

## LCB File No. R117-00

# PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

### Petition 2000-12

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

Authority: NRS 445B.210(1-5) and 445B.300

**Section 1.** NAC 445B.194 is hereby amended to read as follows:

"Temporary source" means any building, structure, facility or installation which:

1. Emits or may emit any regulated air pollutant;
2. May be moved from one location to another; ~~[and]~~
3. Is located or operated in a location for a period of less than 12 months; *and*
4. *Is not an affected source as defined in NAC 445B.006.*

**Sec. 2.** NAC 445B.287 is hereby amended to read as follows:

~~[1. Unless exempted pursuant to NAC 445B.288, an operating permit or permit to construct is required for each stationary source. A revision of an operating permit or of a permit to construct is required pursuant to the requirements of NAC 445B.321, 445B.322 and 445B.3225 before the stationary source may be modified.]—~~

*1. Except as provided in paragraph 2 of this section and 445B.288, an operating permit or permit to construct is required:*

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

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

*2. Source category exemptions.*

*(a) All sources listed in paragraph 1.(a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act, are not required to obtain a Class I operating permit.*

*(b) In the case of nonmajor sources subject to a standard or other requirement under either section 111 or section 112 of the Act after July 21, 1992 publication, the administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain a Class I operating permit at the time that the new standard is promulgated.*

~~[2]~~ *3. An operating permit or permit to construct may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the stationary source for the*

effective time remaining on the original operating permit pursuant to NAC 445B.319.

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

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

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

**Sec. 3.** NAC 445B.288 is hereby amended to read as follows:

~~[Exemptions from requirements]~~ ***Insignificant Activities.***

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

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

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

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

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

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

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

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

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

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

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

~~—(e) Agricultural land use.~~

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

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

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

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

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

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

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

calendar year.

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

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

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

~~—(l) Emergency generators.~~

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

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

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

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

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

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

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

~~The potential emissions from the emission units listed in this subsection must be included in the determination of whether a stationary source is a major source, except for the potential emissions from motor vehicles and special mobile equipment, residential and commercial housekeeping vacuum systems, agricultural land use, and disturbing top soil of less than 5 acres.~~

~~—4. As used in this section:~~

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

~~—(b) "Internal combustion engine" means any fuel burning, heat generating engine, except engines in the motor vehicles or the special mobile equipment described in NRS 445B.740, 445B.745, and 445B.750 and NAC 445B.450.]~~

***1. The following source categories are not required to obtain an operating permit:***

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

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

***2. The following emission units are insignificant activities:***

***(a) Upon a written request, the director may approve as insignificant activities, emission units meeting the following criteria:***

***(1) Emission units, not considering controls or limits on production or type of materials processed, combusted, or stored, upon a satisfactory demonstration by the applicant that:***

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

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

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

*(IV) The operation of the emission unit will not result in emissions of regulated air pollutants that adversely impact public health or safety, or exceed any ambient air quality standards; and*

*(V) The emissions from the emission unit are not relied on to avoid an applicable requirement.*

*(2) After considering the impacts of the combined emissions of multiple emission units, the director may determine whether to exempt a specific emission unit.*

*3. The emissions from insignificant activities contained in this section must be included in the determination of whether a stationary source is a major source, except as provided in NAC 445B.094.*

**[3]** *4. As used in this section:*

*(a) "Emergency generator" means an internal combustion engine, except engines in the motor vehicles or special mobile equipment, that is used to generate electrical power to maintain essential operations during unplanned electrical power outages.*

*(b) "Internal combustion engine" means any fuel burning, heat generating engine.*

*(c) "Motor vehicles or special mobile equipment" has the meanings ascribed in NRS 445B.740, 445B.745, and 445B.750 and NAC 445B.450.*

**Sec. 4.** NAC 445B.289 is hereby amended to read as follows:

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

1. A **[n]** *Class I* existing **[major]** *stationary* source;
2. A **[n]** *Class I* existing **[major]** *stationary* source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the stationary source is subject only to the requirements of 42 U.S.C. § 7412(r);
3. A **[n]** *Class I* existing **[major]** *stationary* source in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a);
4. An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e); or
5. An affected source.

*6. An existing stationary source that becomes subject to Class I requirements after January 11, 1996 must submit an application within 12 months after the stationary source becomes subject to Class I requirements.*

**Sec. 5.** NAC 445B.290 is hereby amended to read as follows:

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

1. A **[n]** *Class I* existing **[major]** *stationary* source;

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

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

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

5. 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).

***6. A new stationary source that becomes subject to Class I requirements after January 11, 1996 must submit an application within 12 months after the stationary source becomes subject to Class I requirements.***

**Sec. 6.** NAC 445B.295 is hereby amended to read as follows:

1. An application for an operating permit must include:

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

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

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

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

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

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

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

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

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

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

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

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

test method.

