

**PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION**

**SEC Petition 2010-02**

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

**NOTE to LCB:** GREEN underline = Amendments adopted and effective after the January 2008 codification of Chapter 445B

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

A REGULATION relating to Air Quality NAC provisions; repealing provisions related to the Nevada Clean Air Mercury Rule Program, and providing other matters properly relating thereto.

**Sec. 1.** NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive, sections 2, 3 and 4 of R190-08, inclusive, and sections 2 and 3 of R004-09, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, and section 2 of R190-08, inclusive, have the meanings ascribed to them in those sections.

**Sec. 2.** NAC 445B.123 is hereby amended to read as follows:

445B.123 “Operating permit” has the meaning ascribed to it in NRS 445B.145. Unless otherwise specifically stated, the term includes:

1. A Class I, a Class II and a Class III operating permit;
2. An operating permit to construct; *and*
3. A mercury operating permit to construct, as defined in NAC 445B.3625 ~~[-; and]~~  
~~[4. A CAMR operating permit to construct, as defined in NAC 445B.3713.]~~.

**Sec. 3.** NAC 445.156 is hereby amended to read as follows:

445B.156 “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).

~~[5. For a mercury budget source, as defined in NAC 445B.3735, the mercury designated representative, as defined in NAC 445B.3741, or his alternate.]~~

**Sec. 4.** NAC 445B.22077 is hereby amended to read as follows:

445B.22077 Any portion of any affected facility not listed in NAC 445B.2208 must comply with the remaining portions of NAC 445B.001 to ~~[445B.3791]~~ **445B.3689**, inclusive.

**Sec. 5.** NAC 44B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2009.

2. Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, 2002.

3. Appendices M and W of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2009.

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, 2009.

5. The following subparts of 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3) and 60.11(e), as it existed on July 1, 2009;

(b) Section 60.21 of Subpart B, as it existed on July 1, 2006;

(c) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, JJJJ and KKKK as they existed on July 1, 2009; and

(d) Subpart HHHH, except §§ 60.4105(b)(2), 60.4106, 60.4120 to 60.4142, inclusive, 60.4153(a) and (b) and 60.4176, as set forth in Volume 70 of the Federal Register at pages 28606 et seq., May 18, 2005, and the amendments to Subpart HHHH as set forth in Volume 71 of the Federal Register at pages 33388 et seq., June 9, 2006.

6. Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, 2009.

7. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 2009.

8. Appendix B of 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, 2009.

9. Subparts A, B, C, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWW, XXXX, YYYY, ZZZZ, AAAA, BBBB, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, JJJJ, KKKK, LLLL, MMMM, NNNN, PPPP, QQQQ, SSSS, WWWW, YYYYY, ZZZZ, DDDDD, EEEEE, FFFFF, GGGGG, LLLLL, MMMMM, NNNNN, OOOOO, PPPPP, QQQQQ, RRRRR, SSSSS and TTTTT of 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, 2009.

10. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2009. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to ~~[445B.3791]~~ **445B.3689**, inclusive, the provisions of 40 C.F.R. Part 72 apply.

11. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2009. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to ~~[445B.3791]~~ **445B.3689**, inclusive, the provisions of 40 C.F.R. Part 76 apply.

12. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on October 1, 1993.

13. The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained, free of charge, from the United States Department of Labor at the Internet address <http://www.dol.gov>.

14. A copy of the publications which contain the provisions adopted by reference in subsections 1 to 12, inclusive, may be obtained from the:

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

(b) Government Printing Office, free of charge, at the Internet address: <http://www.gpoaccess.gov/nara/index.html>.

15. The following standards of ASTM International are hereby adopted by reference:

(a) ASTM D5504, "Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence," set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D5504 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.

(b) ASTM D2234 and D2234M, "Standard Practice for Collection of a Gross Sample of Coal," set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D2234 and D2234M is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$37.

