

LCB File No. R151-06

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

P2006-16

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

The most recent LCB codification of NAC 445B (02-2006) does not include amendments adopted by the State Environmental Commission on October 4, 2005 and March 8, 2006. These earlier amendments are effective (LCB File Nos. R096-05 and R189-05) and are integrated into the text of this petition.

AUTHORITY: §1, NRS 445B.210, 445B.300 and 445B.560.

A REGULATION relating to the State Environmental Commission; removing the provisions relating to clean units and pollution control projects, and providing other matters properly relating thereto.

Section 1. NAC 445B.065 is hereby amended to read as follows:

NAC 445B.065 “Existing facility” with reference to a stationary source means any apparatus of the type for which a standard is adopted in NAC 445B.001 to ~~445B.601~~ **445B.3497**, inclusive, the construction or modification of which was commenced before the date on which the standard was proposed or any apparatus which could be altered in such a way as to be of that type.

Sec. 2. NAC 445B.134 is hereby amended to read as follows:

NAC 445B.134 “Person” has the meaning ascribed to it in **NRS 0.039 and** ~~NRS~~ 445B.150.

Sec. 3. NAC 445B.2201 is hereby amended to read as follows:

NAC 445B.2201 1. A substance is a hazardous air pollutant if it is on the federal list of hazardous air pollutants set forth in 42 U.S.C. § 7412(b) **together with the amendments in 40 C.F.R. Part 63, Subpart C**, which ~~is~~ **are** adopted pursuant to NAC 445B.221.

2. A substance is a toxic regulated air pollutant if the Commission determines that it causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, unless a federal standard for the quality of ambient air, standard for the quality of ambient air adopted by the Commission, new source performance standard or national emission standard for hazardous air pollutants applies.

Sec. 4. 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) and~~ § 51.165 ~~and Appendix S of Title 40 C.F.R. Part 51 are~~ **is** hereby adopted by reference as ~~they~~ **it** existed on July 1, 2002.

2. *Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and Appendix S of Title 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2005.*

3. Appendix W of Title 40 C.F.R. Part 51 is hereby adopted by reference as it existed on July 1, 2005, and the amendments to Appendix W of Title 40 C.F.R. Part 51 as set forth in Volume 70 of the Federal Register at pages 68218 et seq., November 9, 2005, are hereby adopted by reference.

~~{3-}~~ 4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, 2003.

~~{4-}~~ 5. Except as otherwise provided in subsection ~~{5}~~ 6, the following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3) and 60.11(e), as it existed on July 1, 2005;

(b) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW and AAAA as they existed on July 1, 2005; ~~{and}~~

(c) Subparts CCCC and DDDD of Title 40 C.F.R. Part 60 as set forth in Volume 70 of the Federal Register at pages 55568 et seq., September 22, 2005, are hereby adopted by reference ~~{-}~~;

(d) Subparts EEEE and FFFF of Title 40 C.F.R. Part 60 as set forth in Volume 70 of the Federal Register at pages 74869 et seq., December 16, 2005, are hereby adopted by reference.

~~{5-}~~ 6. The amendments to *Title 40 C.F.R. Part 60*:

(a) ~~{s}~~ Subpart Da ~~{of Title 40 C.F.R. Part 60}~~ as set forth in Volume 70 of the Federal Register at pages 51266 et seq., August 30, 2005 ~~{, are hereby adopted by reference.}~~;

(b) Subpart Da, Db and Dc as set forth in Volume 71 of the Federal Register at pages 9865 et seq., February 27, 2006; and

(c) Subpart GG as set forth in Volume 71 of the Federal Register at pages 9453 et seq., February 24, 2006;

are hereby adopted by reference.

~~{6-}~~ 7. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 2003.

~~{7-}~~ 8. Except as otherwise provided in subsection ~~{8}~~ 9, the following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference:

(a) Subparts A, B, **C**, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, **DDDD**, EEEE, GGGG, HHHH, JJJJ, KKKK, MMMM, NNNN, OOOO, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCC, DDDD, EEEEE, FFFFF, JJJJ, KKKK, LLLL, MMMM, NNNN, PPPP, QQQQ and SSSS, as they existed on July 1, 2005 ; and

(b) Subpart FFFF as set forth in Volume 70 of the Federal Register at pages 38553 et seq., July 1, 2005 and pages 51269 et seq., August 30, 2005.

