

LCB File No. T042-03

**PROPOSED TEMPORARY REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

Petition 2003-05

**NOTICE OF PUBLIC HEARING AND
OF INTENT TO ACT UPON REGULATIONS**

The Nevada State Environmental Commission will hold a public hearing beginning at **9:30 a.m. on Thursday, June 19, 2003, at the Nevada Division of Wildlife's Conference Room A, 1000 Valley Road, Reno, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations. If no person directly affected by the proposed action appears to request time to make an oral presentation, the State Environmental Commission may proceed immediately to act upon any written submission.

1. Petition 2003-03 (T040-03) is proposed temporary amendments to NAC 445B.001 to 445B.3497, the air pollution control regulations. The regulation amends NAC 445B.281 to increase and standardize the fines in the schedule for minor violations, including fugitive dust, open burning, odors, excess emissions, testing and sampling reporting, monitoring system reporting and change of location. First offense is increased to \$250, second offense to \$500 and third offense to \$750, except for fugitive dust emissions where the fine is proposed to be \$1,000 for the third offense.

Unless the NAC is violated, there will be no economic impact on the regulated community. If a minor violation occurs, the penalty will be approximately two to five times greater than under current regulation. The regulation is not expected to have any economic effect on the public in the immediate term and long term. The regulation is not expected to result in additional cost by the agency for enforcement. There are no other state or government agency regulations, which the revisions duplicate. The regulation is not more stringent than a federal regulation. The regulation does not provide for a new fee or increase an existing fee, but does increase fines.

2. Petition 2003-04 (T041-03) is proposed temporary amendments to NAC 445B.001 to 445B.3497, the air pollution control regulations. The proposed regulation amendments include clarifications, technical corrections and the removal of regulations that are no longer applicable. These are necessary to update and correct the NAC. They will also bring Nevada's program more into alignment with the Applicable State Implementation Plan.

The proposed regulation amendments include only technical corrections, clarifications and removal of regulations that are no longer applicable and will have no economic impacts, either immediate or long term, on the regulated community or the public. The proposed regulation amendments will not result in additional cost by the agency for enforcement. The proposed

regulation amendments do not overlap or duplicate any other state or government agency regulations. The regulation is no more stringent than what is established by federal regulation. The proposed regulation amendments do not provide for a new fee or increase an existing fee.

3. Petition 2003-05 (T042-03) is proposed temporary amendments to NAC 445B.001 to 445B.3497, the air pollution control regulations. On December 31, 2002, the U.S. Environmental Protection Agency adopted revisions to the federal New Source Review (NSR) and Prevention of Significant Deterioration (PSD) rule. The federal revisions include changes to applicability determinations, plant-wide applicability limits (PALs), clean unit exemptions, and pollution control projects. The changes being proposed by the agency adopt by reference those revisions and create a separate set of regulations for PSD sources necessary to ensure consistency with the federal program and allow NDEP to implement the new federal provisions. Specifically, the agency is proposing: 1) Application requirements for each of the new provisions; 2) Application processing timelines for each of the new provisions; 3) Permit content

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requirements; 4) A fee structure that is expected to cover costs for each of the new provisions; and 5) Technical corrections to separate PSD source requirements from the application and permit requirements for other sources. These regulation changes are necessary to regain full delegation of these federal programs.

The proposed regulation only applies to major stationary sources which is currently 12 facilities. The changes will allow affected sources to utilize the new NSR provisions which were designed to provide additional flexibility and to decrease the number of modifications that would otherwise be required in a formal PSD review. The economic impact will be an increase in annual maintenance fees assessed on these facilities and added specific permitting fees necessary to cover agency costs. These costs will apply only to those sources requesting any of the new NSR provisions at the time that they modify their existing permit and the new maintenance fee will be assessed for the life of the facility. The regulation is not expected to have any economic effect on the public in the immediate term and long term. There will be additional costs to the agency for compliance monitoring and enforcement of these amendments and for processing these new types of applications and the issuing of permits. These additional costs will be covered by the modifications to the fee structure that are being proposed as part of this proposed regulation amendment. The proposed regulation amendments do not overlap or duplicate any regulations or other state of government agencies. The regulation is not more stringent than what is established by federal regulation. The regulation does provide for a new fee and increases existing fees. Any fees collected will be used to support the program.

NON REGULATORY ACTIONS

The Nevada Environmental Commission pursuant to NAC 444.8476 received a request on January 16, 2003, from Day & Zimmerman Hawthorne Corporation, the operations contractor for the Hawthorne Army Depot, for **renewal** of a variance application from NAC 444.8456(1)(d). The variance is in regards to the proposed plasma ordnance demilitarization system and concerns the proximity of groundwater beneath the proposed plasma ordnance demilitarization system. NAC

444.847 through 444.8482 provides for the Environmental Commission to act upon variance requests. The renewal variance application has been reviewed by the Nevada Division of Environmental Protection. NAC 444.8478 provides for a thirty-day public notice and comment period.

Pursuant to NRS 233B.0603 the provisions of NRS 233B.064 (2) are hereby provided:

"Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporation therein its reason for overruling the consideration urged against its adoption."

Persons wishing to comment on the proposed regulation changes may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Environmental Commission, 333 West Nye Lane, Room 138, Carson City, Nevada 89706-0851. Written submissions must be received at least five days before the scheduled public hearing.

A copy of the regulations to be adopted or amended will be on file at the State Library and Archives, 100 Stewart Street, Carson City; the Division of Environmental Protection, 333 West Nye Lane - Room 104, in Carson City, and at the Division of Environmental Protection, 1771 E. Flamingo, Suite 121-A, in Las Vegas for inspection by members of the public during business hours. In addition, copies of the regulations and public notice have been deposited at major library branches in each county in Nevada. The notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653. The proposed regulations are on the Internet at <http://www.leg.state.nv.us>. In addition, the State Environmental Commission maintains an Internet site. It is at sec.nv.gov/ This site contains the current public notice, agenda, the aforementioned proposed regulations and previously filed regulations from past commission hearings.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of the Executive Secretary, 333 West Nye Lane, Room 138, Carson City, Nevada, 89706-0851, facsimile (775) 687-5856, or by calling (775) 687-9309, no later than 5:00 p.m. on **June 13, 2003**.

This public notice has been posted at the following locations: Clark County Public Library and the Grant Sawyer Office Building in Las Vegas, Washoe County Library and the Nevada Division of Wildlife in Reno, and the Division of Environmental Protection and Department of Cultural Affairs in Carson City.

**PROPOSED TEMPORARY REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

Explanation: Matter in *bold italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: NRS 445B.210.

