

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 94002**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-138-93**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

Nevada State  
Environmental  
Commission

Classification [ ] Proposed [ ] Adopted By Agency [XX] Temporary [ ] Emergency [ ]

**Brief description of action:** Petition 94002 (LCB R-138-93) by the State Environmental Commission permanently amends NAC 445.438 through 445.8435. This regulation pertains to the air quality operating permit program and the regulations for hazardous air pollutants. The proposed amendments are to update the existing regulations and fulfill the requirements of the Title V of the Clean Air Act and Title 40 C.F.R. Part 70, Operating Permit Program. The adopted amendments include the establishment of emission based fees, enhanced application requirements, the repeal of toxic pollutants standards and the corollary inclusion of Title III Hazardous air pollutants.

**Authority citation other than 233B:** NRS 445.461, 445.491 and 445.601

**Notice date:** October 4, 1993, October 13, 1993, October 20, 1993, October 21, 1993 and October 27, 1993.

**Hearing date:** November 3, 1993

**Date of Adoption of Agency:** November 3, 1993

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PETITION 94001  
LCB R-051-93 Redo #1**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code Section 444.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 94001 was noticed three (3) times: 8-24-93, 9-8-93 and 9-16-93 in the Las Vegas Review and Reno Gazette-Journal newspapers.

2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1. No written comment was received prior to the hearing.

3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulations were adopted at the SEC hearing on September 22, 1993 with no further public comment. The regulations were amended to correct and clarify problem discovered during the drafting process.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

- a. The proposed delay may, in the short-term, have an adverse effect on the private disposal industry that is seeking disposal contracts with municipal governments. Municipal governments may, in the short-term, benefit from the delay since increased disposal costs can be deferred until the new effective date. The delay affords municipal governments needed additional time, which may provide a long-term benefit by allowing for more thorough consideration of solid waste disposal options.

- b. The public may benefit from the delay since increased costs for disposal may be marginally deferred into the future. This economic benefit is not likely to be great, since the delay is intended to provide municipal governments with time to assess fees and collect the revenue needed to support a solid waste disposal infrastructure.

5. The estimated cost to the agency for enforcement of the proposed regulation.

The proposed delay will not result in any new costs to the NDEP.

6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

There are no other state or government agency regulations which the proposed amendments duplicate.

**CODIFIED PERMANENT REGULATION OF THE  
NEVADA STATE ENVIRONMENTAL COMMISSION  
LCB File No. R138-93**

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

AUTHORITY: NRS 445.461, 445.491 and 445.601

**Section 1.** Chapter 445 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 50, inclusive, of this regulation.

**Sec. 2.** *"Adjacent properties" means parcels of land that lie near each other, or in close proximity.*

**Sec. 3.** *"Affected source" means a source subject to the requirements relating to acid rain set forth in 42 U.S.C. §§ 7651-7651o, inclusive.*

**Sec. 4.** *"Affected state" means a state that is within 50 miles of a Class I source located in this state, or a state that is contiguous to this state whose air quality may be affected by emissions from a Class I source located in this state.*

**Sec. 5.** *"Alternative operating scenarios" means two or more modes or types of operation specifically identified by a source in its application and approved by the director as a condition or as conditions of the source's operating permit.*

**Sec. 6.** *"Applicable requirement" means, as applied to an emission unit in a Class I source:*

*1. Any standard or other relevant requirement:*

*(a) Provided in NRS 445.401 to 445.601, inclusive, NAC 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of this regulation;*

*(b) Provided in the applicable implementation plan approved or adopted by the EPA pursuant to 42 U.S.C. §§ 7401-7515, inclusive;*

*(c) For a hazardous air pollutant adopted pursuant to 42 U.S.C. § 7412, including any requirement regarding the prevention of accidental releases;*

*(d) For a program to control acid rain adopted pursuant to 42 U.S.C. §§ 7651- 7651o, inclusive;*

*(e) For enhanced monitoring or for compliance certification adopted pursuant to 42 U.S.C. § 7413(a)(3) or 7661c(b);*

*(f) For solid waste incineration units adopted pursuant to 42 U.S.C. § 7429;*

*(g) For consumer and commercial products or tank vessels adopted pursuant to 42 U.S.C. § 7511b; and*

*(h) For the protection of stratospheric ozone adopted pursuant to 42 U.S.C. §§ 7671-7671q, inclusive, unless the administrator determines that such provisions are not required in an operating permit;*

*2. A new source performance standard adopted pursuant to 42 U.S.C. § 7411;*

*3. Any term or condition of any permit issued pursuant to the requirements of 42 U.S.C. §§ 7401-7515, inclusive, including provisions regarding the prevention of significant deterioration of air quality and new source review; and*

**4. Any national ambient air quality standard or requirement regarding increments or visibility adopted pursuant to 42 U.S.C. §§ 7470-7492, inclusive, as the standard applies to a temporary, portable source for which the owner or operator has applied for and obtained an operating permit pursuant to NAC 445.707 and 445.7145 and sections 2 to 50, inclusive, of this regulation.**

**Sec. 7. "Area source" means any stationary source of hazardous air pollutants that is not a major source.**

**Sec. 8. "Class I-A application" means an application for a Class I operating permit that is required for any existing source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.**

**Sec. 9. "Class I-B application" means an application for a Class I operating permit that is required for any new source or significant modification to an existing source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.**

**Sec. 10. "Class I source" means any source which is subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive.**

**Sec. 11. "Class II source" means any source which is not subject to the requirements of 42 U.S.C. §§ 7661-7661f, inclusive, but which is otherwise subject to the requirements of NAC 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of this regulation.**

**Sec. 12. "Criteria pollutant" means an air pollutant for which the administrator has established a national ambient air quality standard.**

**Sec. 13. "Effective date of the program" means the date on which the administrator approves the program.**

**Sec. 14. "Emergency" means any situation arising from a sudden and reasonably unforeseeable event beyond the control of the owner or operator, including an act of God, that requires immediate corrective action to restore normal operation, and that causes the source to exceed an emission limitation contained in the operating permit which is based on a specific type of technology. The term does not include the failure to comply with emission limitations because of the improper design of the source, the lack of preventative maintenance, the careless or improper operation of the source or any error by the operator.**

**Sec. 15. "EPA" means the United States Environmental Protection Agency.**

**Sec. 16. "Federally enforceable" means enforceable by the administrator or by other persons pursuant to 42 U.S.C. § 7604.**

**Sec. 17. "Federally enforceable emissions cap" means a condition of an operating permit containing an emission limitation that the holder of the operating permit requested and the director approved and which is independent of any applicable requirement or requirements.**

Sec. 18. *"General permit" means an operating permit issued by the director to cover numerous similar sources.*

Sec. 19. *"Hazardous air pollutant" has the meaning ascribed to it in section 2 of chapter 654, Statutes of Nevada 1993.*

Sec. 20. *"Increment" has the meaning ascribed to it in 40 C.F.R. § 52.21, as adopted in NAC 445.6605.*

Sec. 21. *1. Except as otherwise provided in subsection 2, "major source" means any stationary source or group of stationary sources that:*

*(a) Is located on one or more contiguous or adjacent properties;*

*(b) Is under the common control of the same person or persons;*

*(c) Belongs to a single major industrial grouping as described in the Standard Industrial Classification Manual, 1987; and*

*(d) Complies with one of the following:*

*(1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501-7515, inclusive; or*

*(2) Directly emits or has the potential to emit:*

*(I) One hundred tons per year or more of any air pollutant; or*

*(II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the commission.*

*The director shall consider fugitive emissions in determining whether a source is major for any source category listed in 40 C.F.R. § 52.21(b), as promulgated pursuant to NAC 445.6605, or whether a source of a hazardous air pollutant is a major source. To determine whether a stationary source or group of stationary sources is a major source pursuant to this paragraph, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control.*

*2. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), "major source" has the meaning ascribed to it in 40 C.F.R. § 52.21(b)(a), as adopted by reference in NAC 445.6605.*

Sec. 22. *"Maximum achievable control technology" means any measure, process, method, system or technique applied to a source which provides the maximum degree of reduction in the emission of hazardous air pollutants as follows:*

*1. For new sources, the maximum degree of reduction in emissions must be no less stringent than the control of emissions that is achieved in practice by the best controlled similar source, as determined by the administrator.*

*2. For existing sources, the maximum degree of reduction in emissions must be no less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3).*

Sec. 23. *"Preconstruction review" means a review by the director of all information contained in a Class I-B application, as required in NAC 445.708 to 445.711, inclusive, and 40 C.F.R. § 52.21.*

Sec. 24. *"Prevention of significant deterioration of air quality" has the meaning ascribed to it in 40 C.F.R. § 52.21.*

**Sec. 25. "Program" means the program for issuing operating permits to Class I sources which the administrator has approved as complying with the requirements of 40 C.F.R. Part 70.**

**Sec. 26. "Regulated air pollutant" means:**

- 1. Nitrogen oxides or any volatile organic compounds;**
- 2. Any pollutant subject to:**
  - (a) A national ambient air quality standard; or**
  - (b) A standard or requirement adopted pursuant to 42 U.S.C. § 7411 or 7412; or**
- 3. Any Class I or Class II substance subject to a standard adopted pursuant to 42 U.S.C. §§ 7671-7671q, inclusive.**

**Sec. 27. "Renewal of an operating permit" means the process by which a holder of an operating permit applies for and the director reissues the operating permit at the end of its term.**

**Sec. 28. "Responsible official" means:**

- 1. For a corporation:**
  - (a) A president;**
  - (b) A vice president in charge of a principal business function;**
  - (c) A secretary;**
  - (d) A treasurer; or**
  - (e) An authorized representative of such a person who is responsible for the overall operation of the facility and who is designated in writing by an officer of the corporation and approved in advance by the director.**
- 2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively.**
- 3. For a municipality or a state, federal or other public agency, a ranking elected official or a principal executive officer, including, for a federal agency, a chief executive officer who has responsibility for the overall operations of a principal geographic unit of the agency.**
- 4. For an affected source, the designated representative or his alternate, as defined in 42 U.S.C. § 7651a(26).**

**Sec. 29. "Revision of an operating permit" means any modification of or any administrative amendment to an operating permit.**

**Sec. 30. 1. A holder of an operating permit may assert an affirmative defense to an action brought for noncompliance with a technology-based emission limitation contained in the operating permit if the holder of the operating permit demonstrates through signed, contemporaneous operating logs or other relevant evidence, that:**