~~{8-}~~ 9. The amendments to:

(a) Subpart B of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 39662 et seq., July 11, 2005;

(b) Subpart C as set forth in Volume 70 of the Federal Register at pages 75047 et seq., December 19, 2005;

(c) Subpart LL of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 66280 et seq., November 2, 2005;

~~(e)~~ (d) Subpart EEE of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 59401 et seq., October 12, 2005 *and pages 75042 et seq., December 19, 2005;*

~~(d)~~ (e) Subpart QQQ of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 40672 et seq., July 14, 2005;

~~(e)~~ (f) Subpart RRR of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 57513 et seq., October 3, 2005;

(g) *Subpart DDDD as set forth in Volume 71 of the Federal Register at pages 8342 et seq., February 16, 2006;*

~~(f)~~ (h) Subpart UUUU of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 46683 et seq., August 10, 2005;

~~(g)~~ (i) Subpart WWWW of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 50117 et seq., August 25, 2005;

~~(h)~~ (j) Subpart CCCCC of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 44285 et seq., August 2, 2005;

(k) *Subpart DDDDD as set forth in Volume 70 of the Federal Register at pages 76918 et seq., December 28, 2005;*

(l) *Subpart SSSSS as set forth in Volume 71 of the Federal Register at pages 7415 et seq., February 13, 2006;*

are hereby adopted by reference.

~~(9)~~ 10. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on ~~(July 1, 2003)~~ *July 1, 2005*. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 41, inclusive, of LCB File No. R189-05*, the provisions of 40 C.F.R. Part 72 apply.

~~(10)~~ 11. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on ~~(July 1, 2003)~~ *July 1, 2005*. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 41, inclusive, of LCB File No. R189-05*, the provisions of 40 C.F.R. Part 76 apply.

~~(11)~~ 12. 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]~~ *is* hereby adopted by reference as ~~(they)~~ *it* existed on ~~(July 1, 2003)~~ *October 1, 1993*.

~~(12)~~ 13. 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 Internet at the following website:
<http://www.osha.gov/pls/imis/sic_manual.html>.

~~(13)~~ 14. 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.....	\$45
(2) For § 52.21.....	61
(3) For Part 60 (Sections 60.1 to end).....	58
(4) For Part 60 (Appendices).....	57
(5) For Parts 61 - 62.....	45

(6) For Part 63 (Sections 63.1 to 63.599).....	58
(7) For Part 63 (Sections 63.600 to 63.1199).....	50
(8) For Part 63 (Sections 63.1200 to 63.1439).....	50
(9) For Part 63 (Sections 63.1440 to 63.6175).....	32
(10) For Part 63 (Sections 63.6580 to 63.8830).....	32
(11) For Part 63 (Sections 63.8980 to end).....	35
(12) For the volume containing Parts 72 and 76.....	62

(b) Division of State Library and Archives of the Department of Cultural Affairs for 10 cents per page.

(c) Internet at the following website: <<http://www.gpoaccess.gov/nara/index.html>>.

~~14.~~ **15.** 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.

~~15.~~ **16.** Except as otherwise provided in subsections ~~9 and~~ **10 and 11**, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3497, inclusive, **and sections 2 to 41, inclusive, of LCB File No. R189-05**, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~16.~~ **17.** For the purposes of this section, “administrator” as used in the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the Director.

Sec. 5. NAC 445B.230 is hereby amended to read as follows:

NAC 445B.230 1. Any person who is able to cause or permit the emission of 100 tons (90.7 metric tons) or more per year of a regulated air pollutant from a stationary source shall prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the ~~air quality plan~~ **applicable state implementation plan** for the State of Nevada.

2. Any person required to have an operating permit who is able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant shall, upon written notice from the Director, prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the ~~air quality plan~~ **applicable state implementation plan** for the State of Nevada.

3. The written notice required under subsection 2 must be transmitted in accordance with subsection 4 to all persons who are within the same classification of sources as defined in the Standard Industrial Classification Manual, 1987, and who are able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant.