Section 1. *Chapter 445B of NAC is hereby amended by adding thereto new sections as set forth as Sections 2 through 16 of this regulation.*

Sec. 2. "Class I PSD source" defined. "Class I PSD source" means any stationary source that is a Class I source and which is defined as a major stationary source pursuant to 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 3 1. *Except as otherwise provided in section 5 for a Class I PSD Stationary source, an owner or operator of a Class I stationary source, that does not file an application pursuant to the requirements of NAC 445B.3375, must file a Class I operating permit to construct application, on a form provided by the director, and obtain a Class I operating permit to construct before commencing the construction, reconstruction or modification of:*

- (a) A Class I existing stationary source;*
- (b) 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;*
- (c) A proposed new Class I stationary source;*
- (d) 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*
- (e) 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, pursuant to the requirements contained in NAC 445B.3375, to the director within 12 months after the date on which the new stationary source becomes subject to the requirements for Class I sources.

Sec. 4. 1. *To establish a new Class I PSD stationary source, modify an existing Class I PSD stationary source, or begin actual construction of a project at an existing Class I PSD source, the owner or operator of a proposed new Class I PSD stationary source or the existing Class I PSD stationary source must:*

- (a) Apply for and obtain a new or revised Class I PSD source operating permit to construct pursuant to NAC 445B.001 to 445B.3497, inclusive.*

2. Except as otherwise provided in subsection 1, to otherwise revise a Class I PSD stationary source operating permit to construct, the owner or operator of an existing Class I PSD stationary source must:

(a) Apply for and obtain a revised Class I PSD source operating permit to construct pursuant to NAC 445B.001 to 445B.3497, inclusive.

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

For the purposes of this section, the terms "begin actual construction" and "project" have the meaning defined in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 5. 1. *An owner or operator of a Class I PSD stationary source must file a Class I PSD source operating permit to construct application, on a form provided by the director, and obtain a Class I PSD source operating permit to construct before commencing the construction, reconstruction, modification, or beginning actual construction of a project for:*

- (a) A new Class I PSD stationary source;*
- (b) A modification to a Class I PSD stationary source; or*
- (c) A project at a Class I PSD stationary source;*
- (d) A plantwide applicability limitation (PAL) as that term is defined in 40 C.F.R. § 52.21;*
- (e) A pollution control project (PCP) as that term is defined in 40 C.F.R. § 52.21; and*
- (f) A Clean Unit as that term is defined in 40 C.F.R. § 52.21.*

For the purposes of this section, the terms "begin actual construction" and "project" have the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 6. 1. *In addition to the information required pursuant to NAC 445B.295, an application for a Class I PSD source operating permit to construct or for a revision to a Class I PSD source operating permit to construct must include:*

(a) Descriptions of all emissions of any regulated NSR pollutant for which the source is defined as a major stationary source pursuant to 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

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

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

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

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

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

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

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

(i) For stationary sources subject to the provisions regarding nonattainment area new source review set forth in 42 U.S.C. §§ 7501 to 7515, inclusive, all information required by 42 U.S.C. § 7503; and

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

2. In addition to the information required pursuant to subsection 1, an application for a Class I PSD source operating permit to construct must include an environmental evaluation pursuant to NAC 445B.308 to 445B.313, inclusive.

3. The applicant for a Class I PSD source must provide 2 copies of the application and all supporting information upon submittal to the director. The director may request submittal of additional copies of the application as necessary.

Sec. 7. *1. Within 30 days after the date of receipt of an application for a Class I PSD source operating permit to construct for a new Class I PSD source, a major modification to a Class I PSD source, or a plantwide applicability limitation (PAL), the director shall determine if the application contains adequate information to proceed with a technical review of the application. If before the official date of submittal the director determines that substantial additional information is required, the director shall return the application to the applicant. The official date of submittal of the application shall be 31 days after the date of receipt, unless the application is returned. Within 180 days after the official date of submittal, the director shall make public a preliminary determination to issue or deny the Class I PSD source operating permit to construct or revision to the Class I PSD source operating permit to construct. The application will be deemed complete on the date that the director issues the Class I PSD source operating permit to construct or revision to the Class I PSD source operating permit to construct.*

2. Within 30 days after the date of receipt of an application for a Class I PSD source operating permit to construct or revision of a Class I PSD source operating permit to construct for a modification to a Class I PSD source that is not a major modification, or for a change at the Class I PSD source that is not a modification or project but requires the revision of an existing Class I PSD source operating permit to construct, the director shall determine if the application contains adequate information to proceed with a technical review of the application. If before the official date of submittal the director determines that substantial additional information is required, the director shall return the application to the applicant. The official date of submittal of the application shall be 31 days after the date of receipt, unless the application is returned. Within 90 days after the official date of submittal, the director shall make public a preliminary determination to issue or deny the Class I PSD source operating permit to construct or revision to the Class I PSD source operating permit to construct. The application will be deemed complete on the date that the director issues the Class I PSD source operating permit to construct or revision to the Class I PSD source operating permit to construct.

3. Within 30 days after the date of receipt of an application for a Class I PSD source operating permit to construct for a Clean Unit designation at a Class I PSD source, or a pollution control project (PCP) at a Class I PSD source, the director shall determine if the application contains adequate information to proceed with a technical review of the

application. If before the official date of submittal the director determines that substantial additional information is required, the director shall return the application to the applicant. The official date of submittal of the application shall be 31 days after the date of receipt, unless the application is returned. Within 120 days after the official date of submittal, the director shall make public a preliminary determination to issue or deny the Class I PSD source operating permit to construct or revision to the Class I PSD source operating permit to construct. The application will be deemed complete on the date that the director issues the Class I PSD source operating permit to construct or revision to the Class I PSD source operating permit to construct.

4. If, after the official date of submittal, the director determines that additional information is required to act on the application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3497, inclusive. The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the preliminary determination date.

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

(a) The director's review of the application will be maintained on file and available for review during normal business hours at 333 West Nye Lane, Carson City, Nevada.

6. The director shall:

(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the Class I PSD source is located, or in a state publication designed to give general public notice, a notice of the director's preliminary intent to issue or deny the Class I PSD source operating permit to construct;

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

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

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

7. The director's final determination to issue or deny a new or modified Class I PSD source operating permit to construct will be made not later than 60 days after the close of the public comment period.

If a Class I PSD source application containing a combination of the provisions regarding a modification, plantwide applicability limitation (PAL), pollution control project (PCP), or Clean Unit designation, is submitted by the owner or operator of a Class I PSD source, the director shall process the application in accordance with the provisions contained in subsection 1 through 4 of this section utilizing the section with the longest period of time for processing of the relevant combination of changes proposed in the application, and including an additional 30 days.

For the purposes of this section, the terms "major modification" and "project" have the meanings established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 8. 1. The director shall cite the legal authority for each condition contained in a Class I PSD source operating permit to construct.

2. A Class I PSD source operating permit to construct must contain the following conditions:

(a) The expiration date of the Class I PSD source operating permit to construct must be defined as described in NAC 445B.3366.

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

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

(d) The holder of the Class I PSD source operating permit to construct shall comply with all conditions of the Class I PSD source 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 Class I PSD source operating permit to construct by the director; or

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

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

(g) The Class I PSD source operating permit to construct does not convey any property rights or any exclusive privilege.