- (a) An emergency occurred and the holder of the operating permit can identify the cause of the emergency;**
  - (b) The facility was being properly operated at the time of the emergency;**
  - (c) During the emergency, the holder of the operating permit took all reasonable steps to minimize excess emissions;**
- and**
- (d) The holder of the operating permit submitted notice of the emergency to the director within 2 working days after the emergency. The notice must contain a description of the emergency, any steps taken to mitigate emissions and any corrective actions taken to restore the normal operation of the facility.**

**2. In any action for noncompliance, the holder of an operating permit who asserts the affirmative defense of an emergency has the burden of proof.**

**Sec. 31. An owner or operator must file a Class I-A application and obtain a Class I operating permit for:**

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

**Sec. 32. An owner or operator must file a Class I-B application and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:**

- 1. A proposed new major source;**
- 2. A proposed significant modification to an existing source; or**
- 3. A proposed new source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the source is subject only to the requirements of 42 U.S.C. § 7412(r).**

**Sec. 33. 1. An owner or operator shall file a Class I-A application within 12 months after the effective date of the program, or within 12 months after the owner or operator commences operation of the source, whichever is later.**

**2. For affected sources, an owner or operator must file an application for a Class I operating permit within 12 months after the effective date of the program, or on or before January 1, 1996, whichever is earlier.**

**3. All permits to construct and operating permits issued to existing sources which are in effect before the effective date of the program remain in effect until the director issues or denies the applicant's Class I operating permit as provided in NAC 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of this regulation.**

**Sec. 34. 1. An owner or operator of any source that is not subject to the requirements of section 31 or 32 of this regulation shall submit an application for and obtain a Class II operating permit. For a proposed new source or a proposed modification to an existing source that is not subject to the requirements of section 31 or 32 of this regulation, an owner or operator shall file an application and obtain a Class II operating permit before commencing construction.**

**2. If an owner or operator of an existing source that is not subject to the requirements of section 31 or 32 of this regulation has not applied for and obtained an operating permit before the effective date of the program, he shall file an application for an operating permit within 12 months after the effective date of the program. Filing such an application does not relieve the owner or operator of legal responsibility for his failure to obtain a permit to construct or an operating permit pursuant to NAC 445.707 or 445.712, respectively, as these provisions existed before the effective date of the program.**

**3. If an owner or operator of an existing source that is not subject to the requirements of section 31 or 32 of this regulation has applied for and obtained an operating permit before the effective date of the program, he shall file an application for renewal of the operating permit at least 30 days before the date on which the current operating permit expires.**

**4. The following provisions of NAC 445.707 do not apply to Class II operating permits:**

- (a) Public notice;**
- (b) Notice to the EPA and affected states;**
- (c) Veto of the operating permit by the EPA; and**
- (d) Petitions to the administrator.**

**5. The director shall apply the provisions of 40 C.F.R. §§ 60.7, 60.14 and 60.15, as adopted pursuant to NAC 445.6605, when determining whether a proposed action or actions at a Class II source constitute a modification or reconstruction.**

**Sec. 35. 1. An applicant for an operating permit must:**

**(a) Submit an application to the director on the appropriate form provided by the director. A responsible official of the source must certify that, based on information and belief formed after a reasonable inquiry, the statements in the application for the operating permit are true, accurate and complete.**

**(b) Submit supplementary facts or corrected information upon discovery.**

**(c) Provide any additional information that the director requests in writing within the time specified in the director's request.**

**2. In addition to the requirements set forth in subsection 1, an applicant for a Class I operating permit must submit a copy of the application directly to the administrator.**

**Sec. 36. 1. An application for an operating permit must include:**

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

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

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

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

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

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

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

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

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

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

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

**(c) The emission rate described in tons per year and in such terms as are necessary to establish compliance using the applicable standard reference test method;**

**(d) Any other information required by any applicable requirement;**

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

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

- (g) A reference to any applicable test method used for determining compliance with each applicable requirement;*
  - (h) A compliance plan that contains, with respect to all applicable requirements, each of the following:*
    - (1) A narrative description of the compliance status of the source.*
    - (2) A compliance certification by a responsible official of the source, stating that the owner or operator must comply in a timely manner with any new applicable requirement that becomes effective during the term of the operating permit. This certification must include a description of the test methods and the requirements for monitoring, enhanced monitoring, recordkeeping and reporting that the source will use to comply with the new applicable requirement, fuel use, the rate of production, raw materials and operating schedules which are used to determine the compliance status of the source.*
    - (3) If the source is not in compliance with any applicable requirements at the time of the issuance of the operating permit, a narrative description and a schedule for achieving compliance which includes remedial measures to be taken, an enforceable sequence of actions with milestones and certified progress reports that must be submitted every 6 months. This schedule must be at least as stringent as that contained in any consent decree rendered by a federal court, a court of this state or an administrative order which applies to the source.*
    - (4) A schedule for the submission of compliance certifications during the term of the operating permit that provides for the submission of certifications at least annually or more frequently if required by an applicable requirement or the director.*
- 3. In addition to the information required pursuant to subsections 1 and 2, a Class I-B application for a Class I operating permit must contain:*
- (a) For a proposed new major source or a proposed significant modification to an existing 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 445.6605:*
    - (1) All information required by 40 C.F.R. § 52.21 and section 36 of this regulation; and*
    - (2) Any other information that the director determines is necessary to process the application.*
  - (b) For a proposed new major source or a proposed significant modification to an existing 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 445.708 to 445.711, inclusive, and sections 2 to 50, inclusive, of this regulation;*
    - (2) Any other information that the director determines is necessary to process the application; and*
    - (3) For sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501-7515, inclusive, all information required by 42 U.S.C. § 7503.*
  - (c) For a proposed new major source or a proposed significant modification to an existing source which is subject to the requirements of 42 U.S.C § 7412 regarding hazardous air pollutants:*
    - (1) All information required by NAC 445.708 to 445.711, inclusive, NAC 445.719 and sections 2 to 50, inclusive, of this regulation; and*
    - (2) Any other information that the director determines is necessary to process the application.*
- 4. In addition to the information required pursuant to subsection 1, an application for a Class II operating permit must contain:*
- (a) A description of all emissions of regulated air pollutants;*
  - (b) An identification and a description of all points of emissions and all activities which may generate emissions of the air pollutants described in paragraph (a); and*
  - (c) The emission rate described in tons per year and in such terms as are necessary to establish enforceable conditions of the operating permit.*

**Sec. 37. If an applicant for an operating permit requests the inclusion of:**

**1. Provisions for alternative operating scenarios, the application must:**

**(a) Define each scenario;**

**(b) Demonstrate that each scenario will comply with each applicable requirement or relevant requirement of NAC 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of this regulation;**

**(c) Contain proposed conditions of the permit which will ensure compliance with any applicable requirements, including a requirement for contemporaneous log entries each time the source changes from one scenario to another; and**

**(d) Contain any additional information that the director determines is necessary to process the application.**

**2. A federally enforceable emissions cap, the application must:**

**(a) State each applicable requirement that the applicant seeks to avoid;**

**(b) Demonstrate that the applicant will comply with any applicable requirements that the applicant does not avoid with the federally enforceable emissions cap;**

**(c) Contain proposed conditions of the operating permit which will ensure compliance with any applicable requirement; and**

**(d) Contain any additional information that the director determines is necessary to process the application.**

**3. A provision regarding trading increases and decreases of emissions pursuant to a federally enforceable emissions cap, as set forth in subsection 2, the application must contain:**

**(a) Proposed replicable procedures and conditions of the operating permit that ensure that the trades of emissions are quantifiable and enforceable; and**

**(b) Any additional information that the director determines is necessary to process the application.**

**Sec. 38. 1. The director shall cite the legal authority for each condition contained in an operating permit.**

**2. An operating permit must contain the following conditions:**

**(a) The term of the operating permit is 5 years.**

**(b) The holder of the operating permit shall retain records of all required monitoring data and supporting information for 5 years from 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 operating permit is severable and, if any are held invalid, the remaining conditions and requirements continue in effect.**

**(d) The holder of the operating permit shall comply with all conditions of the operating permit. Any noncompliance constitutes a violation and is grounds for:**

**(1) An action for noncompliance;**

**(2) Modifying, revoking, reopening and revising or terminating the operating permit by the director; or**

**(3) Denial of an application for a renewal of the operating permit by the director.**

**(e) The need to halt or reduce activity to maintain compliance with the conditions of the operating permit is not a defense to noncompliance with any condition of the operating permit.**

**(f) The director may modify, revoke and reissue, reopen and revise or terminate the operating permit for cause.**

**(g) The operating permit does not convey any property rights or any exclusive privilege.**

**(h) The holder of the operating permit shall provide the director, within a reasonable time, with any information that the director requests in writing to determine whether cause exists for modifying, revoking and reissuing, reopening and**

*revising or terminating the operating permit, or to determine compliance with the conditions of the operating permit.*  
*(i) The holder of the operating permit shall pay fees to the director in accordance with the provisions set forth in NAC 445.7135 and 445.7145.*

*(j) The holder of the operating permit shall allow the director or any authorized representative, upon presentation of credentials, to:*

*(1) Enter upon the premises of the holder of the operating permit where:*

*(I) The source is located;*

*(II) Activity related to emissions is conducted; or*

*(III) Records are kept pursuant to the conditions of the operating permit;*

*(2) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the operating permit;*

*(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 operating permit; and*

*(4) Sample or monitor, at reasonable times, substances or parameters to determine compliance with the conditions of the operating permit or applicable requirements.*

*(k) A responsible official of the 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 operating permit are true, accurate and complete.*

**Sec. 39. 1. In addition to the conditions set forth in section 38 of this regulation, a Class I operating permit must:**  
*(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 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 any deviations from the requirements of the operating permit; and*

*(3) The probable cause of any 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 source in its application and approved by the director. Such terms and conditions must ensure that all applicable requirements are met, and must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.*

*(g) Contain a schedule of compliance for sources that are not in compliance with any applicable requirement at the time the operating permit is issued, including:*

*(1) Semiannual progress reports with dates for achieving milestones;*

*(2) Prior notice of and explanations for missed deadlines; and*

*(3) Any preventive or corrective measures taken.*

*(h) Contain requirements for compliance certification with any applicable requirement that reflect the terms and conditions of the operating permit. 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 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.*

*(i) Include a statement that compliance with the conditions of the operating permit shall be deemed to be compliance with any applicable requirements as of the date of the issuance of the operating permit, if:*

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

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

*2. 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. 40. In addition to the conditions set forth in section 38 of this regulation, Class II 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 operating permit.*

*2. All requirements for monitoring, testing and reporting that apply to the source.*