4. Written notice shall be deemed to have been served if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person.

Sec. 6. NAC 445B.259 is hereby amended to read as follows:

NAC 445B.259 1. During any performance tests required under NAC 445B.252 or within 30 days thereafter and at such other times as may be required by the Director under § 114 of the Act, the owner or operator of any affected facility shall conduct continuous evaluations of the performance of monitoring systems and furnish the Director within 60 days thereof two or upon request more copies of a written report of the results of such tests. These evaluations must be

conducted in accordance with the specifications and procedures provided in this section and NAC 445B.260.

2. Except as provided in NAC 445B.260, continuous monitoring systems listed within this subsection must be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of Appendix B of 40 C.F.R. ~~§~~ **Part** 60. Continuous monitoring systems for measuring:

- (a) Opacity of emissions must comply with Performance Specification 1.
- (b) Nitrogen oxides emissions must comply with Performance Specification 2.
- (c) Sulfur dioxide emissions must comply with Performance Specification 2.
- (d) The oxygen content ~~of~~ **and** carbon dioxide content of effluent gases must comply with Performance Specification 3.

Sec. 7. NAC 445B.260 is hereby amended to read as follows:

NAC 445B.260 1. Except as provided in subsection 2, an owner or operator who, prior to September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components shall comply with the following requirements:

(a) Continuous monitoring systems for measuring opacity of emissions must be capable of measuring emission levels within ± 20 percent *of the mean value of the reference method test data in terms of the units of the emission standard* with a confidence level of 95 percent. The ~~[Calibration Error Test]~~ *calibration drift test* and associated calculation procedures set forth in Performance Specification 1 in Appendix B of 40 C.F.R. ~~§~~ **Part** 60 must be used for demonstrating compliance with this specification.

(b) Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide must be capable of measuring emission levels within ± 20 percent *of the mean value of the reference method test data in terms of the units of the emission standard* with a confidence level of 95 percent. The ~~[Calibration Error Test]~~ *calibration drift test*, the ~~[Field Test for Accuracy (Relative)]~~ *relative accuracy test*, and associated operating and calculation procedures set forth in Performance Specification 2 in Appendix B of 40 C.F.R. ~~§~~ **Part** 60 must be used for demonstrating compliance with this specification.

2. Owners or operators of all continuous monitoring systems installed on an affected facility prior to October 6, 1975, are not required to conduct tests under paragraphs (a) and (b) of subsection 1 unless requested by the Director.

3. All continuous monitoring systems referred to in subsection 1 must be upgraded or replaced, if necessary, with new continuous monitoring systems, and such improved systems must be demonstrated to comply with applicable performance specifications under NAC 445B.259 by September 11, 1979.

Sec. 8. NAC 445B.308 is hereby amended to read as follows:

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

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

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

2. The Director shall not issue an operating permit or a revision of an operating permit for any stationary source if the environmental evaluation submitted by the applicant shows, or if the Director determines, in accordance with the provisions of this section, that the stationary source:

(a) Will prevent the attainment and maintenance of the state or national ambient air quality standards. For the purposes of this paragraph, only those ambient air quality standards that have been established in NAC 445B.22097 need to be considered in the environmental evaluation.

(b) Will cause a violation of the ~~applicable control strategy contained in the approved air quality plan~~ *applicable state implementation plan*.

(c) Will cause a violation of any applicable requirement.

(d) Will not comply with subsection 4.

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

4. Except as otherwise provided in subsection 5, to be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, who proposes to construct in an area designated nonattainment for the regulated air pollutant or pollutants for which the stationary source or modification is major must:

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

(b) Adopt as an emission limitation for the stationary source the lowest achievable emission rate for each nonattainment regulated air pollutant from the stationary source.

(c) Demonstrate that all other stationary sources within this State which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 5, inclusive, of LCB File No. R096-05, and all other applicable requirements and conditions of the permit.

(d) Conduct an analysis of any anticipated impact on visibility in any federal Class I area which may be caused by emissions from the stationary source.