(h) The holder of the Class I PSD source 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 Class I PSD source operating permit to construct, or to determine compliance with the conditions of the Class I PSD source operating permit to construct.

(i) The holder of the Class I PSD source 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 Class I PSD source operating permit to construct where:

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

(III) Records are kept pursuant to the conditions of the Class I PSD source 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 Class I PSD source 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 Class I PSD source operating permit to construct; and

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

Sec. 9. 1. *In addition to the information required pursuant to section 6, an operating permit to construct application for a new Class I PSD source must contain:*

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

(b) An air quality analysis that describes each hydrographic area that will be triggered for increment consumption by the new Class I PSD source.

Sec. 10. 1. *In addition to the information required pursuant to section 6, an operating permit to construct application for a major modification must contain:*

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

(b) A description of the major modification including emissions for each regulated NSR pollutant from each emission unit;

(c) An air quality analysis that describes each hydrographic area that will be triggered for increment consumption by the new Class I PSD source;

For the purposes of this section, the terms "major modification" has the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 11. 1. *In addition to the information required pursuant to section 6, an operating permit to construct application for a modification that is not a major modification must contain:*

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

(b) A description of the project or modification including all emissions units;

(c) A description of the applicable procedures used to determine that the project or modification is not a major modification pursuant to the provisions contained in 40 C.F.R. § 52.21(a)(2);

(d) The utilization rate during the baseline period for any demand growth claimed;

(e) A demonstration that any increased utilization of an emissions unit is unrelated to the proposed project or modification; and

(f) All calculations associated with the procedures required in 40 C.F.R. § 52.21(a)(2) including detailed information for expected and highest projections of any business activities pursuant to 40 C.F.R. § 52.21(b)(41).

For the purposes of this section, the terms "major modification" and "project" have the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 12. 1. *In addition to the information required pursuant to section 6, an operating permit to construct application for a plantwide applicability limitation (PAL) must contain:*

- (a) All information required by 40 C.F.R. § 52.21(aa)(3);*
- (b) A description of each pollutant that the owner or operator is requesting a PAL for;*
- (c) For each pollutant described in paragraph (b) of this subsection, the proposed PAL annual emission limitation in tons per year for the entire Class I PSD stationary source;*
- (d) For each PAL limitation proposed in paragraph (c) of this subsection, include fugitive emissions to the extent quantifiable.*
- (e) A detailed monitoring plan that will be used to accurately determine plantwide emissions of the PAL as specified in 40 C.F.R. § 52.21(aa)(12). At a minimum, the monitoring plan must clearly identify the monitoring approach proposed for each emissions unit, the minimum performance requirements of each approach, the basis for any emissions factors proposed, any emissions unit that the owner or operator cannot demonstrate a correlation between the monitored parameters at all operating points and the PAL pollutant emissions rate.*
- (f) Where an owner or operator cannot demonstrate a correlation between the monitored parameter(s) at all operating points as identified in paragraph (d) above, and the owner or operator requests to establish default values for determining compliance with the PAL, the proposed default values to be used for determining compliance with the PAL based on the highest potential emissions potentially operated for each emissions unit.*
- (g) Description of the calculation procedures that the source will use to convert monitored data into monthly emissions, on 12-month rolling period*
- (h) A description of any units that were permanently shut down after the baseline actual emissions period and the associated emissions;*
- (i) A description of any units that construction began after the baseline actual emissions period and the associated emissions; and*
- (j) Any other requirements that the Director determines necessary to implement and enforce the PAL.*

2. In addition to the information required pursuant to section 6, an operating permit to construct application for a PAL that is expiring and will not be renewed, must contain:

- (a) A description of the proposed distribution of the PAL allowable emissions for each emissions unit or group of emissions units at the Class I PSD stationary source; and*
- (b) A description of the proposed methods for complying with the allowable emissions distribution provided in paragraph (a) of this subsection.*

3. In addition to the information required pursuant to section 6, an operating permit to construct application for the renewal of a (PAL) must contain:

- (a) All information required in subsection 1 of this section; and*
- (b) A description of the PAL level calculated in 52.21(aa)(6) for each PAL pollutant;*

4. In addition to the information required pursuant to section 6 and section 10, and subsection 1 of this section, an operating permit to construct application for increasing a (PAL) must contain:

- (a) All information required by 40 C.F.R. § 52.21(aa)(11).*

Sec. 13. 1. *In addition to the information required pursuant to section 6, an operating permit to construct application for a Class I PSD source requesting a Clean Unit designation, as that term is defined in 40 C.F.R. § 52.21(x), for emissions units that are subject to BACT or LAER must contain:*

(a) An identification of the unit(s) that received a major NSR permit issued by the director within the last 10 years that the source is utilizing to establishing the basis for the existing BACT or LAER requirements.

(b) A description of the pollutant(s) that the source is seeking designation for;

(c) A copy of the permit or relevant portions of the major NSR permit and the original permit issuance date, issued by the director, and identified in paragraph (a) of this subsection;

(d) A demonstration that the proposed project does not cause a change in the emission limitation or work practice requirement established in the permit for the unit;

(e) A demonstration that the project will not alter any physical or operational characteristics that formed the basis for the BACT determination as specified in 40 C.F.R. § 52.21(x)(6)(iv);

(f) A demonstration that the control technology is complying with the BACT or LAER requirements;

(g) A demonstration that any BACT determination resulted in a requirement to reduce emissions below the level of a standard, uncontrolled, new emissions unit of the same type pursuant to the requirements of 40 C.F.R. § 52.21(x)(3)(ii)(a);

(h) A demonstration that an investment to install the control technology was made pursuant to the requirements of 40 C.F.R. § 52.21(x)(3)(ii)(b);

(i) The date that the emissions units' air pollution control technology was placed into service; and

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

2. In addition to the information required pursuant to section 6, an operating permit to construct application for a Class I PSD source requesting a Clean Unit designation for an emissions unit that is comparable to BACT, as that term is defined in 40 C.F.R. § 52.21(y), for emissions units that are not subject to BACT must contain:

(a) A description of the air pollution control technology used to meet the emissions levels that are comparable to the BACT level of emissions reduction;

(b) The demonstration and basis that the control technology used is comparable to BACT pursuant to 40 C.F.R. § 52.21(y)(4);

(c) A demonstration that an investment to install the control technology was made pursuant to the requirements of 40 C.F.R. § 52.21(y)(3)(i)(b);

(d) The date that the emissions units' air pollution control technology was placed into service; and

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

For the purposes of this part, the term "project" has the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 14. 1. *In addition to the information required pursuant to section 6, an operating permit to construct application for a pollution control project (PCP), as that term is defined in 40 C.F.R. § 52.21, must contain:*

(a) A description of the pollution control project (PCP);

(b) All information required in 40 C.F.R. § 52.21(z)(3).