(c) ASTM D2013, "Standard Practice for Preparing Coal Samples for Analysis," set forth in Volume 05.06 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D2013 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.

(d) ASTM D6784, "Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario HydroMethod)," set forth in Volume 11.07 of the 2008 Annual Book of ASTM Standards. A copy of ASTM D6784 is available by mail from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania, 19428-2959, by telephone at (610) 832-9585 or at the Internet address <http://www.astm.org>, for the price of \$43.

(e) ASTM D2015, "Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter," dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

(f) ASTM D3286, “Standard Test Method for Gross Calorific Value of Coal and Coke by the Isooperibol Bomb Calorimeter,” dated July 10, 1996. A copy of ASTM D3286 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/S A110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

(g) ASTM D1989, “Standard Test Method for Gross Calorific Value of Coal and Coke by Microprocessor Controlled Isooperibol Calorimeters,” dated July 10, 1997. A copy of ASTMD1989 is available for purchase at the IHS Standards Store, 15 Inverness Way East, M/SA110B, Englewood, Colorado, 80112, or at the Internet address <http://global.ihs.com>, for the price of \$52.

16. For the purposes of the provisions of 40 C.F.R. Parts 60, 61 and 63, adopted by reference pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

17. Except as otherwise provided in subsections 10 and 11, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

18. For the purposes of this section, “administrator” as used in the provisions of 40 C.F.R. Part 60, except Subpart B § 60.21 and Subpart HHHH §§ 60.4101 to 60.4105, inclusive, 60.4107 to 60.4114, inclusive, 60.4151 to 60.4173, inclusive, and 60.4175, and Parts 61 and 63, adopted by reference pursuant to this section, means the Director.

**Sec. 6.** NAC 445.227 is hereby amended to read as follows:

445B.227 Except as otherwise provided in NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive, no person may:

1. Operate a stationary source of air pollution unless the control equipment for air pollution which is required by applicable requirements or conditions of the permit is installed and operating.
2. Disconnect, alter, modify or remove any of the control equipment for air pollution or modify any procedure required by an applicable requirement or condition of the permit.

**Sec. 7.** NAC 445B.232 is hereby amended to read as follows:

445B.232 1. Scheduled maintenance or testing or scheduled repairs which may result in excess emissions of regulated air pollutants prohibited by NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive, must be approved in advance by the Director and performed during a time designated by the Director as being favorable for atmospheric ventilation.

2. Each owner or operator shall notify the Director [must be notified in writing] of the proposed time and expected duration at least [24 hours in advance of] 30 days before any scheduled maintenance or testing which may result in excess emissions of regulated air pollutants prohibited by NAC 445B.001 to [445B.3791] 445B.3689, inclusive. The scheduled maintenance or testing must not be conducted unless the scheduled maintenance or testing is approved pursuant to subsection 1.

3. Each owner or operator shall notify the Director [must be notified in writing or by telephone] of the proposed time and expected duration at least 24 hours [in advance of] before any scheduled repairs which may result in excess emissions of regulated air pollutants prohibited by NAC 445B.001 to [445B.3791] 445B.3689, inclusive. The scheduled repairs must not be conducted unless the scheduled repairs are approved pursuant to subsection 1.

4. Each owner or operator shall notify the Director ~~[must be notified]~~ of any excess emissions within 24 hours after any malfunction or upset of the process equipment or equipment for controlling pollution or during start-up or shutdown of ~~[such] that~~ equipment. ~~[The telephone number for the notification is (775) 687-9350.]~~

5. Each owner or operator ~~[of an affected facility]~~ shall provide the Director, within 15 days after any malfunction, upset, start-up, shutdown or human error which results in excess emissions, sufficient information to enable the Director to determine the seriousness of the excess emissions. The information must include at least the following:

(a) The identity of the stack or other point of emission, or both, where the excess emissions occurred.

(b) The estimated magnitude of the excess emissions expressed in opacity or in the units of the applicable limitation on emission and the operating data and methods used in estimating the magnitude of the excess emissions.

