *For each Tier-1 or Tier-2 thermal unit that emits mercury, the Director shall:*

*1. For a Phase 1 application, within 30 days after the date of receipt of an application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct, 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 propose a mercury operating permit to construct or a revision of a mercury operating permit to construct. The proposed mercury operating permit to construct shall include the presumptive NvMACT and identify each request for mercury early reduction credit. For each early reduction credit requested, the Director shall consider the following for each thermal unit that emits mercury:*

- (a) The best controls available for mercury emissions;*
- (b) The measures which reduce the volume or eliminate emissions of mercury through process changes, substitution of materials or other modifications;*
- (c) The enclosure of systems or processes to eliminate mercury emissions;*
- (d) The collection, capture or treatment of mercury released;*
- (e) The design, equipment, work practice, or operational standards including requirements for operator training or certification; and*
- (f) Differences in age, remaining operating life and configurations of similar units. A determination of similar units may take into account ore mercury concentration, size of units and other relevant factors; or*
- (g) Any combination of (a) to (f), inclusive.*

*2. For a Phase 2 application, within 30 days after the date of receipt of an application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct, 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 9 months after the official date of submittal, the Director shall propose a mercury operating permit to construct or a revision of a mercury operating permit to construct. The proposed mercury operating permit to construct shall include a determination of NvMACT. For each NvMACT determination, the Director shall consider the following for each thermal unit that emits mercury:*

- (a) The mercury emissions levels achieved in practice that are not less stringent than the best controlled similar unit and which reflect the maximum degree of reduction in emissions*



*of mercury, taking into consideration the cost of achieving such emissions reduction and any non-air quality health and environmental impacts and energy requirements;*

*(b) The measures which reduce the volume or eliminate emissions of mercury through process changes, substitution of materials or other modifications;*

*(c) The enclosure of systems or processes to eliminate mercury emissions,*

*(d) The collection, capture or treatment of mercury released;*

*(e) The design, equipment, work practice, or operational standards including requirements for operator training or certification; and*

*(f) Differences in age, remaining operating life and configurations of similar units. A determination of similar units may take into account ore mercury concentration, size of units and other relevant factors; or*

*(g) Any combination of (a) to (f), inclusive.*

*3. Request additional information if, after the official date of submittal, the Director discovers that additional information is required to comply with sections 2 to 30, 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. Make public and maintain on file the Director's review and the proposed conditions for the mercury operating permit to construct. The ~~preliminary intent to issue or deny~~ proposed mercury operating permit to construct shall be maintained during normal business hours at 901 South Stewart Street, Carson City, Nevada, and in the air quality region where the source is located for 30 days to enable public participation and comment, and 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; and*

*(d) Establish a 30-day period for comment from the public.*

*5. In addition to the requirements set forth in subsection 4, the notice required for a mercury operating permit to construct or for a revision of a mercury operating permit to construct must identify:*

*(a) The stationary source and the name and address of the applicant;*

*(b) The name and address of the authority processing the mercury operating permit to construct;*

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

*(d) The presumptive NvMACT or the determination of NvMACT as appropriate;*

*(e) 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 mercury operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the mercury*

*operating permit to construct and which are relevant to the proposed mercury operating permit to construct; and*

*(f) 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.*

*6. Receive all comments concerning the Director's review and the proposed mercury operating permit to construct or revision of the proposed mercury operating permit to construct. All comments must be submitted to the Director in writing within 30 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.*

*7. Within 12 months after the official date of submittal of a Phase 1 application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct, take final action on the proposed mercury operating permit to construct or the revision of the proposed mercury operating permit to construct. The Director shall make his decision by taking into account:*

*(a) Written comments from the public;*

*(b) Comments made during public hearings concerning the application and the proposed mercury operating permit to construct; and*

*(c) Information submitted by proponents of the project.*

*8. Within 16 months after the official date of submittal of a Phase 2 application ~~for a mercury operating permit to construct~~ or for the revision of a mercury operating permit to construct, take final action on the proposed revision to the mercury operating permit to construct. The Director shall make his decision by taking into account:*

*(a) Written comments from the public;*

*(b) Comments made during public hearings concerning the application and the proposed mercury operating permit to construct; and*