*3. A requirement that the owner or operator of the source promptly report any deviations from any requirements of the operating permit.*

*4. The terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the 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 sources that are not in compliance with any applicable requirement or NRS 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of this regulation at the time the 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 operating permit. A compliance certification must include:*

*(a) An identification of each term or condition of the operating permit that is the basis of the certification;*

*(b) The status of the 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.*

*Sec. 41. The director may issue a Class I operating permit, or a modification of or a renewal of a Class I operating permit, if:*

*1. The director has:*

*(a) Received a complete application for a Class I operating permit or for a modification of or a renewal of a Class I operating permit;*

*(b) Except as otherwise provided in sections 44, 45 and 46 of this regulation, completed all requirements regarding public participation and comment pursuant to NAC 445.707; and*

*(c) Notified and responded to all comments from affected states;*

*2. The conditions of the operating permit provide for compliance with all applicable requirements; and*

*3. The administrator has received a copy of the proposed operating permit, any necessary supporting information and any notices to the public and affected states required pursuant to NAC 445.707, and has not objected to the issuance of the operating permit within 45 days after receipt of the proposed operating permit.*

*Sec. 42. 1. A Class I operating permit must be reopened and revised to incorporate any additional applicable requirement adopted pursuant to the Act if, on the effective date of the applicable requirement, the operating permit has a remaining term of 3 or more years. The reopening must be completed no later than 18 months after the effective date of the applicable requirement.*

*2. An operating permit may be terminated, reopened and revised, modified, or revoked and reissued if:*

*(a) The director or the administrator determines that the operating permit contains a material mistake or is based on inaccurate statements;*

*(b) The director or the administrator determines that the operating permit, as written, does not ensure compliance with all applicable requirements; or*

*(c) The director determines that there has been a violation of any of the provisions of NAC 445.430 to 445.846,*

*inclusive, sections 2 to 50, inclusive, of this regulation, any applicable requirement, or any condition contained in the operating permit.*

*3. The director shall notify the holder of the operating permit at least 30 days before he terminates, reopens and revises, modifies or revokes and reissues the operating permit. The notice must be made by certified mail and must contain the legal authority, the jurisdiction and the reasons for the action taken.*

*4. If the administrator notifies the director and the holder of the operating permit that cause exists to reopen the operating permit, the director shall forward to the administrator a proposed determination of the reopening and revision, the modification of, or the revocation and reissuance of the operating permit within 90 days after receipt of the notice from the administrator.*

*5. If the director reopens an operating permit, he shall revise only those portions of the operating permit for which cause exists.*

**Sec. 43. 1. The director may issue a general permit covering numerous similar sources.**

*2. A general permit must set forth the criteria by which sources may qualify for the general permit.*

*3. A general permit which covers sources that would otherwise be required to be covered by a Class I operating permit must:*

*(a) Ensure compliance with all applicable requirements; and*

*(b) Not be granted until the requirements for public participation and comment and a review by any affected states and the administrator pursuant to NAC 445.707 have been completed.*

*4. If the administrator does not object within 45 days after receiving a proposed general permit which covers sources that would otherwise be required to apply for a Class I operating permit, the general permit becomes effective at the end of the 45-day period. If the administrator objects to the general permit, the general permit becomes effective when the objection is resolved.*

*5. After the effective date of a general permit, the owner or operator of any source that meets the criteria set forth in the general permit may request authority to operate under the general permit. The request must be in writing and must include all the information required by the general permit.*

*6. The director shall grant or deny authority to operate under a general permit within 30 days after his receipt of a request for such authority. The director's decision to grant or deny an application for authority to operate under the terms of a general permit is not subject to the requirements of NAC 445.707.*

*7. A person may challenge the provisions of a general permit only at the time the general permit is issued. The director's grant or denial of authority to operate under a general permit to a source or sources does not provide an opportunity for an administrative review or a judicial review of the general permit.*

*8. The director shall not grant authority to operate under a general permit to an affected source.*

*9. The term of a general permit is 5 years.*

*10. The authority to operate under a general permit expires after 5 years. An owner or operator of a source operating under the authority of a general permit shall apply to renew his authority to operate under the general permit at least 30 days before his authorization expires.*

**Sec. 44. 1. The holder of an operating permit may request or the director may initiate an administrative amendment of an operating permit to:**

*(a) Correct typographical errors;*

*(b) Identify a change in the name, address or telephone number of any person identified in the operating permit, or*

*provide a similar minor administrative change at the source;*

- (c) Require more frequent monitoring or reporting by the holder of the operating permit;*
- (d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or modification of the operating permit; or*
- (e) Allow for a change in ownership or operational control of a source if the director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the director a written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.*

*2. A holder of an operating permit must request an administrative amendment on an application provided by the director. The application must be accompanied by a fee of \$25.00.*

*3. The director shall issue or deny an application for an administrative amendment within 30 days after receipt of the application.*

*Sec. 45. 1. The owner or operator of a source operating in compliance with a Class I 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- 7515, inclusive;*
  - (b) Violate any applicable requirement; and*
  - (c) Exceed the allowable emissions set forth in the operating permit.*
- 2. Any conditions of a Class I 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 written notification to the director and the administrator at least 7 days before making the change. This notification must include:*
- (a) A brief description of the change;*
  - (b) The date on which the change will occur;*
  - (c) Any change in emissions; and*
  - (d) Any condition of the operating permit which will no longer apply because of the change.*

*Sec. 46. 1. A minor modification may be made to Class I operating permit if it:*

- (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, portable 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); and*
  - (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401- 7515, inclusive.*
- 2. The director may process as a minor modification an increase in the emissions of a criteria pollutant, other than*

*lead, of 1 ton per year or less from a source located in an area designated as an attainment or as an unclassifiable area for the criteria pollutant if the increase in emissions does not violate any of the requirements set forth in subsection 1.*

*3. An owner or operator must request a minor modification on an application form provided by the director. The application must be accompanied by a fee of \$100.00. 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; and*
- (e) Certification by a responsible official of the source that the proposed modification complies with the criteria for a minor modification set forth in subsection 1.*

*4. The director shall provide notice to the administrator and any affected state within 5 working days after his receipt of a complete application for a minor modification.*

*5. If the administrator does not object to the minor modification within 45 days after his receipt of the notification, the director may issue the minor modification.*

*6. If the administrator objects to the minor modification, the director shall:*

- (a) Deny the application for the minor modification;*
  - (b) Determine whether the minor modification should be reviewed under the procedures for a significant modification;*
- or*

*(c) Revise the proposed modification of the operating permit and forward it to the administrator for review.*

*7. The director shall take action pursuant to subsections 5 or 6 within 90 days after receipt of an application for a minor modification or within 15 days after the administrator's 45-day review period ends, whichever is later.*

**Sec. 47. 1. The holder of an operating permit may request a significant modification of a Class I operating permit if it does not qualify as a change that may be made pursuant to section 45 of this regulation or as an administrative amendment or a minor modification. A significant modification includes, but is not limited to, a modification:**

*(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, portable 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 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 445.6605;*

*(e) Subject to 42 U.S.C. § 7412; or*

*(f) That is subject to paragraph (b) of subsection 2 of NAC 445.708.*

*3. An application for a significant modification must comply with the requirements for an application for a Class I operating permit set forth in section 36 of this regulation, including public participation and comment and a review by any affected states and the administrator pursuant to NAC 445.707.*

*4. An application for a significant modification must be accompanied by the fee set forth in NAC 445.7135.*

**Sec. 48. 1. An applicant for a Class I operating permit or for a modification of or a renewal of a Class I operating permit must develop the maximum achievable control technology for:**

- (a) Any major source of a hazardous air pollutant; and**
- (b) Any area source of a hazardous air pollutant, if the administrator has established an emission limitation which applies to that source.**

**2. The administrator may establish a lower emission rate for the hazardous air pollutant or, in the case of radionuclides, different criteria based on:**

- (a) The potency of the air contaminant;**
- (b) The persistence of the air contaminant;**
- (c) The potential for bioaccumulation;**
- (d) Other characteristics of the hazardous air pollutant; or**
- (e) Any other relevant factors.**

**Sec. 49. 1. The director shall approve maximum achievable control technology on a case-by-case basis before the owner or operator applies it to a source. At a minimum, the technology must comply with the federal requirements for such technology.**

**2. For existing sources, the degree of reduction in emissions resulting from the maximum achievable control technology must be no less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3). If the director or administrator has established an applicable emission limitation, no person may operate any source of a hazardous air pollutant unless the director determines that the source will comply with the emission limitation established for the maximum achievable control technology applied.**

**3. The maximum achievable control technology may include, but is not limited to, measures which eliminate or reduce the volume of the emission of hazardous air pollutants or, in the case of radionuclides, the mass and total activity of each species, through:**

- (a) A reduction in the amount of hazardous materials used in the industrial process or prevention of pollution, or both;**
- (b) Enclosed systems or processes;**
- (c) Process changes, substitution of materials or other modifications;**
- (d) Design, equipment, work practices or operational standards, including requirements for the training or certification of an operator; or**
- (e) Collection, capture, filtration or treatment systems on a process, stack, storage or fugitive emissions point.**

**Sec. 50. 1. During the first 3 years of the program, the times set forth in subsections 1 and 7 of NAC 445.707 for the issuance of an operating permit do not apply to Class I-A applications.**

**2. The director shall:**

- (a) Issue Class I operating permits for one-third of the applications received from existing sources each year for 3 years.**
- (b) Issue Class I operating permits for all affected sources no later than December 31, 1997.**
- (c) Process Class I-B applications and applications for Class II operating permits in accordance with the times set forth in NAC 445.707.**

**Sec. 51. NAC 445.430 is hereby amended to read as follows:**

**445.430 As used in NAC 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of this regulation, unless the**

context otherwise requires, the words and terms defined in NAC 445.432 to 445.655, inclusive, **and sections 2 to 29, inclusive, of this regulation**, have the meanings ascribed to them in those sections.

**Sec. 52.** NAC 445.438 is hereby amended to read as follows:

445.438 "Allowable emissions" means the emissions from a source at its designed maximum capacity [,**]** **or at its actual maximum capacity, whichever is greater**, except as reduced by any **federally enforceable** limitations on its emissions which are established:

1. By Nevada laws or regulations;
2. By **[40 C.F.R. Parts 60 and 61;] any applicable requirement;** or
3. By **[enforceable]** conditions of the **source's operating** permit, imposed on the emission rate, the type or amount of materials combusted or processed, the operating rates, the hours of operation or any other factor limiting production or emission, whichever is most stringent.

