

LCB File No. R056-07

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

P2007-01

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. NAC 445B.3689 is hereby amended to read as follows:

NAC 445B.3689 1. The fee for a mercury operating permit to construct as required pursuant to NAC 445B.3611 to 445B.3689, inclusive, must be determined as follows:

(a) For a mercury operating permit to construct pursuant to a phase-1 application, the fee must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 50,000 by the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury which submit a phase-1 application. The Director shall determine the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury to be charged pursuant to this paragraph on or before August 16, 2006. Upon the determination of the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury, the Director shall notify the applicant of the amount of the application fee. An applicant must pay the entire fee when he submits the application to the Director or within 30 days after receipt of the notification by the Director of the amount of the application fee, whichever occurs later.

(b) For a mercury operating permit to construct for a new or modified thermal unit that emits mercury or for a revision of a mercury operating permit to construct, the fee is \$5,000 for each application. An applicant must pay the entire fee upon submission of the application to the Director.

2. For a thermal unit that emits mercury which is a roaster, autoclave, carbon reactivation kiln, mercury retort or induction furnace, including a refining furnace or mill furnace and excluding an analytical laboratory furnace, or that uses the process of electrowinning in which mercury is recovered from a solution involving cathodes, anodes and direct currents, the owner or operator of a stationary source that conducts precious metals mining and operates one or more of such thermal units that emit mercury must submit an annual maintenance fee for each thermal unit that emits mercury. The annual maintenance fee must be determined as follows:

(a) For the fiscal year ending on June 30, 2007, the fee for each thermal unit that emits mercury must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 250,000 by the total number of thermal units that emit mercury, as described in this subsection. The Director shall determine the total number of thermal units that emit mercury to be charged pursuant to this paragraph on or before May 1, 2006.

(b) *For the fiscal year ending on June 30, 2008, the fee for each thermal unit that emits mercury must be determined in an amount, in dollars, that is equal to the amount calculated by:*

(1) Dividing 250,000 by the total number of thermal units that emit mercury, as described in this subsection; and

(2) Pursuant to Assembly Bill 115 passed in the 2007 legislative session, dividing 157,500 by the total number of thermal units that emit mercury, as described in this subsection.

The Director shall determine the total number of thermal units that emit mercury to be charged pursuant to this paragraph on or before May 1, 2007.

(c) For each fiscal year after the fiscal year ending on ~~June 30, 2007~~ *June 30, 2008*, the fee for each thermal unit that emits mercury must be determined in an amount, in dollars, that is equal to the amount calculated by dividing ~~{250,000}~~ *500,000* by the total number of thermal units that emit mercury, as described in this subsection, which have previously obtained a mercury operating permit to construct. The Director shall determine the total number of thermal units that emit mercury to be charged pursuant to this paragraph each year on or before May 1 of the immediately preceding fiscal year.

3. For fiscal year 2009, and each fiscal year thereafter, the fiscal year annual fees for maintenance shall be increased by an adjustment factor of 2 percent compounded annually. For any specific fiscal year, the Director may suspend the 2 percent adjustment factor at any time.

4. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to this section not later than July 1 of each year, except the fees required pursuant to subparagraph(2) of paragraph (b) of subsection (2) which shall be collected not later than January 1, 2008.

~~{4.}~~ *5. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late penalty must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his annual fees.*

Sec. 4. This regulation becomes effective upon filing with the secretary of state.