*(c) Information submitted by proponents of the project.*

**Sec. 27. Mercury operating permit to construct: Action by director on new or modified thermal unit that emits mercury application: Notice; public comment and hearing. For each new or modified thermal unit that emits mercury, the Director shall:**

*1. Within 30 days after the date of receipt of an application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct, 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 propose a mercury operating permit to construct or a revision of a mercury operating permit to construct.*

*2. Request additional information if, after the official date of submittal, the Director discovers that additional information is required to comply with sections 2 to 30, 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.*

*3. Make public and maintain on file the Director's review and proposed conditions for the mercury operating permit to construct or the revision of a mercury operating permit to construct. ~~The preliminary intent to issue or deny~~ proposed mercury operating permit to construct or revision of a mercury operating permit to construct shall be maintained during normal business hours at 901 South Stewart Street, Carson City, Nevada, and in the air quality region where the source is located for 30 days to enable public participation and comment, and 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; and*

*(d) Establish a 30-day period for comment from the public.*

*4. In addition to the requirements set forth in subsection 3, the notice required for a mercury operating permit to construct or for a revision of a mercury operating permit to construct must identify:*

*(a) The stationary source and the name and address of the applicant;*

*(b) The name and address of the authority processing the mercury operating permit to construct;*

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

*(d) The Director's determination of the NvMACT;*

*(e) 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 mercury operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the mercury operating permit to construct and which are relevant to the proposed mercury operating permit to construct; and*

*(f) 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.*

*5. Receive all comments concerning the Director's review and the proposed mercury operating permit to construct or revision of the proposed mercury operating permit to construct in writing 30 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.*

*6. Take final action on the proposed mercury operating permit to construct or the revision of the proposed mercury operating permit to construct within 60 days after the close of the period for public participation or 60 days after the hearing if a hearing is scheduled pursuant to this section, whichever is later. The Director shall make his decision by taking into account:*

*(a) Written comments from the public;*

*(b) Comments made during public hearings concerning the application and the proposed mercury operating permit to construct; and*

*(c) Information submitted by proponents of the project.*

**Sec. 28. Mercury operating permit to construct: Required conditions and information for Tier-1 or Tier-2 thermal unit that emits mercury. For each Tier-1 or Tier-2 thermal unit that emits mercury, the Director shall:**

*1. Cite the legal authority for each condition contained in a mercury operating permit to construct.*

*2. Include the following conditions in a mercury operating permit to construct:*

*(a) The holder of the mercury 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, without limitation, all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.*

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

*(c) The holder of the mercury operating permit to construct shall comply with all conditions of the mercury 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 mercury operating permit to construct by the Director; or*

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

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

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

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

*(g) The holder of the mercury 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 mercury operating permit to construct, or to determine compliance with the conditions of the mercury operating permit to construct.*

*(h) The holder of the mercury 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 mercury operating permit to construct where:*

*(I) The thermal unit that emits mercury is located;*

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

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

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

(i) *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 mercury operating permit to construct are true, accurate and complete.*

(j) *All applicable emissions control requirements including:*

(1) *For a Tier-1 ~~mercury-emitting-unit~~ thermal unit that emits mercury, a presumptive NvMACT from the Phase 1 application;*

(2) *For a Tier-1 or Tier-2 ~~mercury-emitting-unit~~ thermal unit that emits mercury which has applied for mercury early reduction credit in the Phase 1 application, the early reduction credit mercury control. To receive the mercury early reduction credit the owner or operator must install and operate the mercury early reduction control before the required date to file a Phase 2 application pursuant to subsection 6 of section 22 of this regulation.*

(3) *Except as provided in subparagraph (4) of this paragraph, for a Tier-1 or Tier-2 ~~mercury-emitting-unit~~ thermal unit that emits mercury, a NvMACT determined from the Phase 2 application. The NvMACT will be installed no later than 24-months from the date of issuance of the revised mercury operating permit to construct.*

(4) *For a Tier-1 or Tier-2 ~~mercury-emitting-unit~~ thermal unit that emits mercury which has received a mercury early reduction credit, the NvMACT will be installed no later than 48 months from the date of issuance of the revised mercury operating permit to construct.*