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

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

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

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

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

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

~~— (2) A compliance certification by a responsible official of the stationary source, stating that the owner or operator must comply in a timely manner with any new applicable requirement that becomes effective during the term of the operating permit. This certification must include a description of the test methods and the requirements for monitoring, enhanced monitoring, recordkeeping and reporting that the stationary source will use to comply with the new applicable requirement, fuel use, the rate of production, raw materials and operating schedules which are used to determine the compliance status of the stationary source.~~

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

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

*A compliance plan that contains all of the following:*

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

*(2) A description as follows:*

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

*(b) For applicable requirements that will become effective during the permit term, a statement that the stationary source will meet such requirements on a timely basis.*

*(c) For requirements for which the stationary source is not in compliance at the time or permit issuance, a narrative description of how the source will achieve compliance with such requirements.*

*(3) A compliance schedule as follows:*

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

*(b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the*

*permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.*

*(c) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.*

*(4) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation. Such progress reports will contain the following:*

*(a) Dates for achieving the activities, milestones or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and*

*(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.*

*(5) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.*

*(I) Requirements for compliance certification, including the following:*

*(1) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (d) of this section and section 114(a)(3) of the Act;*

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

*(3) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and*

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

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

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

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

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

(b) For a proposed new major source or a proposed significant modification to an existing

stationary source which is not subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality:

- (1) All information required by NAC 445B.308 to 445B.313, inclusive;
- (2) Any other information that the director determines is necessary to process the application; and
- (3) For stationary sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501-7515, inclusive, all information required by 42 U.S.C. § 7503.

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

- (1) All information required by NAC 445B.308 to 445B.313, inclusive; and
- (2) Any other information that the director determines is necessary to process the application.

**Sec. 7.** NAC 445B.316 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

(e) Incorporate all applicable reporting requirements and require:

(1) Submittal of reports of any required monitoring every 6 months, within 8 weeks after



the end of the reporting period;

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

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

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

*(g) Contain terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:*

*(1) Shall include all terms required under NAC 445B.316 to determine compliance;*

*(2) May extend the permit shield described in paragraph NAC 445B.316.2(a) of this section to all terms and conditions that allow such increases and decreases in emissions; and*

*(3) Must meet all applicable requirements and requirements of this part.*

~~*(g) Contain the terms and conditions of any federally enforceable emissions cap which has been approved by the director and the terms and conditions of any trading of emissions under the cap which has been approved by the director.*~~

*(h) Contain terms and conditions requested by the applicant and approved by the Director, including all terms required under NAC 445B.316 to determine compliance, which:*

*(1) Allow for the trading of emissions increases and decreases within the permitted facility without requiring a permit revision.*

*(a) Any requests for the trading of emissions must be made pursuant to the provisions in NAC 445B.320.*

*(b) The permit shield described in NAC 445B.316.2(a) shall not apply to any change made pursuant to this paragraph.*

*(2) Allow for the trading of emissions increases and decreases within the permitted facility without requiring a permit revision, solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. Emissions trading provisions for any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades will not be allowed.*

*(a) Any requests for the trading of emissions must be made pursuant to the provisions in NAC 445B.320.*

*(b) The permit shall also require compliance with all applicable requirements.*

*(c) The permit shall contain the replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.*

*(d) The permit shield described in NAC 445B.316.2(a) may, upon request, extend to terms and conditions that allow such increases and decreases in emissions.*

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

~~— (1) Semiannual progress reports with dates for achieving milestones;~~  
~~— (2) Prior notice of and explanations for missed deadlines; and~~  
~~— (3) Any preventive or corrective measures taken.]~~ *which contains all the elements required in the compliance schedule provided in the application pursuant to NAC 445B.295.2(h).*

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

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

*2. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit may:*

~~(a)~~ (a) *Provide a permit shield in the Class I permit which must* include a statement that compliance with the conditions of the operating permit shall be deemed to be compliance with any applicable requirements as of the date of the issuance of the operating permit, if:

- (1) Such applicable requirements are included and are specifically identified in the operating permit; or
- (2) The director, in acting on the application for or the revision of an operating permit, determines in writing that other requirements specifically identified are not applicable to the stationary source and the operating permit includes the determination or a concise summary of the determination.

*(b) A Class I permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.*

*(c) The permit shield may not extend to a minor permit modification.*

~~2.~~ 3. All provisions of a Class I operating permit or the modification of such a permit regarding the prevention of significant deterioration of air quality must be contained in a clearly identified and separate portion of the operating permit. This portion of the operating permit must state that:

- (a) The operating permit will expire if construction is:
  - (1) Not commenced within 18 months after the issuance of the operating permit; or
  - (2) Delayed for 18 months after it is commenced;
- (b) The operating permit becomes effective 30 days after the issuance of the director's final determination; and
- (c) The provisions of the operating permit regarding the prevention of significant deterioration of air quality are subject to the requirements of 40 C.F.R. Part 124, Subparts A and C.

**Sec. 8.** NAC 445B.331 is hereby amended to read as follows:

1. The fee for the replacement of a lost or damaged operating permit is \$200.
2. The fee for a request for a change of the location of an emission unit is \$100. Such a request must be made in writing to the director and submitted with the fee for each operating permit *as follows*:

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

*(b) For Class I Sources at least 10 days in advance of each change of location.*