(c) An identification of whether the project is a listed project under 40 C.F.R. § 52.21(b)(32)(i) through (vi).

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

Sec. 15. 1. *In addition to the information required pursuant to section 6, an operating permit to construct application for a revision to a Class I PSD operating permit to construct must contain:*

(a) A description of the change requiring the revision;

(b) A demonstration that the change is not a major modification or project under 40 C.F.R. § 52.21 or a modification NAC 445B.001 to 445B.3497; and

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

For the purposes of this section, the terms "major modification" and "project" have the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 16. 1. *In addition to the information required pursuant to section 8, an operating permit to construct for a Class I PSD source must contain:*

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

(b) Monitoring methods adequate to show compliance;

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

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

4. *A Class I PSD source operating permit to construct 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 Class I PSD source operating permit to construct becomes effective 30 days after the issuance of the director's final determination; and

(c) The provisions of the Class I PSD operating permit to construct 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.

2. *In addition to the information required pursuant to section 8 and subsection 1 of this section, an operating permit to construct for a PAL must contain:*

(a) All permit content required under 40 C.F.R. § 52.21(aa)(7).

3. *In addition to the information required pursuant to section 8 and subsection 1 of this section, an operating permit to construct for a source utilizing the Clean Unit designation defined in 40 C.F.R. § 52.21(x) must contain:*

(a) All permit content required under 40 C.F.R. § 52.21(x)(6).

4. *In addition to the information required pursuant to section 8 and subsection 1 of this section, an operating permit to construct for a Clean Unit designation defined in 40 C.F.R. § 52.21(y) must contain:*

(a) All information pursuant to the requirements established in 40 C.F.R. § 52.21(y)(8);

5. *In addition to the information required pursuant to section 8 and subsection 1 of this section, an operating permit to construct for a listed or non-listed pollution control project (PCP) must contain:*

(a) The monitoring and recordkeeping, and all other methods, to be used on an ongoing basis to demonstrate that the pollution control project (PCP) is environmentally beneficial.

(b) All operational requirements established in 40 C.F.R. § 52.21(z)(6).

6. In addition to the information required pursuant to section 8 and subsection 1 of this section, an operating permit to construct for a new Class I PSD source or a major modification to a Class I PSD source must state that:

(a) The effective date of the Class I PSD operating permit to construct is 30 days after the issuance of the operating permit to construct; and

(b) If an appeal is made to the U.S. EPA Environmental Appeals Board pursuant to 40 C.F.R. Part 124, the effective date of the permit is suspended until such time as the appeal is resolved.

Sec. 17. NAC 445B.221 is hereby amended to read as follows:

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

2. Title 40 C.F.R. §§ 52.21 is hereby adopted by reference as it existed on December 31, 2002.

~~2.1~~ **3.** The following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, 2000:

- (a) Subpart A, General Provisions.
- (b) Subpart C, Emission Guidelines and Compliance Times.
- (c) Subpart Cb, Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed On or Before September 20, 1994.
- (d) Subpart Cc, Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.
- (e) Subpart Cd, Emission Guidelines and Compliance Times for Sulfuric Acid Production Units.
- (f) Subpart Ce, Emission Guidelines for Hospital/Medical/Infectious Waste Incinerator.
- (g) Subpart D, Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
- (h) Subpart Da, Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
- (i) Subpart Db, Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.
- (j) Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
- (k) Subpart E, Standards of Performance for Incinerators.
- (l) Subpart Ea, Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989, and On or Before September 20, 1994.
- (m) Subpart Eb, Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994, or for Which Modification or Reconstruction is Commenced After June 19, 1996.
- (n) Subpart Ec, Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
- (o) Subpart F, Standards of Performance for Portland Cement Plants.
- (p) Subpart G, Standards of Performance for Nitric Acid Plants.
- (q) Subpart H, Standards of Performance for Sulfuric Acid Plants.
- (r) Subpart I, Standards of Performance for Hot Mix Asphalt Facilities.
- (s) Subpart J, Standards of Performance for Petroleum Refineries.

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

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

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

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

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

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

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

(aa) Subpart O, Standards of Performance for Sewage Treatment Plants.

(bb) Subpart P, Standards of Performance for Primary Copper Smelters.

(cc) Subpart Q, Standards of Performance for Primary Zinc Smelters.

(dd) Subpart R, Standards of Performance for Primary Lead Smelters.

(ee) Subpart S, Standards of Performance for Primary Aluminum Reduction Plants.

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

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

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

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

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

(kk) Subpart Y, Standards of Performance for Coal Preparation Plants.

(ll) Subpart Z, Standards of Performance for Ferroalloy Production Facilities.

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

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

(oo) Subpart BB, Standards of Performance for Kraft Pulp Mills.

(pp) Subpart CC, Standards of Performance for Glass Manufacturing Plants.

(qq) Subpart DD, Standards of Performance for Grain Elevators.

(rr) Subpart EE, Standards of Performance for Surface Coating of Metal Furniture.

(ss) Subpart GG, Standards of Performance for Stationary Gas Turbines.

(tt) Subpart HH, Standards of Performance for Lime Manufacturing Plants.

(uu) Subpart KK, Standards of Performance for Lead-Acid Battery Manufacturing Plants.

(vv) Subpart LL, Standards of Performance for Metallic Mineral Processing Plants.

(ww) Subpart MM, Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.

- (xx) Subpart NN, Standards of Performance for Phosphate Rock Plants.
- (yy) Subpart PP, Standards of Performance for Ammonium Sulfate Manufacture.
- (zz) Subpart QQ, Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
- (aaa) Subpart RR, Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
- (bbb) Subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances.
- (ccc) Subpart TT, Standards of Performance for Metal Coil Surface Coating.
- (ddd) Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
- (eee) Subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
- (fff) Subpart WW, Standards of Performance for the Beverage Can Surface Coating Industry.
- (ggg) Subpart XX, Standards of Performance for Bulk Gasoline Terminals.
- (hhh) Subpart AAA, Standards of Performance for New Residential Wood Heaters.
- (iii) Subpart BBB, Standards of Performance for Rubber Tire Manufacturing Industry.
- (jjj) Subpart DDD, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
- (kkk) Subpart FFF, Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
- (lll) Subpart GGG, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
- (mmm) Subpart HHH, Standards of Performance for Synthetic Fiber Production Facilities.
- (nnn) Subpart III, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
- (ooo) Subpart JJJ, Standards of Performance for Petroleum Dry Cleaners.
- (ppp) Subpart KKK, Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
- (qqq) Subpart LLL, Standards of Performance for Onshore Natural Gas Processing: SO₂ Emissions.
- (rrr) Subpart NNN, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
- (sss) Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (ttt) Subpart PPP, Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.
- (uuu) Subpart QQQ, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Petroleum Refinery Wastewater Systems.
- (vvv) Subpart RRR, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
- (www) Subpart SSS, Standards of Performance for Magnetic Tape Coating Facilities.