(e) Conduct an analysis of alternative sites, sizes, processes of production and techniques for environmental control for the proposed stationary source. Except as otherwise provided in this paragraph, the analysis must demonstrate that the benefits of the proposed stationary source significantly outweigh the detrimental environmental and social effects that will result from its location, construction or modification. If the major stationary source or major modification proposes to locate in an area designated as marginal nonattainment for ozone, the analysis must demonstrate an offset ratio of 1.2 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source which is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if the proposed location of the major stationary source or major modification is in an area designated as nonattainment for ozone.

(f) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment

regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area which have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area which have received their respective permits before the proposed stationary source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the Administrator as one to be targeted for economic development, the owner or operator must demonstrate that the emission from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

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

5. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221, who proposes to construct in an area designated as basic nonattainment for ozone must:

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

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

(c) Demonstrate that all other stationary sources within this State that are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 5, inclusive, of LCB File No. R096-05, and all other applicable requirements and conditions of the permit.

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

(e) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area that have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area that received their respective permits before the proposed stationary source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the Administrator as one to be targeted for economic development, the owner or operator must demonstrate that the emissions from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

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

6. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification who proposes to construct in any area designated as attainment or unclassifiable under 42 U.S.C. § 7407(d) must comply with the provisions of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221.

7. The Director may impose any reasonable conditions on his approval, including conditions requiring the owner or operator of the stationary source to:

(a) Conduct monitoring of the quality of the ambient air at the facility site for a reasonable period before the commencement of construction or modification and for any specified period after operation has begun at the stationary source; and

(b) Meet standards for emissions that are more stringent than those found in NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 5, inclusive, of LCB File No. R096-05.

8. Where a proposed stationary source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in NAC 445B.308 to 445B.314, inclusive, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

9. Approval and issuance of an operating permit or a revision of an operating permit for any stationary source does not affect the responsibilities of the owner or owners to comply with any other portion of the ~~control strategy~~ applicable state implementation plan.

10. As used in this section:

(a) “Lowest achievable emission rate” has the meaning ascribed to it in 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.

(b) “Offset ratio” means the percentage by which a reduction in an emission must exceed the corresponding increase in that emission.

(c) “Reasonable further progress” means the annual incremental reductions in emissions of the relevant regulated air pollutant that are required by 42 U.S.C. §§ 7501 to 7515, inclusive, or are required by the Administrator to ensure attainment of the applicable standard for national ambient air quality by the applicable date.

Sec. 9. NAC 445B.311 is hereby amended to read as follows:

NAC 445B.311 ~~[Except as otherwise provided in paragraph (c) of subsection 4:]~~

1. An environmental evaluation which is required for a new or modified stationary source pursuant to NAC 445B.308 to 445B.314, inclusive, or as required by the Director must contain a careful and detailed assessment of the environmental aspects of the proposed stationary source and must also contain:

(a) The name and address of the applicant;

(b) The name, address and location of the stationary source;

(c) A description of the proposed stationary source, including the normal hours of operation of the facility and the general types of activities to be performed;

(d) A map showing the location of the stationary source and the topography of the area, including existing principal streets, roads and highways within 3 miles of the stationary source;

(e) A site plan showing the location and height of buildings on the site;

(f) Any additional information or documentation which the Director deems necessary to determine the effect of the stationary source on the quality of the ambient air, including

measured data on the quality of the ambient air and meteorological conditions at the proposed site before construction or modification; and

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

2. Where approval is sought for stationary sources to be constructed in phases, the information required by subsection 1 must be submitted for each phase of the construction project.

3. An environmental evaluation must also consider good engineering practice stack height. If the Director considers an analysis of a source based on a good engineering practice stack height that exceeds the height specified in paragraph (a) or (b) of subsection 1 of section 4 of LCB File No. R096-05, the Director shall:

(a) Notify the public of the availability of the demonstration study performed pursuant to paragraph (c) of subsection 1 of section 4 of LCB File No. R096-05; and

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

4. A dispersion analysis used to determine the location and estimated value of the highest concentration of each regulated air pollutant must include:

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

(b) A narrative report describing:

(1) If applicable, assumptions and premises used in the analysis, including, without limitation:

(I) Model options chosen;

(II) Urban versus rural selection;

(III) Background concentrations;

(IV) Characterization of emission sources as point, area or volume;

(V) Emission discharge points; and

(VI) Rate of emission from each emission unit; and

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

(I) The nearest significant terrain features;

(II) The receptor grid or grids; and

(III) Restrictions on public access to the stationary source; and

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

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

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

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

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

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

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

Sec. 10. NAC 445B.318 is hereby amended to read as follows:

NAC 445B.318 1. An operating permit is required for each new or existing stationary source.

