

LCB File No. R154-06

PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

P2006-10

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

AUTHORITY: NRS 445B.210 and 445B.300

Section 1. Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as section 2 of this regulation.

Sec. 2. "Prevention of significant deterioration permit" means an air quality operating permit issued to a major source pursuant to the conditions set forth in 40 C.F.R. § 52.21.

Sec. 3. 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, 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
(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)5,000
(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] 500
(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] 500
(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
(v) Administrative revision to a Class I operating permit..... 500

- (w) For each designation of a clean unit listed in a Class I operating permit to construct for the designation of a clean unit..... 5,000
 - (x) For each approval of a pollution control project listed in a Class I operating permit to construct for the approval of a pollution control project..... 7,500
 - (y) Class I operating permit to construct for the approval of a plantwide applicability limitation 20,000
- ↪ 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. The fees for such an operating permit are as follows:
 - (a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality..... \$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 50,000
 - (c) Class I operating permit to construct..... 50,000
 - (d) Conversion of an operating permit to construct into a Class I operating permit involving only one phase 5,000
 - (e) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase) 5,000
 - (f) Revision of an operating permit to construct..... 5,000
 - (g) Administrative amendment of an operating permit or operating permit to construct 200
 - (h) Replacement of a lost or damaged operating permit to construct or an operating permit 200
 - (i) Request for the change of location of an emission unit..... 100
 - (j) Administrative revision to a Class I operating permit..... 500
- ↪ An applicant must pay the entire fee when he submits an application to the Director.
4. 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 *Class I* stationary source is ~~[\$5.60]~~ **\$16.00** 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] 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~~ *Except as otherwise provided in subsections 8 and 9, the fiscal year* annual fee for maintenance of a stationary source is:

- (a) For a Class I source *qualifying as a:* ~~..... \$12,500~~
- (1) *Major stationary source that has been issued a prevention of significant deterioration permit* \$30,000
 - (2) *Major stationary source that has not been issued a prevention of significant deterioration permit* 25,000
 - (3) *Major source that is not a major stationary source and has been issued a Class I operating permit* 20,000
 - (4) *Major source that has been issued a Class I operating permit for a municipal solid waste landfill* 15,000
- (b) For a Class II source that has the potential to emit:
- (1) *80 tons or more per year but less than 100 tons per year of any one regulated air pollutant except carbon monoxide or 8 tons or more per year but less than 10 tons per year of any single hazardous air pollutant or 20 tons or more per year but less than 25 tons per year of any combination of hazardous air pollutants* 5,000
 - (2) *50 tons or more per year but less than 80 tons per year of any one regulated air pollutant except carbon monoxide* 3,000
 - ~~(c) For a Class II source that has the potential to emit~~
 - (3) *25 tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide* 1,000
 - ~~(d) For a Class II source that has the potential to emit~~
 - (4) ~~Less~~ *Less* than 25 tons per year of any one regulated air pollutant except carbon monoxide..... ~~250~~ 500
 - (c) *For a Class II source that obtains a Class II general permit* 500
 - ~~(e)~~ (d) For a Class III source..... 250
 - ~~(f)~~ (e) For a surface area disturbance *permit for a total disturbance of:* ~~..... 250~~
 - (1) *5 – 19.9 acres* 250
 - (2) *20 – 49.9 acres* 500
 - (3) *50 – 99.9 acres* 750
 - (4) *100 – 199.9 acres* 1,000
 - (5) *200 – 499.9 acres* 2,000
 - (6) *500 acres and above* 5,000

8. *The fiscal year annual fee for maintenance of a stationary source for the fiscal year during which the operating permit is issued is included in the application fee for an operating permit.*

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

10. An owner or operator may request the Director in writing to provide a pre-application review for any proposed new major source or proposed modification at an existing major source. The fee for a pre-application review is \$50,000.

~~8.~~ **11.** 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.~~ **12.** 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. 4. This regulation becomes effective on July 1, 2007.