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

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

(zzz) Subpart VVV, Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.

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

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

(a) Subpart A, General Provisions.

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

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

(d) Subpart D, National Emission Standard for Beryllium Rocket Motor Firing.

(e) Subpart E, National Emission Standard for Mercury.

(f) Subpart F, National Emission Standard for Vinyl Chloride.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~4.1~~ 5. The following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, 2000:

(a) Subpart A, General Provisions.

(b) Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j).

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

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

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

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

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

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

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

(j) Subpart O, Ethylene Oxide Emissions Standards for Sterilization Facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (x) Subpart GG, National Emission Standards for Hazardous Air Pollutants for Aerospace Manufacturing and Rework Facilities.
- (y) Subpart HH, National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities.
- (z) Subpart II, National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating).
- (aa) Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.
- (bb) Subpart KK, National Emission Standards for the Printing and Publishing Industry.
- (cc) Subpart LL, National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
- (dd) Subpart OO, National Emission Standards for Tanks - Level 1.
- (ee) Subpart PP, National Emission Standards for Containers.
- (ff) Subpart QQ, National Emission Standards for Surface Impoundments.
- (gg) Subpart RR, National Emission Standards for Individual Drain Systems.
- (hh) Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
- (ii) Subpart TT, National Emission Standards for Equipment Leaks – Control Level 1.
- (jj) Subpart UU, National Emission Standards for Equipment Leaks – Control Level 2 Standards.
- (kk) Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- (ll) Subpart WW, National Emission Standards for Storage Vessels (Tanks) – Control Level 2.
- (mm) Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
- (nn) Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling – HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- (oo) Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- (pp) Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
- (qq) Subpart GGG, National Emission Standards for Pharmaceuticals Production.
- (rr) Subpart HHH, National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities.
- (ss) Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- (tt) Subpart JJJ, National Emission Standards for Hazardous Air Pollutants Emissions: Group IV Polymers and Resins.
- (uu) Subpart LLL, National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry.
- (vv) Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- (ww) Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- (xx) Subpart OOO, National Emission Standards for Hazardous Air Pollutants Emissions: Manufacture of Amino/Phenolic Resins.

~~5.1~~ 6. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2000. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, the provisions of 40 C.F.R. Part 72 apply.

~~6.1~~ 7. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2000. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, the provisions of 40 C.F.R. Part 76 apply.

~~7.1~~ 8. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, and the amendments to section 7412 contained in 40 C.F.R. Part 63, Subpart C, are hereby adopted by reference as they existed on July 1, 2000.

~~8.1~~ 9. The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the price of \$38.

~~9.1~~ 10. A copy of the publications which contain these provisions may be obtained from the:

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

The price is:

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

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

~~10.1~~ 11. For the purposes of the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section, the director may not approve alternate or equivalent test methods or alternative standards or work practices.

~~11.1~~ 12. Except as otherwise provided in subsections 5 and 6, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3497, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~12.1~~ 13. For the purposes of this section, “administrator” as used in the provisions of Parts 52, 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the director.

Sec. 18. NAC 445B.287 is hereby amended to read as follows:

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

(a) If a stationary source is a Class I source *but not a Class I PSD source*:

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

(2) A revision of the operating permit to construct is required pursuant to the requirements of paragraph (a) of subsection 1 of NAC 445B.3361 before the stationary source may be modified, as appropriate.

(b) If a stationary source is a Class I PSD source, a revision of the operating permit to construct is required pursuant to the requirements of paragraph (a) of subsection 1 of section 4 before the stationary source may be modified or before beginning actual construction of a project. For the purposes of this paragraph, the terms "begin actual construction" and "project" are those defined in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

~~[(b)]~~ (c) 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.

~~[(e)]~~ (d) 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. A Class I source is not subject to the provisions of subparagraph (1) of paragraph (a) of subsection 1 if the source is not a major source, an affected source or a solid waste incineration unit required to obtain a permit pursuant to 42 U.S.C. § 7429(e). For a Class I source which is not a major source and which subsequently becomes subject to a standard or other requirement under 42 U.S.C. § 7411 or 7412, the Administrator will determine whether to exempt the source from the requirement to obtain a Class I operating permit at the time that the new standard is adopted.

3. An operating permit, operating permit to construct or permit to construct may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the stationary source for the effective time remaining on the original operating permit pursuant to NAC 445B.319.

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

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

(b) All portions of NAC 445B.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. 19. NAC 445B.298 is hereby amended to read as follows:

NAC 445B.298 *Except as otherwise provided in section 7, [F] the official date of submittal of an application for an operating permit, **operating permit to construct**, [or a] revision of an existing operating permit, **or revision of an existing operating permit to construct** is the date on which the director determines that the application is complete.*

Sec. 20. NAC 445B.310 is hereby amended to read as follows:

NAC 445B.310 *Except as otherwise provided in subsection 2 of NAC 445B.3363 and subsection 2 of section 6, [A] an applicant for an operating permit, a revision to an operating permit or a request for a change of location, [which is not subject to the provisions of 40 C.F.R. Part 52.21, as adopted by reference in NAC 445B.221,] must submit with the application an environmental evaluation for:*

1. A new stationary source which emits, or has the potential to emit, greater than 25 tons of a regulated air pollutant per year;
2. A modification to an existing stationary source that meets the following criteria:
 - (a) The existing stationary source has the potential to emit greater than 25 tons of a regulated air pollutant per year; and
 - (b) The proposed modification has the potential to emit greater than 10 tons of a regulated air pollutant per year; or
3. Upon written notice from the director, any other source or combination of sources.

Sec. 21. NAC 445B.327 is hereby amended to read as follows:

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

(a) Class I operating permit to construct.....	\$20,000
(b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase	5,000 10,000
(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000 10,000/first phase 5,000/ additional phases
(d) Modification to an operating permit to construct.....	5,000
(e) Revision of an operating permit to construct.....	5,000
(f) Class I operating permit	30,000
(g) Significant revision of a Class I operating permit.....	20,000
(h) Minor revision of a Class I operating permit	5,000
(i) Renewal of a Class I operating permit	5,000
(j) Class II operating permit	3,000
(k) Revision of a Class II operating permit.....	2,000
(l) Renewal of a Class II operating permit.....	2,000
(m) Class II general permit	400
(n) Class III operating permit.....	300
(o) Revision of a Class III operating permit	200
(p) Renewal of a Class III operating permit.....	250
(q) Surface area disturbance permit	400
(r) Revision of a surface area disturbance permit	200
(s) Administrative amendment of an operating permit	200
(t) Replacement of a lost or damaged operating permit to construct or an operating permit.....	200
(u) Request for change of location of an emission unit	100

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

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

3. Except as otherwise provided in this section, ~~if a stationary source is subject to the permitting requirements of 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. T]the fees for [such] an operating permit *for a Class I PSD source* are as follows:~~