**For Class II sources that are not subject to federal requirements, emission limitations need not be federally enforceable.**

**Sec. 53.** NAC 445.477 is hereby amended to read as follows:

445.477 "Confidential information" **[means information or records which:**

1. **Relate to quantities or dollar amounts of production or sales;**
2. **Relate to processes or production unique to the owner or operator; or**
3. **Would tend to affect adversely the competitive position of the owner or operator if disclosed.] has the meaning ascribed to it in subsection 6 of NRS 445.576.**

**Sec. 54.** NAC 445.504 is hereby amended to read as follows:

445.504 "Excess emissions" means any emission which exceeds any applicable emission limitation prescribed by NAC 445.430 to **[445.944, inclusive.] 445.846, inclusive, or sections 2 to 50, inclusive, of this regulation, or that is contained in an operating permit.** The averaging time and test procedures for determining excess **[emission] emissions** must be as specified in the **[applicable emission limitation.] relevant condition or conditions of the operating permit.**

**Sec. 55.** NAC 445.506 is hereby amended to read as follows:

445.506 "Existing source" means **[equipment, machines, devices, articles, contrivances or facilities which were constructed, purchased or in operation on November 7, 1975. Any existing equipment, machine, device, article, contrivance or facility which is altered, replaced or rebuilt in a manner which increases the total emissions after November 7, 1975, is reclassified as a new source.] :**

1. **For sources subject to 42 U.S.C. §7412, any stationary source other than a new source.**
2. **For all other sources, a stationary source which was constructed, or for which the owner or operator submitted a complete application for a permit to construct, before the effective date of the program.**

**Sec. 56.** NAC 445.538 is hereby amended to read as follows:

445.538 "Lowest achievable emission rate" means **[the] :**

1. **The most stringent** emission rate for any source for which an environmental evaluation must be prepared which reflects:

**[1.] (a)** The most stringent emission **[rate] limitation** in the approved implementation plan of any state for **[any] a** class or category of **a stationary** source, unless the owner or operator of the stationary source demonstrates that such an emission

limitation is not achievable; or

[2.] (b) The most stringent emission limitation which is achieved in practice by such class or category of *a stationary source*, [**whichever is more stringent**] so long as it is not less stringent than the emission rate allowed by any applicable [emission standard established in NAC 445.430 to 445.944, inclusive.] *standard adopted pursuant to 40 C.F.R. Part 60, as adopted pursuant to NAC 445.6605.*

2. *When applied to a modification, the lowest achievable emission rate as determined pursuant to subsection 1 for the new or modified emission units within the stationary source.*

Sec. 57. NAC 445.550 is hereby amended to read as follows:

445.550 "New source" means :

1. *For sources subject to the requirements of 42 U.S.C. § 7412, a stationary source for which the owner or operator commenced construction or reconstruction after the administrator proposed regulations pursuant to 42 U.S.C. § 7412 which established an emission standard applicable to the source.*

2. *For all other sources, a stationary source [built or installed on or after May 16, 1980.] or modification for which an owner or operator has not submitted a complete application for a permit to construct before the effective date of the program.*

Sec. 58. NAC 445.559 is hereby amended to read as follows:

445.559 "Operating permit" [**means a document issued and signed by the director approving, with or without restrictions, the operation of a new or existing single source of air contaminants.**] *has the meaning ascribed to it in section 2.5 of chapter 654, Statutes of Nevada 1993. Unless otherwise specifically stated, the term includes a Class I and a Class II operating permit.*

Sec. 59. NAC 445.571 is hereby amended to read as follows:

445.571 "Potential to emit" means the [**capability of a source, at its designed maximum capacity, to emit an air pollutant after the application of equipment for control of air pollution.**] *maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including equipment for the control of air pollution and any restrictions on the source's hours of operation or on the type or amount of material combusted, stored, or processed, may be treated as part of its design for the purposes of determining its potential to emit if the limitation is enforceable by the director and the administrator, or by the director for Class II sources not subject to federal requirements.*

Sec. 60. NAC 445.630 is hereby amended to read as follows:

445.630 "Stop order" means a written notice by the director served on a person or persons [**causing or engaging in the construction, installation or alteration of work involving an air contaminant source or sources ordering the work to be stopped.**] *requiring such persons to cease the activity that the director, pursuant to NAC 445.697, has determined is in violation of any provision of NAC 445.430 to 445.846, inclusive, sections 2 to 50, inclusive, of this regulation, an applicable requirement or any condition of an operating permit.*

**Sec. 61.** NAC 445.6435 is hereby amended to read as follows:

445.6435 "Toxic **[factor]**" means the airborne concentration of an air contaminant to which workers may be repeatedly exposed without adverse effects, and has the meaning ascribed to "threshold limit value" by the publication titled "Threshold Limit Values and Biological Exposure Indices for 1987- 1988," adopted by the American Conference of Governmental Industrial Hygienists. That publication is hereby adopted by reference, and a copy can be purchased for the price of \$5 from the American Conference of Governmental Industrial Hygienists, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211.] *air contaminant*" means a substance designated as such by the commission based upon the commission's determination of the extent to which the substance presents a risk to the public health.

**Sec. 62.** NAC 445.649 is hereby amended to read as follows:

445.649 "Violation" means a failure to comply with any of the provisions of NAC 445.430 to 445.846, inclusive, **[or any restrictions placed on permits to construct or operating permits.] sections 2 to 50, inclusive, of this regulation, any applicable requirement or any condition of an operating permit.**

**Sec. 63.** NAC 445.6605 is hereby amended to read as follows:

445.6605 1. Title 40 C.F.R. §§ 51.100(hh) to 51.100(kk), inclusive, 51.100(nn) and 52.21 are hereby adopted by reference as they existed on July 1, 1992.

2. The following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, 1992:

(a) Subpart A, General Provisions.

(b) Subpart D, Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

(c) Subpart Da, Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

(d) Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

(e) Subpart E, Standards of Performance for Incinerators.

(f) Subpart Ea, Standards of Performance for Municipal Waste Combustors.

(g) Subpart F, Standards of Performance for Portland Cement Plants.

(h) Subpart G, Standards of Performance for Nitric Acid Plants.

(i) Subpart H, Standards of Performance for Sulfuric Acid Plants.

(j) Subpart I, Standards of Performance for Asphalt Concrete Plants.

(k) Subpart J, Standards of Performance for Petroleum Refineries.

(l) 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.

(m) 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.

(n) 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.

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

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

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

- (r) Subpart Na, Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
- (s) Subpart O, Standards of Performance for Sewage Treatment Plants.
- (t) Subpart P, Standards of Performance for Primary Copper Smelters.
- (u) Subpart Q, Standards of Performance for Primary Zinc Smelters.
- (v) Subpart R, Standards of Performance for Primary Lead Smelters.
- (w) Subpart S, Standards of Performance for Primary Aluminum Reduction Plants.
- (x) Subpart T, Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
- (y) Subpart U, Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
- (z) Subpart V, Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
- (aa) Subpart W, Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
- (bb) Subpart X, Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
- (cc) Subpart Y, Standards of Performance for Cool Preparation Plants.
- (dd) Subpart Z, Standards of Performance for Ferroalloy Production Facilities.
- (ee) Subpart AA, Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983.
- (ff) Subpart AAa, Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
- (gg) Subpart BB, Standards of Performance for Kraft Pulp Mills.
- (hh) Subpart CC, Standards of Performance for Glass Manufacturing Plants.
- (ii) Subpart DD, Standards of Performance for Grain Elevators.
- (jj) Subpart EE, Standards of Performance for Surface Coating of Metal Furniture.
- (kk) Subpart GG, Standards of Performance for Stationary Gas Turbines.
- (ll) Subpart HH, Standards of Performance for Lime Manufacturing Plants.
- (mm) Subpart KK, Standards of Performance for Lead-Acid Battery Manufacturing Plants.
- (nn) Subpart LL, Standards of Performance for Metallic Mineral Processing Plants.
- (oo) Subpart MM, Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations.
- (pp) Subpart NN, Standards of Performance for Phosphate Rock Plants.
- (qq) Subpart PP, Standards of Performance for Ammonium Sulfate Manufacture.
- (rr) Subpart QQ, Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
- (ss) Subpart RR, Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
- (tt) Subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances.
- (uu) Subpart TT, Standards of Performance for Metal Coil Surface Coating.
- (vv) Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
- (ww) Subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
- (xx) Subpart WW, Standards of Performance for the Beverage Can Surface Coating Industry.
- (yy) Subpart XX, Standards of Performance for Bulk Gasoline Terminals.
- (zz) Subpart DDD, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
- (aaa) Subpart FFF, Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

- (bbb) Subpart GGG, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
- (ccc) Subpart HHH, Standards of Performance for Synthetic Fiber Production Facilities.
- (ddd) Subpart III, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
- (eee) Subpart JJJ, Standards of Performance for Petroleum Dry Cleaners.
- (fff) Subpart KKK, Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
- (ggg) Subpart LLL, Standards of Performance for Onshore Natural Gas Processing: SO2 Emissions.
- (hhh) Subpart NNN, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
- (iii) Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (jjj) Subpart PPP, Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.

3. Title 40 C.F.R. Part 60, Subpart UUU, Standards of Performance for Calciners and Dryers in Mineral Industries, is hereby adopted by reference as it existed on September 28, 1992. A copy of Subpart UUU may be obtained free of charge from the Nevada Bureau of Air Quality, 333 West Nye Lane, Carson City, Nevada 89710.

4. The following subparts of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 1992:

- (a) Subpart A, General Provisions.
- (b) Subpart C, National Emission Standard for Beryllium.
- (c) Subpart D, National Emission Standard for Beryllium Rocket Motor Firing.
- (d) Subpart E, National Emission Standard for Mercury.
- (e) Subpart F, National Emission Standard for Vinyl Chloride.
- (f) Subpart BB, National Emission Standard for Benzene Emissions from Benzene Transfer Operations.
- (g) Subpart FF, National Emission Standard for Benzene Waste Operations.

5. ***Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on November 3, 1993.***

6. Except as otherwise provided in subsection 3, a copy of the publications which contain these provisions may be obtained from the:

(a) Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, or 450 Golden Gate Avenue, Room 1023, San Francisco, California 94102. The price is:

- (1) For §§ 51.100(hh) to 51.100(kk), inclusive, and 51.100(nn).....\$31
- (2) For § 52.21 .....33
- (3) For Part 60.....36
- (4) For Part 61.....16

(b) State library and archives for 15 cents per page.

[6.] 7. For the purposes of the provisions of Parts 60 and 61, 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.