(k) *The monitoring plan for each thermal unit that emits mercury as required in section 23 of this regulation;*

(l) *Adequate recordkeeping and reporting requirements as deemed by the Director; and*

(m) *Any other requirements deemed necessary by the Director.*

**Sec. 29. Mercury operating permit to construct: Required conditions and information for new or modified thermal unit that emits mercury.** *For each new or modified thermal unit that emits mercury, the Director shall:*

1. *Cite the legal authority for each condition contained in a mercury operating permit to construct.*

2. *Include the following conditions in a mercury operating permit to construct:*

(a) *The expiration date of the mercury operating permit to construct must be defined as described in section 30 of this regulation.*

(b) *The holder of the mercury 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, without limitation, 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 mercury operating permit to construct is severable, and if any is held invalid, the remaining conditions and requirements continue in effect.*

*(d) The holder of the mercury operating permit to construct shall comply with all conditions of the mercury 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 mercury operating permit to construct by the Director; or*

*(3) The reopening or revising of the mercury operating permit to construct by the holder of the mercury 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 mercury operating permit to construct is not a defense to noncompliance with any condition of the mercury operating permit to construct.*

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

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

*(h) The holder of the mercury 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 mercury operating permit to construct, or to determine compliance with the conditions of the mercury operating permit to construct.*

*(i) The holder of the mercury 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 mercury operating permit to construct where:*

*(I) The thermal unit that emits mercury is located;*

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

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

*(4) Sample or monitor, at reasonable times, substances or parameters to determine compliance with the conditions of the mercury 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 mercury operating permit to construct are true, accurate and complete.*

*(k) All applicable emissions control requirements including:*

*(1) For a new thermal unit that emits mercury for which an application is submitted between the effective date of the Nevada mercury air emissions control program and 21*

*months after the effective date of the Nevada mercury air emissions control program the best controls available;*

*(2) For a new or modified thermal unit that emits mercury for which an application is submitted on or after 21 months after the effective date of the Nevada mercury air emissions control program a NvMACT determined from the application; or*

*(3) For a modified thermal unit that emits mercury which has applied for mercury early reduction credit in the application, the early reduction credit mercury control. To receive the mercury early reduction credit the owner or operator must install and operate the mercury early reduction control ~~before the required date to file an application pursuant to subsection 9 of section 22 of this regulation~~ on or before 21 months after the effective date of the Nevada mercury air emissions control program.*

*(4) For a modified thermal unit that emits mercury which has received a mercury early reduction credit, the NvMACT will be installed no later than 48 months from the date of issuance of the revised mercury operating permit to construct.*

*(l) The monitoring plan for each thermal unit that emits mercury as required in section 23 of this regulation;*

**NOTE: Specify which subsection of section 23, 7 (Tier-1) or 8 (Tier-2), or both . . .**

*(m) Adequate recordkeeping and reporting requirements as deemed by the Director; and*

*(n) Any other requirements deemed necessary by the Director.*

**Sec. 30. Expiration and extension of mercury operating permit to construct.**

*For a new or modified thermal unit that emits mercury:*

*1. If construction will occur in one phase, a mercury operating permit to construct for a new or modified thermal unit that emits mercury expires if construction is not commenced within 18 months after the date of issuance thereof or if construction of the thermal unit that emits mercury 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. A mercury 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.*

**Sec. 31.** 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 30, 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 30, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 32.** NAC 445B.038 is hereby amended to read as follows:

445B.038 “Class III source” means a stationary source which is subject to the requirements set forth in NAC 445B.001 to 445B.3497, inclusive, and:

1. Which emits or has the potential to emit, individually or in combination, a total of not more than 5 tons per year of PM<sub>10</sub>, NO<sub>x</sub>, SO<sub>2</sub>, VOC and H<sub>2</sub>S;

2. Which emits less than 1,000 pounds of lead per year;
3. Which is not subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive;
4. Which is not subject to the requirements of 40 C.F.R. Part 60;
5. Which is not subject to the requirements of 40 C.F.R. Part 61;
6. Which is not a temporary source;
7. Which is not located at or a part of another stationary source; ~~and~~
8. *Which does not contain a thermal unit that emits mercury; and*
9. Whose owner or operator:
  - (a) Is not seeking a limitation on emissions to avoid the requirements of 40 C.F.R. Part 63; or
  - (b) Is not required to obtain an operating permit to operate the stationary source solely to comply with NAC 445B.22037 relating to surface area disturbances.