(a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality] <i>Class I PSD source operating permit to construct for a new Class I PSD stationary source</i>	\$50,000
(b) Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source] <i>Class I PSD source operating permit to construct for a major modification to an existing Class I PSD stationary source as defined in 40 C.F.R. § 52.21</i>	50,000
(c) Class I operating permit to construct] <i>Class I PSD source operating permit to construct for a modification that is not a major modification to an existing Class I PSD stationary source</i>	[50,000] 20,000
(d) <i>Class I PSD source operating permit to construct for a plantwide applicability limitation (PAL) at an existing Class I PSD stationary source</i>	50,000
(e) <i>Class I PSD source operating permit to construct for renewal of a plantwide applicability limitation (PAL) at an existing Class I PSD stationary source</i>	20,000
(f) <i>Class I PSD source operating permit to construct for expiration of a plantwide applicability limitation (PAL) at an existing Class I PSD stationary source</i>	20,000
(g) Revision of an operating permit for a modification that is not a major modification, as defined in 40 C.F.R. § 52.21, of a stationary source] <i>Class I PSD source operating permit to construct for increasing a plantwide applicability limitation (PAL) at an existing Class I PSD stationary source</i>	[10,000] 50,000
(h) <i>Class I PSD source operating permit to construct for a Clean Unit designation at an existing Class I PSD stationary source (per unit)</i>	10,000
(i) <i>Class I PSD source operating permit to construct for a pollution control project (PCP) at an existing Class I PSD stationary source (per unit)</i>	10,000
(j) Request for the change of location of an emission unit] <i>Class I PSD source operating permit to construct for a combination of changes including a modification, plantwide applicability limitation (PAL), Clean Unit designation, or pollution control project (PCP) at an existing Class I PSD stationary source</i>	[100] <i>Sum of the individual fees for each change established in paragraph (a) through (i) of this section</i>
(d)] (k) Conversion of a n] <i>Class I PSD source</i> operating permit to construct into a Class I operating permit involving only one phase.....	[5,000] 10,000/phase
(e)] (l) Conversion of a n] <i>Class I PSD source</i> operating permit to construct	[5,000]

into a Class I operating permit involving two or more phases (per phase).. *10,000/
first phase
5,000/addi-
tional phases*

(m) (m) Revision of a (a) <i>Class I PSD source</i> operating permit to construct.....	5,000
(n) (n) Administrative amendment of an operating permit or operating permit to construct	200
(o) (o) Replacement of a lost or damaged operating permit to construct or an operating permit	200

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

4. *Except for a Class I operating permit to construct issued to a Class I PSD source pursuant to NAC 445B.001 to 445B.3497, (h) if no changes need to be made to convert an operating permit to construct into a Class I operating permit, no fee will be assessed.*

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

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

6. To determine the fee set forth in subsection 5:

(a) Emissions must be calculated using:

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

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

(3) Data from:

(I) A test for emission compliance;

(II) A continuous emission monitor;

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

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

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

7. The annual fee for maintenance of a stationary source is:

~~(a)~~ *For a Class I PSD source* **\$25,000**

~~(b)~~ (b) For a Class I source *that is not a Class I PSD source* \$12,500

~~(c)~~ (c) For a Class II source that has the potential to emit 50 tons or more per year of any one regulated air pollutant except carbon monoxide3,000

~~(d)~~ (d) For a Class II source that has the potential to emit 25 tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide.....1,000

~~(e)~~ (e) For a Class II source that has the potential to emit less than 25 tons per year of any one regulated air pollutant except carbon monoxide250

~~(f)~~ (f) For a Class III source.....250

~~(g)~~ (g) For a surface area disturbance250

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

9. 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 fee must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the director concerning his annual fees.

Sec. 22. NAC 445B.3361 is hereby amended to read as follows:

NAC 445B.3361 1. *Except as otherwise provided in subsection 2, ~~(F)~~* to establish a new Class I stationary source or modify an existing Class I stationary source, the owner or operator of a proposed new Class I stationary source or the existing Class I stationary source must:

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

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

2. To establish a new Class I PSD stationary source, modify a Class I PSD stationary source, or begin actual construction of a project at an existing major stationary source, the owner or operator of a proposed new Class I PSD stationary source or an existing Class I PSD stationary source must:

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

For the purposes of this subsection, the terms "begin actual construction" and "project" are those established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

~~(2-)~~ 3. If an owner or operator obtains an operating permit to construct, the owner or operator is not required to obtain an operating permit or revised operating permit before commencing initial construction, start-up and operation of the proposed new Class I stationary source or the modification to the existing Class I stationary source.

~~(3-)~~ 4. If an owner or operator has a valid operating permit to construct, the owner or operator may continue to operate a new Class I stationary source or modifications to an existing Class I stationary source under that operating permit to construct if the owner or operator submits a complete application for a Class I operating permit within 12 months after the date of initial start-up of the new Class I stationary source or modifications to the existing Class I stationary source.

Sec. 23. NAC 445B.3363 is hereby amended to read as follows:

NAC 445B.3363 1. In addition to the information required pursuant to NAC 445B.295, an application for an operating permit to construct or for a revision to an operating permit to construct must include:

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

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

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

(d) The emission rates of all regulated air pollutants that are subject to an emissions limitation pursuant to an applicable requirement. The emission rates must be described in tons

per year and in such terms as are necessary to establish compliance using the applicable standard reference test method.

- (e) Any other information required by any applicable requirement.
- (f) The calculations on which the information described in this subsection are based.
- (g) Citations to and a description of all applicable requirements.
- (h) A reference to any applicable test method used for determining compliance with each applicable requirement.

~~[2.— In addition to the information required pursuant to NAC 445B.295 and 445B.3368, an application for an operating permit to construct must contain:~~

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

- ~~—(1) All information required by 40 C.F.R. § 52.21; and~~
- ~~—(2) Any other information that the director determines is necessary to process the application:~~

~~—(b) For a proposed new major source, as defined in NAC 445B.094, or a proposed modification, as defined in NAC 445B.099, to an existing stationary source which is not subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality:~~

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

~~[(3)] (j) For stationary sources subject to the provisions regarding *nonattainment area* new source review set forth in 42 U.S.C. §§ 7501 to 7515, inclusive, all information required by 42 U.S.C. § 7503.~~

~~[3.] 2. In addition to the information required pursuant to subsection[s] 1, [and 2] an application for an operating permit to construct must include an environmental evaluation pursuant to NAC 445B.308[, 445B.310 and 445B.311] to 445B.313, inclusive.~~

Sec. 24. NAC 445B.3364 is hereby amended to read as follows:

NAC 445B.3364 1. Except ~~[for sources that are subject to the permitting requirements set forth in 40 C.F.R. § 52.21] as otherwise provided in section 7~~, within 45 days after the date of receipt of an application for a ~~[n] Class I~~ operating permit to construct, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 45 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or the 46th day after the date of receipt, whichever is earlier. Within 90 days after the official date of submittal, the director shall issue or deny an operating permit to construct.