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

3. An operating permit must be granted if the Director finds from a stack emission test or other appropriate test and other relevant information that use of the stationary source will not result in any violation of the air quality regulations or the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Parts 60 ~~and~~, 61 *and 63*, Prevention of Significant Deterioration, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants adopted by reference in NAC 445B.221.

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

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

Sec. 11. NAC 445B.331 is hereby amended to read as follows:

NAC 445B.331 *1.* A request for a change of the location of an emission unit must be made in writing to the Director and submitted with the fee for each operating permit ~~as follows:~~ ~~—1. For a Class I source,]~~ at least 10 days in advance of each change of location.

2. ~~[For a Class II source, at least 10 days before the commencement of the operation of the emission unit at the new location.]~~ An owner or operator must not operate the emission unit at the new location until the Director approves the location.

Sec. 12. NAC 445B.3363 is hereby amended to read as follows:

NAC 445B.3363 1. Except as otherwise provided in NAC 445B.33633, 445B.33635 and 445B.33637, in addition to the information required pursuant to NAC 445B.295, an application for a Class I operating permit to construct or for a revision of a Class I 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. Except as otherwise provided in NAC 445B.33633, 445B.33635 and 445B.33637, in addition to the information required pursuant to *subsection 1 and* NAC 445B.295 ~~and 445B.3368],~~ an application for a Class I operating permit to construct must contain:

(a) For a proposed new major stationary source, a proposed major modification to an existing stationary source or a major modification at an existing major stationary source:

(1) All information required pursuant to 40 C.F.R. § 52.21;

(2) A description of all emissions of each regulated pollutant for which the source is a major stationary source or that will ~~increase by~~ *result in* a significant ~~amount~~ *emissions increase or a significant net emissions increase, as defined in 40 C.F.R. § 52.21(a)(2)*, as a result of the major modification;

(3) A description of all emissions of each regulated pollutant associated with the major modification;

(4) A description of each hydrographic area that may be triggered for increment consumption; and

(5) Any other information that the Director determines is necessary to process the application.

(b) For a proposed new major source or a proposed modification which is not a major modification:

(1) All information required by NAC 445B.308 to ~~445B.313~~ *445B.311*, 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.

3. Except as otherwise provided in NAC 445B.33633, 445B.33635 and 445B.33637, in addition to the information required in subsections 1 and 2, an application for a Class I operating permit to construct for a modification at an existing major stationary source that is not a major modification must contain:

(a) All applicable information required to ~~make the determinations pursuant to~~ *determine if the project or modification will result in a significant emissions increase or a significant net emissions increase as defined in* 40 C.F.R. § 52.21(a)(2);

(b) A description of the project or modification including all emission 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 in 40 C.F.R. § 52.21(a)(2);

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

(e) Calculations of emissions in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(b); and

(f) Detailed information used to demonstrate that emissions increases associated with any increased utilization that an emission unit could have accommodated during the baseline

emission period is unrelated to the proposed project or modification, including any increased utilization due to product demand growth, in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(c).

In lieu of paragraphs (d), (e) and (f), the application must contain information on the potential of the unit to emit in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(d).

4. Except as otherwise provided in NAC 445B.33633, in addition to the information required pursuant to subsections 1, 2 and 3, an application for an operating permit to construct must include an environmental evaluation pursuant to NAC 445B.308, 445B.310 and 445B.311.

5. In addition to the information required pursuant to NAC 445B.33633, an application for a Class I operating permit to construct for a modification or project at an emission unit that has been designated as a clean unit must contain a demonstration that the modification or project will not cause the unit to lose its designation as a clean unit pursuant to 40 C.F.R. § 52.21(y)(9).