[7.] 8. The provisions adopted by reference in this section supersede the requirements of NAC 445.430 to 445.846, inclusive, ***and sections 2 to 50, inclusive, of this regulation***, for all sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

[8.] 9. For the purposes of this section, "administrator" as used in the provisions of Parts 60 and 61, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the director.

Petition 94002 was adopted by the SEC on 11-3-93 as a permanent regulation and became effective on 12-13-93 on filing with the Secretary of State. The language in this permanent regulation was prepared by the Legislative Counsel Bureau as R-138-93. Petition 94002 supersedes Petition 93004 (LCB R-047-93) and incorporates the provisions of Petition 93009 (LCB R-052-93). **Codified June 1, 1994.**

**Sec. 64.** NAC 445.662 is hereby amended to read as follows:

1. **[Information concerning the emission of an air contaminant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by the United States Environmental Protection Agency cannot be certified as being confidential.**

2. **Any information other than emission data received by the commission, the director or local air pollution control agency which is certified to be confidential by the owner or operator disclosing it, may, unless the owner expressly agrees to its publication or availability to the public, be used only:**

(a) **In the administration or formulation of air pollution controls;**

(b) **In compiling or publishing analyses or summaries relating to the condition of the atmosphere which do not identify any owner or operator or reveal any confidential information; or**

(c) **In complying with federal statutes, rules and regulations.**

3. **Confidential information may be used in the prosecution of a violation of any air pollution control statute, ordinance or regulation.] *The director shall maintain all public information obtained in the course of the performance of the duties set forth in NRS 445.401 to 445.710, inclusive, at 123 West Nye Lane, Carson City, Nevada 89710.***

2. The content of an operating permit is public information and cannot be certified as confidential information.

3. ***Information concerning the emission of an air contaminant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by the EPA cannot be certified as being confidential.***

4. An owner or operator who submits information under a claim of confidentiality shall submit:

(a) One copy of the information to the director; and

(b) One copy of the information to the administrator.

**Sec. 65.** NAC 445.669 is hereby amended to read as follows:

445.669 1. When requested to do so by an owner or operator, the director will make a determination of whether action taken or intended to be taken by the owner or operator constitutes construction, including reconstruction, or modification or the commencement thereof within the meaning of NAC 445.669 **[to 445.681, inclusive.] or 445.670 or sections 2 to 50, inclusive, of this regulation.**

2. The director will respond to any request for a determination under subsection 1 within 30 days **[of] after** receipt of the request.

**Sec. 66.** NAC 445.670 is hereby amended to read as follows:

445.670 1. When requested to do so by an owner or operator, the director will review plans for construction or modification **[for the purpose of providing] to provide** technical advice to the owner or operator. A separate request must be submitted for each construction or modification project. Each request must identify the location of such projects and be accompanied by technical information describing the proposed nature, size, design and method of operation of each affected facility involved in the project, including information on any equipment to be used for measurement or control of emissions.

2. Neither a request for a review of plans nor advice furnished by the director in response to such request:

(a) Relieves an owner or operator of legal responsibility for compliance with any provision of NAC 445.669 **[to 445.681,] or 445.670 or sections 2 to 50, inclusive, of this regulation,** or of any applicable state or local requirement; or

(b) Prevents the director from carrying out or enforcing any provision of NAC 445.669 **[to 445.681,] or 445.670 or sections 2 to 50, inclusive, of this regulation** or taking any other action authorized by the Act.

Sec. 67. NAC 445.696 is hereby amended to read as follows:

445.696 1. **[In addition to the requirements of] Failure to comply with any requirement of NAC 445.430 to 445.846, inclusive, sections 2 to 50, inclusive, of this regulation, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445.526, the director shall issue a written notice of an alleged violation to any owner or operator [who:**

**(a) Fails] for any violation, including, but not limited to:**

**(a) Failure to apply for and obtain an operating permit;**

**(b) Failure to construct a source in accordance with the application for an operating permit as approved by the director;**

**[(b) Fails] (c) Failure to construct [and] or operate a source in accordance with [the conditions imposed by the director which appear on the permit to construct or] any condition of an operating permit;**

**[(c) Commences] (d) Commencing construction or modification of a source without applying for and receiving [a permit to construct] an operating permit or a modification of an operating permit as required by NAC 445.430 to 445.846, inclusive [; or**

**(d) Fails to report yearly production and operating hours as required by a permit to construct or] , or sections 2 to 50, inclusive, of this regulation;**

**(e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit [.] ; or**

**(f) Failure to pay fees as required by NAC 445.7135 or 445.7145.**

2. The written notice must specify the provision of **[the permit to construct or the] NAC 445.430 to 445.846, inclusive, or sections 2 to 50, inclusive, of this regulation, the condition of the operating permit or the applicable requirement** that is being violated.

3. 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. 68. NAC 445.697 is hereby amended to read as follows:

445.697 1. **[A] The director shall issue a stop order [will be issued] if:**

**(a) The proposed construction, installation, alterations or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted [for registration;] as part of the application for an operating permit and approved by the director as a condition of the operating permit; or**

**(b) The design material or the construction itself is of such a nature that it patently cannot bring the source into compliance with NAC 445.430 to 445.846, inclusive [.] and sections 2 to 50, inclusive, of this regulation.**

2. A stop order **[can] may** be issued at any time by the director upon his determination that there has been a violation of any of the provisions of NAC 445.430 to 445.846, inclusive, **[or the provisions of 40 C.F.R. Part 60 or 61, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, adopted by reference in NAC 445.6605.] sections 2 to 50, inclusive, of this regulation, any applicable requirement or any condition of the operating permit.**

3. A person served with a stop order:

**(a) Shall immediately stop all activities specified in the stop order.**

**(b) May apply for its revocation at any time, setting forth the facts upon which he believes that the reasons for the issuance of the stop order no longer exist. If the director finds that the reasons for the issuance of the stop order no longer exist, he shall withdraw the order promptly. If the director finds that the reasons for the issuance of the stop order still exist, or that**

other reasons exist for continuing a stop order in effect, he shall, within 24 hours, serve a written statement of his reasons for so finding.

**Sec. 69.** NAC 445.699 is hereby amended to read as follows:

445.699 1. Except as otherwise provided in NAC 445.430 to 445.846, inclusive, **and sections 2 to 50, inclusive, of this regulation**, any violation of the provisions of those sections is classified as a major violation and a fine up to **[\$5,000 per occurrence] \$10,000 per day per violation** may be levied.

2. **[Violations] For Class II sources, violations** of subsections 3 and 4 of NAC 445.667, subsection 8 of NAC 445.682, subsection 2 of NAC 445.692, paragraph (d) of subsection 1 of NAC 445.696 and NAC **[445.716,] 445.7145**, 445.734, 445.753, 445.754 and 445.844 are classified as minor or lesser violations, unless there are four or more violations of any one of those sections by a person, occurring within a period of 60 consecutive months.

3. The schedule of fines for minor violations is as follows:

	First Offense	Second Offense	Third Offense
Subsection 3 or 4 of NAC 445.667, reporting of excess emissions.....	\$125	\$250	\$500
Subsection 8 of NAC 445.682, testing and sampling reporting.....	100	200	400
Subsection 2 of NAC 445.692, reporting of monitoring systems.....	100	200	400
Paragraph (d) of subsection 1 of NAC 445.696, <b>[reporting of yearly production and operating hours] recordkeeping, monitoring, reporting or compliance certification</b> .....	50	100	200
NAC <b>[445.716,] 445.7145</b> , change of location.....	100	200	400
NAC 445.753, open burning.....	50	100	200
NAC 445.754, incinerator burning, equal to or less than 25 lbs <b>[(11 kg)]</b> per hour.....	50	100	200
.greater than 25 lbs <b>[(11 kg)]</b> per hour	50	100	200
NAC 445.734, fugitive dust.....	125	250	500
NAC 445.844, odors.....	100	200	400

4. All minor violations become major violations upon the occurrence of the fourth violation of the same section within a period of 60 consecutive months.

**Sec. 70.** NAC 445.704 is hereby amended to read as follows:

445.704 1. Unless exempted **[under] pursuant** to NAC 445.705 **[:**

**(a) A permit to construct and an ] , a separate** operating permit **[are] is** required for **[all new sources.**

Petition 94002 was adopted by the SEC on 11-3-93 as a permanent regulation and became effective on 12-13-93 on filing with the Secretary of State. The language in this permanent regulation was prepared by the Legislative Counsel Bureau as R-138-93. Petition 94002 supersedes Petition 93004 (LCB R-047-93) and incorporates the provisions of Petition 93009 (LCB R-052-93). **Codified June 1, 1994.**

(b) An existing single source requires only an operating permit.

2. Permits to construct and operating permits for single sources may be issued through an approved local air pollution control program.

3. Permits to construct and operating permits] *each new and existing source. A separate modification of an operating permit is required for each modified source. An owner or operator must obtain an operating permit or modification of an operating permit before the commencement of construction or alteration of any source of an air contaminant.*

2. *An operating permit may not be transferred from one owner or piece of equipment to another. [A replacement permit to construct or operating permit may be issued with the identical conditions upon] An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the source for the effective time remaining on the original operating permit [if the holder of the permit files a request for replacement with the director on the application form provided by him, accompanied by a fee of \$25 for each permit to construct or operating permit.] pursuant to section 44 of this regulation.*

Sec. 71. NAC 445.705 is hereby amended to read as follows:

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

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

(a) *Sources subject to 40 C.F.R. Part 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters; and*

(b) *Sources subject to 40 C.F.R. Part 61, Subpart M, Asbestos NESHAP, section 61.145.*

3. Except as otherwise provided in this subsection, the following existing and new single sources *perform insignificant activities and* do not require [permits to construct or] operating permits:

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

(1) Less than 4,000,000 Btu's [(1,008,000 kg-cal)] per hour; or

(2) Equal to or greater than 4,000,000 Btu's [(1,008,000 kg-cal)] per hour, but operating less than 100 hours per calendar year.

(b) Motor vehicles and special mobile equipment. As used in this [subsection,] *paragraph*, "special mobile equipment" has the meaning ascribed to it in NAC 445.884.

(c) Residential and commercial housekeeping vacuum systems.

(d) Incinerators with less than 25 lb [(11 kg)] per hour rated burning capacity.

(e) Agricultural land use.

(f) Storage containers for [gasoline, petroleum distillate or other] *petroleum liquid or storage facilities for volatile organic [compounds] liquid* having a capacity of less than 40,000 gallons [(150 kiloliters).] *which are not subject to 40 C.F.R. Part 60, Subparts K, Ka or Kb.*

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

(h) Disturbing topsoil of less than 5 acres.