~~[2.— For sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 30 days after the date of receipt of an application for an operating permit to construct, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application~~

~~to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or the 31st day after the date of receipt, whichever is earlier. Within 180 days after the official date of submittal, the director shall issue or deny an operating permit to construct.]~~

~~[3.]~~ 2. If, after the official date of submittal, the director discovers that additional information is required to act on the application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3497, inclusive. The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the director on the application submitted to the director.

~~[4.]~~ 3. The director's ~~[review and]~~ preliminary intent to issue or deny an operating permit to construct and the proposed conditions for the operating permit to construct must be made public and maintained on file with the director during normal business hours at 333 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 days to enable public ~~[and EPA]~~ participation and comment.

~~[5.]~~ 4. 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, *a notice of the director's preliminary intent to issue or deny the Class I operating permit to construct*;

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

~~—(e)]~~ Establish a 30-day period for comment from the public ~~[and the EPA]~~.

Sec. 25. NAC 445B.3366 is hereby amended to read as follows:

NAC 445B.3366 1. If construction will occur in one phase, an operating permit to construct for a new or modified stationary source expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

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

3. An operating permit to construct issued to a new *Class I PSD* stationary source or issued for a *major* modification to a ~~[n]~~ *Class I PSD* existing stationary source ~~[that is subject to the~~

~~permitting requirements set forth in 40 C.F.R. § 52.21]~~ is subject to the expiration requirements established in 40 C.F.R. § 52.21(r)(2).

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

5. An operating permit to construct expires on the date that an operating permit is issued or on the date that the operating permit is revised.

Sec. 26. NAC 445B.3368 is hereby amended to read as follows:

NAC 445B.3368 ~~[1.—The information otherwise required by this section is not required if the owner or operator applied for an operating permit to construct and no changes have been made to the facility. The information provided in the application for the operating permit to construct must be resubmitted as part of the Class I operating permit application.]~~

~~[2.]~~ **1.** In addition to the information required pursuant to NAC 445B.295, an application for a Class I operating permit must include:

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

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

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

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

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

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

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

(h) A compliance plan that contains the following:

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

(2) A description that includes the following:

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

(II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis.

(III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a narrative description of how the stationary source will achieve compliance with each such requirement.

(3) Schedules of compliance as follows:

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

(II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely

basis, unless the applicable requirement expressly requires a more detailed schedule for compliance.

(III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a schedule of compliance for each applicable requirement. Such a schedule must include a schedule of remedial measures, including, without limitation, an enforceable sequence of actions with milestones, leading to compliance with the applicable requirements with which the stationary source is not in compliance. If the stationary source is subject to a judicial consent decree or an administrative order regarding its noncompliance, the schedule must resemble and be at least as stringent as any schedule contained in the decree or order. Such a schedule of compliance must be supplemental to, and must not sanction noncompliance with, the applicable requirements on which it is based.

(4) A schedule for the submission of certified progress reports at least once every 6 months for a schedule of compliance to remedy a violation. Such progress reports must contain the following:

(I) Dates for performing activities or achieving milestones or compliance required in the schedule of compliance, and the dates when the activities, milestones or compliance occurred or were achieved; and

(II) An explanation as to why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measures adopted.

The content requirements of the compliance plan specified in this paragraph apply and must be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations adopted pursuant to Title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the emissions limitations relating to acid rain.

(i) Requirements for compliance certification, including:

(1) A certification of compliance with all applicable requirements by a responsible official, consistent with this section and 42 U.S.C. § 7414(a)(3);

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

(3) A schedule for submission of certifications of compliance during the term of the permit to be submitted not less frequently than annually, or more frequently if so specified by the underlying applicable requirement or the permitting authority; and

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

~~3.2.~~ **2.** 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)]~~ **(a)** 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:]~~ **a Class I PSD Source:**

(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 to 7515, inclusive, all information required by 42 U.S.C. § 7503.~~

~~—(e)]~~ (b) 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. 27. NAC 445B.3375 is hereby amended to read as follows:

NAC 445B.3375 1. *Except as otherwise provided in section 5 for a Class I PSD stationary source, and for an owner or operator of a stationary source not complying with the requirement of subsection 1 of section 3 for filing an application for a Class I operating permit to construct, [A]*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.

Sec. 28. NAC 445B.3395 is hereby amended to read as follows:

NAC 445B.3395 *The following provisions of this section apply to the review of operating permit applications that are not subject to the review requirements of NAC 445B.3364 and section 7 for an operating permit to construct:*

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

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

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

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

5. The director shall:

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

(b) Provide written notice to:

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

(2) Any affected state;

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

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

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

6. The provisions of subsections 4 and 5 do not apply to an administrative amendment to a Class I operating permit made pursuant to NAC 445B.319, a change without revision to a Class I

operating permit made pursuant to NAC 445B.342 or a minor revision of a Class I operating permit made pursuant to NAC 445B.3425.

7. The notice required for a Class I operating permit pursuant to subsection 5 must identify:

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

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

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

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

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

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

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

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

~~[11.]~~ 10. The director shall not issue a Class I operating permit, or a revision or renewal of a Class I operating permit, if the Administrator objects to its issuance in writing within 45 days after the Administrator's receipt of the proposed conditions for the Class I operating permit and the necessary supporting information.

~~[12.]~~ 11. Any person may petition the Administrator to request that he object to a Class I operating permit as provided in 40 C.F.R. § 70.8(d).

~~[13.]~~ 12. If the Administrator objects to the issuance of a Class I operating permit of his own accord or in response to a public petition, the director shall submit revised proposed conditions for the Class I operating permit in response to the objection within 90 days after the date on which he is notified of the objection.

~~[14.]~~ 13. If construction will occur in one phase, a Class I operating permit or the revision of a Class I operating permit for a new or modified stationary source ~~[, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant~~

~~deterioration of air quality,]~~ expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

~~[15.] 14.~~ 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 Class I operating permit or the revision of a Class I operating permit for a new or modified stationary source~~[, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality,]~~ expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the director. The director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

Sec. 29. NAC 445B.3405 is hereby amended to read as follows:

NAC 445B.3405 1. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit must include all applicable requirements and:

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

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

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

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

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

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

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

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

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

(e) Incorporate all applicable reporting requirements and require:

(1) Submittal of reports of any required monitoring every 6 months, within 8 weeks after the end of the reporting period;

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

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

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

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

- (1) Must include all terms required by this section to determine compliance;
- (2) May extend the permit shield described in subsection 2 to all terms and conditions that allow such increases and decreases in emissions; and
- (3) Must meet all applicable requirements and requirements set forth in NAC 445B.001 to 445B.3497, inclusive, for a Class I source.