**Sec. 33.** 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 *and a mercury operating permit to construct.*

**Sec. 34.** NAC 445B.211 is hereby amended to read as follows:

445B.211 The abbreviations used in NAC 445B.001 to 445B.3497, inclusive, have the following meanings:

BACT.....	best available control technology
Btu.....	British thermal unit
C.F.R.....	Code of Federal Regulations
CO2.....	carbon dioxide
°F.....	degree Fahrenheit
Hg.....	mercury
H2S.....	hydrogen sulfide
lb.....	pound
NO.....	nitric oxide
NOx.....	nitrogen oxides
<i>NvMACT.....</i>	<i>Nevada maximum achievable control technology</i>
O2.....	oxygen
ppm.....	parts per million
SO2.....	sulfur dioxide
VOC.....	volatile organic compound

### Operating Permits Generally

**Sec. 35.** NAC 445B.287 is hereby amended to read as follows:

445B.287 **Operating permits: General requirements; exception; restrictions on transfers.** 1. Except as otherwise provided in subsections *2 and 3*, 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:



(1) A revision of the operating permit or the permit to construct is required pursuant to the requirements of NAC 445B.3425, 445B.344 or 445B.3441 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 NAC 445B.3361 before the stationary source may be modified,

↳ as appropriate.

(b) If a stationary source is a Class II source, a revision of the operating permit or 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.3493 before the stationary source may be modified.

*2. The owner or operator of a metals mining stationary source that contains one or more thermal units that emit mercury must comply with the provisions of sections 2 to 30, inclusive, of this regulation. The provisions of NAC 445B.288 do not apply to a thermal unit that emits mercury.*

3. 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.~~ 4. 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.~~ 5. 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.305 to 445B.314, inclusive, and 445B.3395, and any other provisions of NAC 445B.001 to 445B.3497, inclusive, have been complied with and constitute approval of location and for construction.

**Sec. 36.** NAC 445B.318 is hereby amended to read as follows:

**445B.318 Operating permits: Permit required for each source; form of application; issuance or denial of permit; posting of permit.** 1. An **separate** operating permit is required for each new or existing stationary source.

2. Application for the issuance of an operating permit or a replacement for a lost or damaged operating permit must be submitted in writing to the Director on the exact form provided by him.

3. An operating permit must be granted if the Director finds from a stack emission test or other appropriate test and other relevant information that use of the stationary source will not result in any violation of the air quality regulations or the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Parts 60 and 61, Prevention of Significant Deterioration, New Source Performance

Standards and National Emission Standards for Hazardous Air Pollutants adopted by reference in NAC 445B.221.

4. A denial of an application for an operating permit must be accompanied by a statement of the reasons therefore, and if the Director has relied in his decision upon information not contained in the application, the statement of reasons must identify and state the substance of such information.

5. Operating permits must be posted conspicuously at or near the stationary source.

**Sec. 37.** NAC 445B.327 is hereby amended to read as follows:

445B.327 **Fees; Nevada mercury air emissions control program cost.**

**PLACE HOLDER:**

<b>SFY-06</b>	<b>\$295,922</b>
<b>SFY-07 TO SFY-10</b>	<b>\$257,583/year</b>

### **Class I Operating Permits**

**Sec. 38.** NAC 445B.3361 is hereby amended to read as follows:

445B.3361 **General requirements.** 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) *Notwithstanding paragraph (b) of this subsection:*

(i) Apply for and obtain a new or revised operating permit to construct pursuant to NAC 445B.001 to 445B.3497, inclusive; or

~~(b)~~ (ii) Apply for and obtain a new or revised Class I operating permit pursuant to NAC 445B.001 to 445B.3497, inclusive.

*(b) Apply for and obtain a new or revised mercury operating permit to construct pursuant to the provisions of sections 2 to 30, inclusive, of this regulation, for mercury emissions from a thermal unit that emits mercury.*

2. To obtain a designation for an emission unit as a clean unit, the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the designation of a clean unit pursuant to NAC 445B.001 to 445B.3497, inclusive.