(i) Maximum allowable throughput of less than 50 lb [(23 kg)] per hour [.], *unless the source directly emits or has the potential to emit a hazardous air pollutant.*

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

(1) Less than 500 horsepower output; or

- (2) Equal to or greater than 500 horsepower output, but operating less than 100 hours per calendar year.
- (k) Stationary internal combustion engines that, individually, have a rating:
  - (1) Less than 250 horsepower output; or
  - (2) Equal to or greater than 250 horsepower output, but operating less than 100 hours per calendar year.
- (l) Emergency generators.

[2.] 4. As used in this section:

- (a) "Emergency generator" means an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages.
- (b) "Internal combustion engine" means any fuel burning, heat generating engine, except engines in the motor vehicles or the special mobile equipment described in [NRS 445.610] *sections 16, 17 and 18 of chapter 654, Statutes of Nevada 1993* and NAC 445.884.

**Sec. 72.** NAC 445.706 is hereby amended to read as follows:

445.706 1. The date of receipt by the director establishes the official date of **[all applications for permits to construct and operating permits.**

**2. All fees must be paid to the State of Nevada or the local agency which certified issuance of the permits and are not refundable.]** *submittal for all Class I-A applications and applications for Class II operating permits.*

**2. For Class I-B applications, the official date of submittal of all information required by section 36 of this regulation is the date on which the director determines that he has received all the information required for preconstruction review.**

**Sec. 73.** NAC 445.707 is hereby amended to read as follows:

445.707 1. **[A separate permit to construct is required for each new or modified single source A valid permit must be obtained before the commencement of construction or alteration of any single source of air contaminant.**

**2. Requests for the issuance of a permit or the replacement of a lost or damaged permit must be submitted to the director on the application form provided by him. One-half of the fee for an initial operating permit must accompany the application.**

**3. Except as otherwise provided in NAC 445.7072, within 10 working] Except as otherwise provided in this subsection and section 50 of this regulation, within 60 calendar days after [receiving] the official date of submittal of an application for a Class I operating permit [,] or for the modification of such an operating permit, the director shall determine if any additional information is needed. For a Class I-B application, the official date of submittal of all information required by section 36 of this regulation is the date on which the director determines that the information required pursuant to the provisions regarding the prevention of significant deterioration of air quality or for preconstruction review is complete. Within 30 days after receiving a Class I-B application for a Class I operating permit or for the modification of such an operating permit, the director shall determine whether any additional information is needed to process the portion of the application pertaining to preconstruction review. The director shall notify the applicant in writing if any additional information is needed. Unless the director requests additional information or otherwise notifies the applicant that the application is incomplete within 60 days after the official date of submittal, the application shall be deemed complete. Within [30] 180 calendar days after receiving adequate information, the director shall make a preliminary determination to issue or deny [a permit.] the operating permit or the modification of the operating permit. The director shall give preliminary notice of his intent to issue or deny the operating permit [for a single source within 30] or the modification of the operating permit within 180 calendar days after receiving adequate**

information for reviewing the application.

[4. Except as otherwise provided in NAC 445.7072, the]

*2. Within 10 working days after the official date of submittal of an application for a Class II operating permit or a modification of a Class II operating permit, the director shall determine if any additional information is needed. Within 30 days after receiving adequate information to review the application, the director shall make a preliminary determination to issue or deny such an operating permit or the modification of such an operating permit and give preliminary notice of his determination to the applicant.*

*3. The director's review and preliminary intent to issue or deny [a permit to construct for:*

*(a) A new stationary source which has the potential to emit greater than 100 tons of an air contaminant per year; or*

*(b) A proposed modification which will increase the emissions by more than 1 ton per year at an existing stationary source that has the potential to emit greater than 100 tons of an air contaminant per year,] a Class I operating permit and the proposed conditions for the operating permit must be made public and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located [at a site specified in] for 30 calendar days to enable public participation and comment and a review by any affected states.*

*4. The director shall:*

*(a) Cause to be published a prominent advertisement [by the director for 30 days to enable public participation and comment.] in a newspaper of general circulation in the area in which the 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; and*

*(d) Provide a copy of the director's review of the application, the director's preliminary intent to issue or deny the operating permit and the proposed operating permit to the administrator.*

*5. The notice must identify:*

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

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

*(c) The activity or activities involved in the operating permit and the emissions change involved in any modification of the 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 operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the operating permit and which are relevant to the determination of the issuance of the 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.*

*6. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 calendar days after the public announcement.*

**[5.] 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.*

7. Except as otherwise provided in [NAC 445.7072, within 90 days] *subsection 8 and section 50 of this regulation, within 12 months* after receiving [adequate information, pursuant to NAC 445.708 to 445.711, inclusive,] *a complete application*, the director shall issue or deny the application for [a permit.] *an operating permit or for a modification of the operating permit.* The director shall make his decision by taking into account written [public] 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 445.843 and the control strategy contained in the air quality plan.

[6. Except as otherwise provided in NAC 445.7072, a permit to construct only expires if construction of]

8. *For 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 445.6605, the director shall issue or deny an application for an operating permit, or for the modification or renewal of such an operating permit, within 12 months after receiving a complete application.*

9. *The director shall not issue an operating permit, or a modification of or a renewal of an operating permit, if the administrator objects to its issuance in writing within 45 days of the administrator's receipt of the proposed conditions for the operating permit and the necessary supporting information, including all public comments submitted during the period allowed for public comment, or made during the public hearing.*

10. *Any person may petition the administrator to request that he object to an operating permit as provided in 40 C.F.R. ° 70.8(d).*

11. *If the administrator objects to the issuance of an operating permit, the director shall submit revised proposed conditions for the operating permit in response to the objection within 90 days.*

12. *An operating permit or the modification of an operating permit for a new or modified source, other than a 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 1 year after the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.*

[7. A permit to construct may be revoked by the director upon his determination that there has been a violation of any of the provisions of NAC 445.430 to 445.846, inclusive, or any of the provisions of 40 C.F.R. ° 52.21 or 40 C.F.R. Part 60 or 61 which have been adopted pursuant to NAC 445.6605.

8. The revocation is effective 10 days after the service of a written notice, unless the holder of the permit requests a hearing.

9. A permit that has been revoked may be reissued if the holder of the permit submits a new application, with the appropriate fee, to the director. An environmental review of the single source must be conducted by the director as though construction has not yet commenced.]

**Sec. 74.** NAC 445.7075 is hereby amended to read as follows:

445.7075 The director may impose standards for emissions on a proposed source that are more stringent than those found in NAC 445.430 to 445.846, inclusive, as a condition of approving [a permit to construct] *an operating permit* for the proposed source.

**Sec. 75.** NAC 445.708 is hereby amended to read as follows:

445.708 1. Before [a permit to construct] *an operating permit or a modification of an operating permit* may be issued

for a new or modified source, in accordance with NAC 445.708 to 445.711, inclusive, **and sections 2 to 50, inclusive, of this regulation**, the applicant must submit to the director an environmental evaluation and any other information the director deems necessary to make an independent air quality impact assessment. The environmental evaluation must have approval for any street or highway changes or improvements from the county, regional or state highway agency having jurisdiction over the streets and highways affected by the source before submittal to the director.

2. The director shall not issue **[a] an operating permit or a modification of an operating permit** for any source if:

(a) The environmental evaluation submitted by the applicant shows, or if the director determines, in accordance with the provisions of this section, that the source:

(1) Will prevent the attainment and maintenance of the state or national ambient air quality standards;

(2) Will cause a violation of the applicable control strategy contained in the approved air quality plan; or

(3) Will cause a violation of **[40 C.F.R. § 52.21, Prevention of Significant Deterioration of Air Quality, 40 C.F.R. Part 60, Standards of Performance for New Stationary Sources, or 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants.] any applicable requirement.**

(b) The source is located in any designated nonattainment area and:

(1) The lowest achievable emission rate for each nonattainment pollutant from the source is not defined and adopted as an emission limitation for the source;

(2) Any other source within this state which is owned, operated or controlled by the applicant is not in compliance or on a schedule of compliance with NAC 445.430 to 445.846, inclusive, **sections 2 to 50, inclusive, of this regulation** and all other applicable emission limitations or variances as provided in NRS 445.506 to 445.521, inclusive **;** **and sections 2 to 50, inclusive, of this regulation;**

(3) The total allowable emissions of each nonattainment pollutant from the existing sources in the area, those sources in the area which have received their respective permits and the proposed source will not be sufficiently less, by the time the proposed source is to commence operation, than the total emissions from the existing sources and those sources in the area which have received their respective permits before the proposed source **[makes application] applies** for its **operating permit [,] or a modification of its operating permit**, so that reasonable further progress is achieved; or

(4) The emissions from the source will cause or contribute to emission levels which exceed the allowance permitted for such a pollutant for the nonattainment area.

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

(a) Conduct **[ambient air quality] 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 source; and

(b) Meet standards for emissions that are more stringent than those found in NAC 445.430 to 445.846, inclusive **[.] and sections 2 to 50, inclusive, of this regulation.**

4. Where a proposed source located on contiguous property is constructed or modified in **[increments] phases** which individually are not subject to review as provided in NAC 445.708 to 445.711, inclusive, **and sections 2 to 50, inclusive, of this regulation** all **[increments] phases** occurring since November 7, 1975, must be added together for determining the applicability of those sections.

5. Approval and issuance of **[a] an operating permit or a modification of an operating permit** for any source **[construction or modification]** does not affect the responsibilities of the owner or owners to comply with any other portion of the control strategy.

6. **[Any owner or operator of a source or proposed facility must, upon written application to the director, receive**

within 30 days a written notice of his determination, either requiring the submittal of an environmental evaluation or exempting the source from such a requirement.] *An owner or operator of a Class II source not subject to federal requirements may request an exemption from the requirement to submit an environmental evaluation. Within 30 days after receipt of a written request for an exemption, the director shall grant or deny the request and notify the owner or operator in writing of his determination.*

Sec. 76. NAC 445.713 is hereby amended to read as follows:

445.713 1. **[Operating]** *All operating* permits must be renewed 5 years after the date of issuance.

2. **[Requests for the]** *An application for* renewal of an operating permit must be submitted **[, in writing,]** to the director *on the form provided by him* with the appropriate fee at least **[30] 180** calendar days before the expiration date of the current permit [.