6. As used in this section, “project” has the meaning established in 40 C.F.R. § 52.21 as adopted by reference in NAC 445B.221.

Sec. 13. 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, within 45 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a 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 make a preliminary determination to issue or deny a Class I operating permit to construct or the revision of a Class I 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 a Class I operating permit to construct or for the revision of a Class I operating permit to construct, the Director shall determine whether the application contains adequate information to process the application. The official date of submittal of the application shall be deemed to be 31 days after the date of receipt, unless the Director determines before that date that substantial additional information is required. If the Director determines that substantial additional information is required, the Director shall return the application to the applicant. The Director shall require the applicant to submit a new application or the applicant may formally withdraw the application. Within 180 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny an operating permit to construct or a revision of an operating permit to construct. For the purposes of 40 C.F.R. §52.21, the application shall be deemed to be complete on the date that the Director makes the preliminary determination to issue or deny a Class I operating permit to construct or a revision of an operating permit to construct.

3. For the submittal of an application for a Class I operating permit to construct for the designation of a clean unit or a Class I operating permit to construct for the approval of a pollution control project, within 10 days after the date of receipt of such an application, 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 10 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 11th day after the date of receipt, whichever is earlier. Within 60 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct for the designation of a clean unit or Class I operating permit to construct for the approval of a pollution control project.

4. For the submittal of an application for a Class I operating permit to construct for the approval of a plantwide applicability limitation, within 30 days after the date of receipt of such an application, 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 120 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct for the approval of a plantwide applicability limitation.

5. If, after the official date of submittal, the Director discovers that additional information is required to act on an 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.

6. The Director's review and preliminary intent to issue or deny an operating permit to construct or a revision of 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.

7. The Director shall:

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

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

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

(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;

(e) Establish a 30-day period for comment from the public and the EPA; and

(f) If the application is for an administrative revision to a Class I operating permit, provide written notice to each affected state.

8. In addition to the requirements set forth in subsection 7, the notice required for a Class I operating permit to construct or for a revision of a Class I operating permit to construct 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 to construct;

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

(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 to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the Class I operating permit to construct and which are relevant to the determination of the issuance of the Class I operating permit to construct;

(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; and

(f) If applicable, a description of any revisions to a Class I operating permit resulting from an administrative revision to the Class I operating permit.

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

10. Except as otherwise provided in subsections 11, 12 and 13, within 180 days after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct. The Director shall make his decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;

(c) Information submitted by proponents of the project; and

(d) 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~~ *applicable state implementation plan*.

11. Except as otherwise provided in subsection 12, for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 12 months after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct.

12. The Director shall issue or deny a Class I operating permit to construct for the designation of a clean unit, for the approval of a pollution control project or for the approval of a plantwide applicability limitation within 30 days after the close of the period for public

participation or 30 days after the hearing, if a hearing is scheduled pursuant to this section, whichever occurs later.

13. The Director shall not issue an administrative revision to a Class I operating permit if the Administrator objects to the issuance of the administrative revision in writing within 45 days after the Administrator's receipt of the proposed revision conditions for the Class I operating permit and the necessary supporting information.

14. Any person may petition the Administrator to request that the Administrator object to the issuance of an administrative revision to a Class I operating permit as provided in 40 C.F.R. § 70.8(d).

15. If, on his own or pursuant to a request by a person pursuant to subsection 14, the Administrator objects to the issuance of an administrative revision to a Class I operating permit, 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.

Sec. 14. NAC 445B.3395 is hereby amended to read as follows:

NAC 445B.3395 1. Except for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21 and as otherwise provided in this subsection, within 60 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 whether 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. 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 a Class I operating permit or for the revision of a Class I operating permit, the Director shall determine whether the application contains adequate information to process the application. The official date of submittal of the application shall be deemed to be 31 days after the date of receipt, unless the Director determines before that date that substantial additional information is required. If the Director determines that substantial additional information is required, the Director shall return the application to the applicant. The Director shall require the applicant to submit a new application or the applicant may formally withdraw the application.

3. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request such additional information that is necessary to determine whether the proposed operation will comply with all 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 pursuant to subsection 1 or 2.