(c) The time and duration of the excess emissions.

(d) The identity of the equipment causing the excess emissions.

(e) If the excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunction.

(f) The steps taken to limit the excess emissions.

(g) Documentation that the equipment for controlling air pollution, process equipment or processes were at all times maintained and operated, to a maximum extent practicable, in a manner consistent with good practice for minimizing emissions.

6. The owner or operator shall ensure that any notification or related information submitted to the Director pursuant to this section is provided in a format specified by the Director.

**Sec. 8.** NAC 445B.233 is hereby amended to read as follows:

445B.233 1. The Director shall determine from the submission of data and information required in subsection 5 of NAC 445B.232 or other information available to him that no violation occurred if:

(a) The excess emission was the result of a routine start-up or shutdown for purposes of controlling production;

(b) The amount and duration of the excess emissions were minimized to the extent practicable during the period of start-up or shutdown; and

(c) Any one of the following conditions existed:

(1) The effluent gas could not be passed through the equipment for controlling pollution without causing severe property damage.

(2) The effluent gas could not be passed through the equipment for controlling pollution without causing severe upset of the process.

(3) The excess emission was the result of igniter smoke which could not be controlled by the equipment for control used for normal operation.

2. If the owner or operator misrepresents facts or fails to disclose facts of which he had prior knowledge, the Director shall deem that the period of excess emissions violates NAC 445B.001 to ~~[445B.3791]~~ **445B.3689**, inclusive.

3. Nothing in this section limits the obligation of the owner or operator of the stationary source to attain and maintain the standards for ambient air quality promulgated in NAC 445B.22097 or the authority of the Director to institute actions under sections 113 and 303 of the Act or to exercise his authority under NRS 445B.100 to 445B.640, inclusive.

**Sec. 9.** NAC 445B. 252 is hereby amended to read as follows:

445B.252 1. To determine compliance with NAC 445B.001 to ~~[445B.3791]~~ **445B.3689**, inclusive, before the approval or the continuance of an operating permit or similar class of permits, the Director may either conduct or order the owner of any stationary source to conduct or have conducted such testing and sampling as the Director determines necessary. Testing and sampling or either of them must be conducted and the results submitted to the Director within 60 days after achieving the maximum rate of production at which the affected facility will be operated, but not later than 180 days after initial start-up of the facility and at such other times as may be required by the Director.

2. Tests of performance must be conducted and data reduced in accordance with the methods and procedures of the test contained in each applicable subsection of this section unless the Director:

(a) Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;

(b) Approves the use of an equivalent method;

(c) Approves the use of an alternative method, the results of which he has determined to be adequate for indicating whether a specific stationary source is in compliance; or

(d) Waives the requirement for tests of performance because the owner or operator of a stationary source has demonstrated by other means to the Director's satisfaction that the affected facility is in compliance with the standard.

3. Tests of performance must be conducted under such conditions as the Director specifies to the operator of the plant based on representative performance of the affected facility. The owner or operator shall make available to the Director such records as may be necessary to determine the conditions of the test of performance. Operations during periods of start-up, shutdown and malfunction must not constitute representative conditions of a test of performance unless otherwise specified in the applicable standard.

4. The owner or operator of an affected facility shall give notice to the Director 30 days before the test of performance to allow the Director to have an observer present. A written testing procedure for the test of performance must be submitted to the Director at least 30 days before the test of performance to allow the Director to review the proposed testing procedures.

5. Each test of performance must consist of at least three separate runs using the applicable method for that test. Each run must be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the runs apply. In the event of forced shutdown, failure of an irreplaceable portion of the sampling train, extreme meteorological conditions or other circumstances with less than three valid samples being obtained, compliance may be determined using the arithmetic mean of the results of the other two runs upon the Director's approval.