3. **If a request]** *for Class I sources, or at least 30 calendar days before the expiration date of the current permit for Class II sources.*

3. *Applications for renewal must comply with all requirements for the issuance of an initial operating permit.*

4. *If an application for renewal* is submitted at least **[30] 180** calendar days before the expiration of the current permit **[,]** *for Class I sources, or at least 30 days before the expiration of the current permit for Class II sources,* the source may continue to operate until the permit is renewed. If a request is *not* submitted **[less than 30 calendar days before the expiration of the current permit, the single source must]** *in a timely manner, the source may be required to* cease operation when the permit expires, and may not recommence the operation until the permit is renewed . **[or until the source receives written authorization from the director to continue operation. If authorization to continue operation is given, the source must comply with all applicable standards and restrictions contained in NAC 445.430 to 445.846, inclusive, and all restrictions contained on the expired operating permit.**

4.] 5. The fee for **[each renewed]** *the renewal of an* operating permit is as specified in **[the fee schedule contained in NAC 445.7145.] NAC 445.7135.**

Sec. 77. NAC 445.7135 is hereby amended to read as follows:

445.7135 1. The **[fees] fee** for an **[initial]** operating permit **[are as follows:**

1. *For single sources, except as otherwise listed:*

(a) *Four hundred fifty dollars for the first 50 tons per hour of permitted throughput or fraction thereof.*

(b) *Nine hundred dollars for the first 100 tons per hour of permitted throughput, plus \$396 for each additional 100 tons per hour of throughput or fraction thereof.*

(c) *Four thousand five hundred dollars for the first 1,000 tons per hour of permitted throughput, plus \$900 for each additional 100 tons per hour of throughput or fraction thereof.*

2. *For fuel burning equipment:*

(a) *Three hundred sixty dollars for the first 4,000,000 Btu's input, plus \$90 for each additional 1,000,000 Btu's input or fraction thereof.*

(b) *Nine hundred dollars for the first 10,000,000 Btu's input, plus \$90 for each additional 10,000,000 Btu's input or fraction thereof.*

(c) *One thousand eight hundred dollars for the first 100,000,000 Btu's input, plus \$180 for each additional 10,000,000 Btu's input or fraction thereof.*

(d) *Eighteen thousand dollars for the first 1,000,000,000 Btu's input, plus \$4,500 for each additional 1,000,000,000 Btu's input or fraction thereof.*

3. For prevention of significant deterioration (PSD), \$45,000 or the sum of the fees for all single sources which comprise a PSD source, whichever is greater.

4. For geothermal sources which generate electric power:

(a) Nine hundred dollars for production which is less than 1 megawatt.

(b) One thousand eight hundred dollars for production which is greater than or equal to 1 megawatt, but less than 10 megawatts.

(c) Two thousand seven hundred dollars for production which is greater than or equal to 10 megawatts, but less than 50 megawatts.

(d) Three thousand six hundred dollars for production which is greater than or equal to 50 megawatts, plus \$900 for each additional 10 megawatts or fraction thereof.

5. For], a significant modification of a permit or a renewal of a permit for all sources is \$250 per application. An applicant must pay the entire fee when he submits an application to the director.

2. From July 1, 1994, to and including June 30, 1995, fees based on emissions are:

(a) For existing sources, a fee of \$7 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year, not to exceed 6,000 tons per year per pollutant. 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 a test for emission compliance which the director has validated.

(b) For any new sources or significant modifications to existing sources, a fee of \$7 per ton times the total tons of each regulated pollutant, except carbon monoxide, based on the allowable emissions for the period until the source obtains 12 consecutive months of operating data. When this data is obtained, fees must be calculated as set forth in paragraph (a) of this subsection.

3. On and after July 1, 1995, fees based on emissions are:

(a) For existing sources, a fee of \$20 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year, not to exceed 6,000 tons per year per pollutant. 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 a test for emission compliance which the director has validated.

(b) For any new sources or significant modifications to existing sources, a fee of \$20 per ton times the total tons of each regulated pollutant, except carbon monoxide, based on the allowable emissions for the period until the source obtains 12 consecutive months of operating data. When this data is obtained, fees must be calculated as set forth in paragraph (a) of this subsection.

4. The fee for a permit for a surface area disturbance [,] is \$450 for 5 acres or more.

[6. For storage silos, \$900.

7. For a stationary tank, reservoir or other container with a capacity of more than 40,000 gallons (151,412 liters), which contains any petroleum product having a vapor pressure of 1.5 pounds per square inch absolute (1,055 kilograms per square meter) or greater, \$450.

8. For] 5. The fee for the modification of a facility requiring a new review for a stationary source, including the location of portable equipment on a site with permitted stationary equipment, is the same fee as is required for an [initial] operating

permit [.

**9. For any other sources, \$1,800.] as set forth in subsection 1.**

**6. The department shall calculate and collect all fees for operating permits annually from the date on which the owner or operator submits an application for an operating permit to the director.**

**7. Annual fees for operating permits are due and payable to the "Nevada State Treasurer, Environmental Protection" within 45 days after the date of the invoice.**

**Sec. 78.** NAC 445.7145 is hereby amended to read as follows:

445.7145 1. The fees for the replacement or renewal of an operating permit are as follows:

(a) For single sources, except as otherwise listed:

(1) Two hundred twenty-five dollars for the first 50 tons per hour of permitted throughput or fraction thereof.

(2) Four hundred fifty dollars for the first 100 tons per hour of permitted throughput, plus \$198 for each additional 100 tons per hour of throughput or fraction thereof.

(3) Two thousand two hundred fifty dollars for the first 1,000 tons per hour of permitted throughput, plus \$450 for each additional 100 tons per hour of throughput or fraction thereof.

(b) For fuel burning equipment:

(1) One hundred eighty dollars for the first 4,000,000 Btu's input, plus \$45 for each additional 1,000,000 Btu's input or fraction thereof.

(2) Four hundred fifty dollars for the first 10,000,000 Btu's input, plus \$45 for each additional 10,000,000 Btu's input or fraction thereof.

(3) Nine hundred dollars for the first 100,000,000 Btu's input, plus \$90 for each additional 10,000,000 Btu's input or fraction thereof.

(4) Nine thousand dollars for the first 1,000,000,000 Btu's input, plus \$2,250 for each additional 1,000,000,000 Btu's input or fraction thereof.

(c) For prevention of significant deterioration (PSD), \$22,500 or the sum of fees for all single sources which comprise a PSD source, whichever is greater.

(d) For geothermal sources which generate electric power:

(1) Four hundred fifty dollars for production which is less than 1 megawatt.

(2) Nine hundred dollars for production which is greater than or equal to 1 megawatt, but less than 10 megawatts.

(3) One thousand three hundred fifty dollars for production which is greater than or equal to 10 megawatts, but less than 50 megawatts.

(4) One thousand eight hundred dollars for production which is greater than or equal to 50 megawatts, plus \$450 for each additional 10 megawatts or fraction thereof.

(e) For surface area disturbance, \$450 for 5 acres or more.

(f) For storage silos, \$450.

(g) For a stationary tank, reservoir or other container with a capacity of more than 40,000 gallons (151,412 liters), which contains any petroleum product having a vapor pressure of 1.5 pounds per square inch absolute (1,055 kilograms per square meter) or greater, \$225.

(h) For the modification of a facility requiring a new review for a stationary source, including the location of portable equipment on a site with permitted stationary equipment, the same fee as is required for a new permit to construct.

(i) For any other sources, \$900.

(j) For the replacement of each lost or damaged operating permit, \$112.50.

2. The fee for reissuing an expired operating permit is 1.25 times the fee specified in subsection 1.
3. *The fee for a request for a change of the location of a source is \$90. Such a request must be made in writing to the director and submitted with the fee for each operating permit at least 10 days before the commencement of the operation of the source at the new location. An owner or operator must not operate the source at the new location until the director approves the location.*

**Sec. 79.** NAC 445.7145 is hereby amended to read as follows:  
445.7145 1. The fees for the replacement [or renewal of an] *of a lost or damaged* operating permit *or the reissuance of an expired operating permit* are as follows:

- (a) [For single sources, except as otherwise listed:
  - (1) Two hundred twenty-five dollars for the first 50 tons per hour of permitted throughput or fraction thereof.
  - (2) Four hundred fifty dollars for the first 100 tons per hour of permitted throughput, plus \$198 for each additional 100 tons per hour of throughput or fraction thereof.
  - (3) Two thousand two hundred fifty dollars for the first 1,000 tons per hour of permitted throughput, plus \$450 for each additional 100 tons per hour of throughput or fraction thereof.
- (b) For fuel burning equipment:
  - (1) One hundred eighty dollars for the first 4,000,000 Btu's input, plus \$45 for each additional 1,000,000 Btu's input or fraction thereof.
  - (2) Four hundred fifty dollars for the first 10,000,000 Btu's input, plus \$45 for each additional 10,000,000 Btu's input or fraction thereof.
  - (3) Nine hundred dollars for the first 100,000,000 Btu's input, plus \$90 for each additional 10,000,000 Btu's input or fraction thereof.
  - (4) Nine thousand dollars for the first 1,000,000,000 Btu's input, plus \$2,250 for each additional 1,000,000,000 Btu's input or fraction thereof.
- (c) For prevention of significant deterioration (PSD), \$22,500 or the sum of fees for all single sources which comprise a PSD source, whichever is greater.
- (d) For geothermal sources which generate electric power:
  - (1) Four hundred fifty dollars for production which is less than 1 megawatt.
  - (2) Nine hundred dollars for production which is greater than or equal to 1 megawatt, but less than 10 megawatts.
  - (3) One thousand three hundred fifty dollars for production which is greater than or equal to 10 megawatts, but less than 50 megawatts.
  - (4) One thousand eight hundred dollars for production which is greater than or equal to 50 megawatts, plus \$450 for each additional 10 megawatts or fraction thereof.
- (e) For surface area disturbance, \$450 for 5 acres or more.
- (f) For storage silos, \$450.
- (g) For a stationary tank, reservoir or other container with a capacity of more than 40,000 gallons (151,412 liters), which contains any petroleum product having a vapor pressure of 1.5 pounds per square inch absolute (1,055 kilograms per square meter) or greater, \$225.
- (h) For the modification of a facility requiring a new review for a stationary source, including the location of portable equipment on a site with permitted stationary equipment, the same fee as is required for a new permit to construct.
- (i) For any other sources, \$900.

(j) For the replacement of each lost or damaged operating permit, [**\$112.50.**

**2. The fee for] \$200.**

(b) *For* reissuing an expired operating permit , [**is**] 1.25 times the fee specified in [**subsection 1.**

**3.] NAC 445.7135.**

2. The fee for a request for a change of the location of a source is \$90. Such a request must be made in writing to the director and submitted with the fee for each operating permit at least 10 days before the commencement of the operation of the source at the new location. An owner or operator must not operate the source at the new location until the director approves the location.