3. To obtain the approval of a pollution control project as specified in 40 C.F.R. § 52.21(z)(1), the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the approval of a pollution control project pursuant to NAC 445B.001 to 445B.3497, inclusive, before the owner or operator begins actual construction of the pollution control project.

4. To establish a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the approval of the plantwide applicability limitation pursuant to NAC 445B.001 to 445B.3497, inclusive. To revise or renew a Class I operating permit to construct for the approval of a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a revised or renewed Class I operating permit to construct for the approval of a plantwide applicability limitation pursuant to NAC 445B.001 to 445B.3497, inclusive.

5. Except as otherwise provided in subsection 7, 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.

6. Except as otherwise provided in this subsection and subsection 7, 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. The provisions of this subsection do not apply to:

(a) A Class I operating permit to construct for the designation of a clean unit. A Class I operating permit to construct for the designation of a clean unit must be incorporated into the Class I operating permit pursuant to 40 C.F.R. § 52.21(y)(8).

(b) A Class I operating permit for the approval of a pollution control project.

(c) A Class I operating permit to construct for the approval of a plantwide applicability limitation.

*(d) A mercury operating permit to construct obtained pursuant to the provisions of sections 2 to 30, inclusive, of this regulation.*

7. If the conditions of an existing Class I operating permit would prohibit the construction or change in operation of the existing Class I stationary source and the owner or operator is not seeking to revise the Class I operating permit at the Class I stationary source pursuant to paragraph (b) of subsection 1, the owner or operator must concurrently:

(a) Obtain a Class I operating permit to construct for the construction or change in operation of the existing Class I stationary source; and

(b) Obtain an administrative revision to an operating permit to incorporate the conditions of the Class I operating permit to construct into the existing Class I operating permit pursuant to NAC 445B.3441 before commencing with the construction or change in operation of the existing Class I stationary source.

**Sec. 39.** NAC 445B.337 is hereby amended to read as follows:

445B.337 **Class I-A application: Filing requirement.** 1. *Except as otherwise provided in subsection 3, ~~An~~ an* owner or operator of a stationary source must file a Class I-A application, on a form provided by the Director, and obtain a Class I operating permit for:

(a) A Class I existing stationary source;

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

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

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

(e) An affected source.

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

*3. The owner or operator of a metals mining stationary source that contains one or more thermal unit that emits mercury at a Class I source must comply with the provisions of sections 2 to 30, inclusive, of this regulation.*

**Sec. 40.** NAC 445B.3375 is hereby amended to read as follows:

445B.3375 **Class I-B application: Filing requirement.** 1. Except as otherwise provided *in subsection 4 of this section, and* in subsection 7 of NAC 445B.3361, an owner or operator of a stationary source must file a Class I-B application, on a form provided by the Director, and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

- (a) A Class I existing stationary source;
- (b) A proposed modification for which a revision of an operating permit is requested pursuant to NAC 445B.3425 or 445B.344 to a Class I stationary source;
- (c) A modification to a Class II source that results in total emissions of any regulated air pollutant above the thresholds defined in NAC 445B.094 for a major source;
- (d) A proposed new Class I stationary source;
- (e) A proposed new Class I stationary source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the Class I stationary source is subject only to the requirements of 42 U.S.C. § 7412(r); or
- (f) A proposed new stationary source which is included in a category of sources designated by the Administrator pursuant to 42 U.S.C. § 7661a(a).

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

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

- (a) A completed application for an acid rain permit before the source commences operation; and
- (b) A Class I-B application within 12 months after the date on which the Class II operating permit was issued to the affected source.

*4. The owner or operator of a metals mining stationary source that contains one or more thermal units that emit mercury at a Class I source must comply with the provisions of sections 2 to 30, inclusive, of this regulation.*

### **Class II Operating Permits**

**Sec. 41.** NAC 445B.3453 is hereby amended to read as follows:

445B.3453 **Application: General requirements.** 1. *Except as otherwise provided in subsection 3, [An] 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.

*3. The owner or operator of a metals mining stationary source that contains one or more thermal units that emit mercury at a Class II source must comply with the provisions of sections 2 to 30, inclusive, of this regulation.*