4. Except as otherwise provided in this section, within 180 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 days after the official date of submittal.

5. Within 10 working days after the receipt of an application for a minor revision of a Class I operating permit, the Director shall determine whether 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.

6. The Director's review and preliminary intent to issue or deny a Class I operating permit or the revision of 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 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, and in the air quality region where the source is located for 30 days to enable public participation and comment and a review by any affected states.

7. 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 or the revision of a Class I operating permit, and the proposed Class I operating permit to the Administrator; and

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

8. The provisions of subsections 6 and 7 do not apply to:

(a) An administrative amendment to a Class I operating permit made pursuant to NAC 445B.319;

(b) A change without revision to a Class I operating permit made pursuant to NAC 445B.342; or

(c) A minor revision of a Class I operating permit made pursuant to NAC 445B.3425, if the Director determines that the minor revision does not result in a significant change in air quality at any location where the public is present on a regular basis.

9. The notice required for a Class I operating permit or for a revision of a Class I operating permit pursuant to subsection 7 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.

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

11. Except as otherwise provided in subsection 12 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 *pursuant to a Class I-B application*. The Director shall make his decision by taking into account:

(a) Written comments from the public, affected states and the Administrator;

(b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;

(c) Information submitted by proponents of the project; and

(d) 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]~~ *applicable state implementation plan*.

The Director shall send a copy of the final ~~[Class I-B]~~ operating permit *which was issued pursuant to a Class I-B application* to the Administrator.

12. 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 the revision or renewal of a Class I operating permit, within 12 months after the official date of submittal of an application for a new Class I operating permit or the revision of a Class I operating permit. The application shall be deemed to be complete for the purposes of 40 C.F.R. § 52.21 on the date that the Director makes the preliminary determination to issue or deny the Class I operating permit or the revision of the Class I operating permit.

13. 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.

14. Any person may petition the Administrator to request that he object to a Class I operating permit or a revision of a Class I operating permit as provided in 40 C.F.R. § 70.8(d).

15. If the Administrator objects to the issuance of a Class I operating permit or a revision 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 or the revision of a Class I operating permit in response to the objection within 90 days after the date on which he is notified of the objection.

16. 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.

17. 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. 15. NAC 445B.3457 is hereby amended to read as follows:

NAC 445B.3457 1. Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class II operating permit or for the revision of a Class II operating permit, 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 10 working 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 11 working days after the date of receipt, whichever is earlier.

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.

3. If notice to the public is not required pursuant to subsection 5, the Director shall issue or deny a Class II operating permit or the revision of a Class II operating permit within 60 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit.

4. If notice to the public is required pursuant to subsection 5, the Director shall:

(a) Make a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit within 60 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit;

(b) Take such action as is necessary to ensure compliance with the provisions of subsections 5 to 7, inclusive, as applicable; and

(c) Issue or deny the Class II operating permit or the revision of the Class II operating permit within the period set forth in subsection 8.

5. If, after review of an application for a Class II operating permit or for the revision of a Class II operating permit, the Director determines that the change to the stationary source results in a significant change in air quality at any location where the public is present on a regular basis:

(a) The Director's preliminary determination to issue or deny the Class II operating permit or the revision of the Class II operating permit, and the proposed conditions for the Class II operating permit or the proposed conditions for the revision of the Class II operating permit must, within 10 working days after the Director makes that preliminary determination, be made public and maintained on file with the Director during normal business hours at 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment; and

(b) The Director shall:

(1) Cause to be published a notice in a newspaper of general circulation in the area in which the Class II source is located;

(2) 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;

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

(4) Establish a 30-day period for public participation.