(h) Contain terms and conditions requested by the applicant and approved by the director, including all terms required by this section to determine compliance, which allow for the trading of emissions increases and decreases within the permitted facility without requiring a revision of the permit, solely to comply with a federally enforceable emissions cap that is established in the permit independent of any applicable requirements that would otherwise apply. Provisions relating to the trading of emissions for any emission units for which emissions are not quantifiable or for which there are not replicable procedures to enforce the emissions trades will not be allowed. Any requests for the trading of emissions must be made pursuant to NAC 445B.342. The permit must also require compliance with all applicable requirements, and contain the replicable procedures and terms of the permit which ensure that the trade of emissions is quantifiable and enforceable. The permit shield described in subsection 2 may, upon request, be extended to the terms and conditions that allow such increases and decreases in emissions.

(i) Contain a schedule of compliance for the stationary source that contains all the elements required in the schedule for compliance provided in the application pursuant to paragraph (h) of subsection 2 of NAC 445B.3368.

(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.

(k) All terms and conditions related to a Clean Unit pursuant to 40 C.F.R. § 52.21(x) ~~[(6)]~~ or 52.21(y) ~~[(8)]~~;

(l) All terms and conditions related to a pollution control project (PCP) pursuant to 40 C.F.R. § 52.21(z) ~~[(6)]~~; and

(m) All terms and conditions related to a plantwide applicability limitation (PAL) pursuant to 40 C.F.R. § 52.21(aa).

2. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit may provide a permit shield within the Class I permit that must include a statement that compliance with the conditions of the operating permit shall be deemed to be compliance with any applicable requirements as of the date of the issuance of the operating permit, if:

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

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

A Class I permit that does not expressly state that a permit shield exists is presumed not to provide such a shield. A permit shield authorized pursuant to this subsection does not and may not apply to a minor revision to a Class I operating permit.

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

~~—(a) The operating permit will expire if construction is:~~

~~——(1) Not commenced within 18 months after the issuance of the operating permit; or~~

~~——(2) Delayed for 18 months after it is commenced;~~

~~—(b) The operating permit becomes effective 30 days after the issuance of the director's final determination; and~~

~~—(c) The provisions of the operating permit regarding the prevention of significant deterioration of air quality are subject to the requirements of 40 C.F.R. Part 124, Subparts A and C.}~~

Sec. 30. NAC 445B.342 is hereby amended to read as follows:

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

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

(b) Violate any provision of NAC 445B.001 to 445B.3497, inclusive, or any other applicable requirement; ~~{or}~~

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

(d) Constitute a modification or project at a Class I PSD source. For the purposes of this paragraph, the term "project" has the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

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

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

- (a) A detailed description of the change;
- (b) The date on which the change will occur;
- (c) Any change in emissions, as determined in accordance with NAC 445B.239;
- (d) Any condition of the operating permit which will no longer apply because of the change;

and

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

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

Sec. 31. NAC 445B.3425 is hereby amended to read as follows:

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

- (a) Does not violate any applicable requirement;
- (b) Does not involve significant changes to the existing requirements for monitoring, reporting or recordkeeping;
- (c) Does not require or change:
 - (1) A determination of an emission limitation or other standard on a case-by-case basis;
 - (2) A determination of the ambient impact for any temporary source; or
 - (3) A visibility or increment analysis;
- (d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:
 - (1) A federally enforceable emissions cap; or
 - (2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5);
- (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive; and
- (f) Does not result in an increase in allowable emissions that exceeds any of the following specified thresholds:
 - (1) Carbon monoxide, 100 tons per year.
 - (2) Nitrogen oxides, 40 tons per year.
 - (3) Sulfur dioxide, 40 tons per year.
 - (4) PM₁₀, 15 tons per year.
 - (5) Ozone, 40 tons per year of volatile organic compounds.
 - (6) Sulfuric acid mist, 7 tons per year.
 - (7) Hydrogen sulfide (H₂S), 10 tons per year.

(g) Does not constitute a modification or project, at a Class I PSD source. For the purposes of this paragraph, the term "project" has the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

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

- (a) A description of the modification;
- (b) A description of the emissions resulting from the modification;
- (c) An identification of any new applicable requirements that will apply because of the modification;
- (d) Suggested conditions of the operating permit;
- (e) Certification by a responsible official of the stationary source that the proposed modification complies with the criteria for a minor revision set forth in subsection 1; and
- (f) Any relevant information concerning the proposed change which is required by NAC 445B.295 and 445B.3368.

3. The director shall:

- (a) Determine, in accordance with subsection 3 of NAC 445B.3395, whether the application for a minor revision is complete.
- (b) Transmit the application to the Administrator within 5 working days after the official date of submittal of the application.
- (c) Provide notice to any affected state within 5 working days after the official date of submittal of the application for a minor revision.
- (d) Provide a 30-day period for comment by any affected state concerning the application.
- (e) Within 45 days after the official date of submittal of the application:
 - (1) Determine whether the proposed minor revision meets the criteria for a minor revision set forth in this section;
 - (2) Determine whether the proposed conditions of the operating permit are adequate; and
 - (3) If the director determines that the proposed modification does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant and the Administrator.
- (f) If the director determines that the applicant's proposed conditions of the operating permit are not adequate, draft appropriate conditions for the operating permit. Proposed conditions drafted by the director must be submitted to the Administrator for review.
- (g) Notify the Administrator of any recommendations from an affected state which the director does not accept.

4. The director may issue the minor revision upon notification by the Administrator that the Administrator does not object to the minor revision. If the Administrator does not notify the director within 45 days after the date on which the Administrator received the notification pursuant to this section or within 45 days after the date on which the Administrator receives the director's proposed conditions, whichever is later, the Administrator shall be deemed to have not objected to the minor revision.

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

- (a) Deny the application for the minor revision;
- (b) Determine whether the minor revision should be reviewed under the procedures for a significant revision; or
- (c) Revise the proposed revision of the operating permit and forward it to the Administrator for review.

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

Sec. 32. NAC 445B.344 is hereby amended to read as follows:

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

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

(b) Which requires or changes:

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

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

(3) A visibility or increment analysis;

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

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

(e) Subject to 42 U.S.C. § 7412.

2. An application for a significant revision must comply with the requirements for an application for a Class I operating permit set forth in NAC 445B.295, 445B.297 and 445B.3368, including public participation and comment and a review by any affected states and the Administrator pursuant to NAC 445B.3395.

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

Sec. 33. NAC 445B. 3453 is hereby amended to read as follows:

NAC 445B.3453 1. An owner or operator of any stationary source that is not subject to the requirements of NAC 445B.337, ~~or~~ 445B.3375, *section 3, or section 4*, must submit an application for and obtain a Class II operating permit or, if applicable, a Class III operating permit pursuant to NAC 445B.3485.

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

Sec. 34. NAC 445B.141 is hereby repealed.

TEXT OF REPEALED LANGUAGE

NAC 445B.141 “Preconstruction review” defined. “Preconstruction review” means a review by the director of all information contained in a Class I-B application, as required in NAC 445B.308 to 445B.313, inclusive, and 40 C.F.R. § 52.21.