**Sec. 80.** NAC 445.717 is hereby amended to read as follows:

445.717 1. A substance is a [**toxic or**] hazardous air [**contaminant if:**

(a) **Except as otherwise provided in subsection 2, it is listed in "Threshold Limit Values for Biological Exposure Indices for 1987-88" and the allowable concentration is based upon the toxicity of the substances; or**

(b) **The director] pollutant if it is on the federal list of hazardous air pollutants set forth in 42 U.S.C. § 7412(b), which is adopted pursuant to NAC 445.6605.**

2. **A substance is a toxic air contaminant 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 [**for a new source of air pollutants under 40 C.F.R. Part 60]** or national *emission* standard for [**emission of]** hazardous air pollutants [**under 40 C.F.R. Part 61 applies.**

**2. Paragraph (a) of subsection 1 does not apply to a substance listed in NAC 445.843.] applies**

**3. The commission may establish a lower emission rate for a hazardous air pollutant or, for radionuclides, different criteria based on:**

(a) *The potency of the air contaminant;*

(b) *The persistence of the air contaminant;*

(c) *The potential for bioaccumulation;*

(d) *Other characteristics of the hazardous air pollutant; or*

(e) *Any other relevant factors.*

**Sec. 81.** NAC 445.719 is hereby amended to read as follows:

445.719 1. [**The]** *An applicant must complete an evaluation of the best* available control technology [**must be developed by an applicant for a permit to construct,] to obtain an** operating permit, *or the modification* or renewal of [**a]** *an operating* permit for any source of [**a toxic or hazardous air contaminant]** :

(a) *A hazardous air pollutant* that, without controls, emits [**more than 0.25 pound or 113 grams]** *at least 1 pound or an equivalent amount* of the [**contaminant per 8-hour shift and exceeds the acceptable concentration without controls. The]** *pollutant per hour, but less than 10 tons per year of any single pollutant or 25 tons per year of any combination of pollutants; and*

(b) *A toxic air contaminant that, without controls, emits at least 1 pound of the contaminant per hour.*

2. *If the director determines that the best available control technology must be applied, the* technology must be approved by the director [**or the local air pollution control agency]** *on a case-by-case basis* before it is applied.

3. The technology may include, but is not limited to:
  - [1.] (a) Traditional methods such as baghouses, wet scrubbers, carbon absorbers, granular adsorbers, fluidized adsorbers, incinerators, chemical scrubbers and catalytic neutralizers.
  - [2.] (b) Alternative operating practices, *such as a source reduction in the amount of hazardous materials used in the industrial process or prevention of pollution*, or the use of substitute compounds, or both.
  - [3.] (c) Training in the safe application or use of the contaminant [.
  - [4.] *or pollutant.*
  - (d) Restrictions on patterns of use of the contaminant *or pollutant* or locations of use of the contaminant [.
  - 5.] *or pollutant.*
  - (e) Reclassification of the toxic [**or hazardous**] air contaminant as a restricted material.

**Sec. 82.** NAC 445.7195 is hereby amended to read as follows:

445.7195 1. Before **[a permit to construct or an operating permit will be issued, or an operating permit will be renewed, where reasonable methods exist for quantifying and performing dispersion modeling for air quality, the applicant shall provide the director with an analysis of the probable effect on the quality of the ambient air for each toxic or hazardous air contaminant:**

- (a) For which a toxic factor exists; and
- (b) Which the director determines would be emitted by the source in an amount exceeding 0.25 pound or 113 grams per 8-hour shift, to determine whether the contaminant would exceed the acceptable concentration at the point described in NAC 445.7175.

2. Before a permit to construct] *an operating permit* will be issued, an analysis of the probable effect of the contaminant *or pollutant* on the quality of air must conclude that the emission of the toxic [**or hazardous**] air contaminant *or hazardous air pollutant* from the source will not exceed the acceptable [**concentration at the point described in NAC 445.7175.**] *emission rate*. If an unacceptable [**concentration**] *emission rate* is predicted or demonstrated to occur [, then the] :

(a) *The best available control technology must be applied to [the] a source subject to NAC 445.719 in order to achieve compliance with the acceptable [concentration.*

3. ] *rate*; or

(b) *The maximum achievable control technology must be applied to a source subject to section 48 of this regulation.*

2. Before an operating permit will be issued, the applicant must demonstrate by monitoring , [**the ambient air, the**] sampling of emissions or using a predictive model approved by the director that the [**acceptable concentration**] *emission rate based on the maximum achievable control technology or the best available control technology, as applicable*, is not exceeded. [**at the point described in NAC 445.7175.**

4.] 3. An operating permit *for a source subject to NAC 445.719* will not be renewed unless the source is in compliance or on an approved schedule for compliance with an acceptable [**concentration**] *emission rate* upon the date specified for renewal pursuant to NAC 445.713 or within 1 year after the [**concentration**] *emission rate* is determined by the director, whichever is later, unless the commission extends the period of compliance. The schedule for compliance must require the application of the best available control technology within a reasonable time as prescribed by the director or local air pollution control agency.

**Sec. 83.** NAC 445.720 is hereby amended to read as follows:

445.720 Except as otherwise provided in NAC 445.717 to 445.7205, inclusive, an owner or operator shall not cause or

permit the discharge into the atmosphere from any stationary source of any toxic **[or hazardous]** air contaminant *or hazardous air pollutant* that:

1. Exceeds the acceptable **[concentration] emission rate** established by the director in accordance with NAC **[445.7175; 445.719 or section 48 or 49 of this regulation]**; or
2. *Threatens the health and safety of the general public, as determined by the director.*

**Sec. 84.** NAC 445.7205 is hereby amended to read as follows:

445.7205 Notice of the existence of a toxic **[or hazardous]** air contaminant *or hazardous air pollutant* at a **[concentration] level** of 90 percent or more of the acceptable **[concentration] emission rate** must be conspicuously posted at any point of access to the area available to the general public.

**Sec. 85.** NAC 445.734 is hereby amended to read as follows:

445.734 1. No person may cause or permit the handling, transporting or storing of any material in a manner which allows or may allow controllable particulate matter to become airborne.

2. Except as otherwise provided in subsection 4, no person may cause or permit the construction, repair, demolition or use of unpaved or untreated areas without first putting into effect an ongoing program using the best practical methods to prevent particulate matter from becoming airborne. As used in this subsection, "best practical methods" includes, but is not limited to, paving, chemical stabilization, watering, phased construction and revegetation.

3. Except as otherwise provided in subsection 4, no person may disturb or cover 5 acres or more of land or its topsoil until he has obtained a permit **[to construct or operating permit for the purpose of clearing, excavating, or leveling] for surface area disturbance to clear, excavate or level** the land or **[an operating permit for the deposit of] to deposit** any foreign material to fill or cover the land.

4. The provisions of subsections 2 and 3 do not apply to:

- (a) Agricultural activities occurring on agricultural land; or
- (b) Surface disturbances authorized by a permit issued pursuant to NRS 519A.180 which occur on land which is not less than 5 acres or more than 20 acres.

**Sec. 86.** NAC 445.746 is hereby amended to read as follows:

445.746 1. No person may cause or permit the emission of sulfur compounds where the sulfur originates in the material being processed, excluding hydrogen sulfide and sulfur from all solid, liquid or gaseous fuel, in excess of the quantity determined by the following equation:

ENGLISH	METRIC
$E = 0.292P^{0.904}$	$(E = 0.271P^{0.904})$

when "E" is equal to or greater than 10 pounds (5 kilograms) per hour. When "E" is less than 10 pounds (5 kilograms) per hour, the gas stream concentration must not exceed 1,000 ppm by volume.

2. For the purposes of subsection 1:

(a) "E" means the allowable sulfur emission in pounds (kilograms) per hour.

(b) "P" means the total feed sulfur, excluding hydrogen sulfide, in pounds (kilograms) per hour.

3. When sulfur emissions are due to sulfur contributions from both the fuel and the material being processed, the

allowable emissions must be the sum of those allowed by NAC 445.745 to 445.748, inclusive.

4. Incinerators used solely for the control of odor by the combustion of noxious sulfur containing compounds are exempt from NAC 445.742 to 445.748, inclusive, and are governed by NAC 445.704 to [445.716,] 445.7145 inclusive, and NAC 445.729 to 445.736, inclusive.

5. A person shall not cause or permit the emission of any gas containing hydrogen sulfide which is discharged to the atmosphere from any source unless the source is vented, incinerated, flared or the stream is otherwise disposed of, in a manner such that the ambient sulfur dioxide standards and the ambient hydrogen sulfide standards are not exceeded. Before construction, compliance with the ambient standards must be based on the applicable models, bases and other requirements specified in "Guideline on Air Quality Models" (Revised) EPA 450/2-78-027R, published by the United States Environmental Protection Agency. The publication as it exists on August 1, 1986, is adopted by reference. A copy of the publication may be obtained from the National Technical Information Service, United States Department of Commerce, Springfield, Virginia 22161, for the price of \$31.

**Sec. 87.** 1. NAC 445.668, 445.671, 445.672, 445.673, 445.674, 445.675, 445.676, 445.677, 445.678, 445.679, 445.680, 445.681, 445.694, 445.695, 445.7072, 445.709, 445.712, 445.715, 445.7165 are hereby repealed.

2. NAC 445.716, 445.7175, 445.718, 445.7185 and 445.8435 are hereby repealed.

Note: NAC 445.716 was removed from Sec. 87. Subsection 1 by a letter, dated January 6, 1994 from the Legislative Counsel Bureau to the Secretary of State, as filed with the Secretary of State on January 6, 1994. NAC 445.716 was being repealed in Subsection 2.

**Sec. 88.** 1. This section and sections 1, 2, 8 to 13, inclusive, 15, 19, 20, 22, 24, 27, 51, 52, 54 to 70, inclusive, 72, 78, 80 to 86, inclusive, and subsection 2 of section 87 of this regulation become effective upon filing with the secretary of state.

2. Sections 77 and 79 of this regulation become effective on July 1, 1994. 3. Sections 3 to

3. Sections 3 to 7, 14, 16, 17, 18, 21, 23, 25, 26, 28 to 50, inclusive, 53, 71, 73 to 76, inclusive, and subsection 1 of section 87 of this regulation become effective on November 15, 1994.

END OF PETITION 94002 (LCB R138-93)