6. The notice required pursuant to paragraph (b) of subsection 5 must include:

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

(b) The name and address of the state agency processing the Class II operating permit or the revision of the Class II operating permit;

(c) The name, address and telephone number of a representative from the state agency that is processing the Class II operating permit or the revision of the Class II operating permit from whom interested persons may obtain additional information, including copies of:

(1) The application;

(2) The proposed conditions for the Class II operating permit or the proposed conditions for the revision of the Class II operating permit;

(3) All relevant supporting materials; and

(4) All other materials which are available to the state agency that is processing the Class II operating permit or the revision of the Class II operating permit and which are relevant to the determination of the issuance of the Class II operating permit or the revision of the Class II operating permit;

(d) A description of the proposed new Class II source or the proposed modification to the existing Class II source and a summary of the emissions involved;

(e) The date by which comments must be submitted to the Director;

(f) A summary of the impact of the proposed new Class II source or the proposed modification to the existing Class II source on the quality of air; and

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

7. All comments concerning the applications for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. The Director shall give notice of any public hearing scheduled pursuant to this section 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.

8. If an application for a Class II operating permit or for the revision of a Class II operating permit is submitted for a Class II source that is subject to the notice requirements set forth in subsection 5, the Director shall issue or deny the Class II operating permit or the revision of the Class II operating permit within 30 days after the close of the period for public participation or 30 days after the hearing if a hearing is scheduled pursuant to this section, whichever occurs later. The Director shall make his decision by taking into account:

- (a) Written comments from the public;
- (b) The comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;
- (c) Information submitted by proponents of the project; and
- (d) 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~~ *applicable state implementation plan*.

9. If construction will occur in one phase, a Class II operating permit or the revision of a Class II operating permit 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.

10. 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 II operating permit or the revision of a Class II operating permit for a new or modified stationary source, 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. 16. NAC 445B.3485 is hereby amended to read as follows:

NAC 445B.3485 1. If a stationary source operating under a Class II operating permit ~~is~~ *meets the requirements for* a Class III source, ~~as defined in NAC 445B.038,~~ the owner or operator of the stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the stationary source.

2. If a new stationary source ~~is~~ *meets the requirements for* a Class III source, ~~as defined in NAC 445B.038,~~ the owner or operator of the new stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the new stationary source. An operating permit must be obtained before commencing construction on a new stationary source.

3. An owner or operator of a proposed modification to a stationary source that meets the requirements for a Class III source, ~~as that term is defined in NAC 445B.038,~~ may submit an application ~~for~~ *with the appropriate fee* and obtain a *revised* Class III operating permit for the ~~stationary source, proposed stationary source or~~ proposed modification to a stationary source. Such an owner or operator shall not commence construction of the proposed modification to the stationary source before filing an application for and obtaining a *revised* Class III operating permit.

Sec. 17. NAC 445B.3487 is hereby amended to read as follows:

NAC 445B.3487 1. Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class III operating permit or for the revision of a Class III operating permit, 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 10 working 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 11 working days after the date of receipt, whichever is earlier. The Director shall issue or deny a Class III operating permit or the revision of a Class III operating permit within 30 days after the *official date of* submittal of the application.

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.

3. If construction will occur in one phase, a Class III operating permit or the revision of a Class III operating permit 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.

4. 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 III operating permit or the revision of a Class III operating permit for a new or modified stationary source, 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. 18. NAC 445B.3489 is hereby amended to read as follows:

NAC 445B.3489 In addition to the conditions set forth in NAC 445B.315, Class III operating permits must contain, as applicable:

1. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with the conditions of the Class III operating permit.
2. All requirements for monitoring, testing and reporting that apply to the stationary source.
3. A requirement that the owner or operator of the stationary source promptly report any deviations from any requirements of the Class III operating permit.
4. 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 require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.

5. A schedule of compliance for stationary sources that are not in compliance with any applicable requirement or NAC 445B.001 to 445B.3497, inclusive, at the time the Class III operating permit is issued, including:

- (a) Semiannual progress reports and a schedule of dates for achieving milestones;
- (b) Prior notice of and explanations for missed deadlines; and
- (c) Any preventive or corrective measures taken.

~~[6. Requirements for compliance certification which reflect the terms and conditions of the Class III operating permit. A compliance certification must include:~~

- ~~— (a) An identification of each term or condition of the Class III operating permit that is the basis of the certification;~~
- ~~— (b) The status of the stationary source's compliance with any applicable requirement;~~
- ~~— (c) A statement of whether compliance was continuous or intermittent;~~
- ~~— (d) The method used for determining compliance; and~~
- ~~— (e) Any other facts that the Director deems necessary to determine compliance.]~~