6. All testing and sampling will be performed in accordance with recognized methods and as specified by the Director.

7. The cost of all testing and sampling and the cost of all sampling holes, scaffolding, electric power and other pertinent allied facilities as may be required and specified in writing by the Director must be provided and paid for by the owner of the stationary source.

8. All information and analytical results of testing and sampling must be certified as to their truth and accuracy and as to their compliance with all provisions of these regulations, and copies

of these results must be provided to the Director no later than 60 days after the testing or sampling, or both.

9. Notwithstanding the provisions of subsection 2, the Director shall not approve an alternative method or equivalent method to determine compliance with a standard or emission limitation contained in Part 60, 61 or 63 of Title 40 of the Code of Federal Regulations for:

(a) An emission unit that is subject to a testing requirement pursuant to Part 60, 61 or 63 of Title 40 of the Code of Federal Regulations; or

(b) An affected source.

**Sec. 10.** NAC 445B.258 is hereby amended to read as follows:

445B.258 1. Unless otherwise approved by the Director or specified in NAC 445B.001 to ~~445B.3791~~ 445B.3689, inclusive, the requirements of this section apply to all continuous monitoring systems required under applicable provisions of those sections.

2. All continuous monitoring systems and monitoring devices must be installed and operational before conducting performance tests under NAC 445B.252. Verification of operational status must, as a minimum, consist of the following:

(a) For continuous monitoring systems referred to in subsection 2 of NAC 445B.259, completion of the conditioning period specified by applicable requirements in Appendix B of 40 C.F.R. Part 60.

(b) For continuous monitoring systems referred to in NAC 445B.260, completion of 7 days of operation.

(c) For monitoring devices referred to in NAC 445B.256 to 445B.267, inclusive, completion of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.

**Sec. 11.** NAC 445B.264 is hereby amended to read as follows:

445B.264 1. Owners or operators of all continuous monitoring systems for the measurement of opacity shall reduce all data to 6-minute averages and for systems other than opacity to 1-hour averages.

2. For systems other than opacity, 1-hour averages must be computed from four or more data points equally spaced over each 1-hour period.

3. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments must not be included in the data averages computed under this section. An arithmetic or integrated average of all calibrated data must be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form, e.g., ppm pollutant and percent O<sub>2</sub> or lb/million Btu of pollutant.

4. All excess emissions must be converted into units of the standard using the applicable conversion procedures specified in NAC 445B.001 to ~~445B.3791~~ 445B.3689, inclusive. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in those sections to specify the applicable standard, e.g., rounded to the nearest 1 percent opacity.

5. As used in this section, "calibrated data" means data which is precise and accurate within a stated acceptance criteria for the instrument.

**Sec. 12.** NAC 445B.273 is hereby amended to read as follows:

445B.273 1. All new and existing stationary sources must comply with NAC 445B.001 to ~~445B.3791~~ 445B.3689, inclusive. Existing stationary sources are in compliance with those

sections and may continue to operate under the provisions of their approved compliance schedules, which may be amended from time to time.

2. Compliance schedules must contain specific progress steps that will be taken toward achieving compliance.

3. The Commission may require periodic reports on each phase of progress under approved compliance schedules. Failure at any phase to make diligent and reasonable progress toward compliance with the approved compliance schedule is an unreasonable delay and subjects the operator of the stationary source to administrative fines as provided in NAC 445B.281.

4. In approving compliance schedules, the Commission will take into consideration the social and economic effect of the schedule, including, but not limited to, its effect on the availability of fuels, energy, transportation and employment.

**Sec. 13.** NAC 445B.275 is hereby amended to read as follows:

445B.275 1. Failure to comply with any requirement of NAC 445B.001 to ~~445B.3791~~ **445B.3689**, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

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

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

(c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

(d) Commencing construction or modification of a stationary source without applying for and receiving an operating permit or a modification of an operating permit as required by NAC 445B.001 to ~~445B.3791~~ **445B.3689**, inclusive, or a mercury operating permit to construct as required by NAC 445B.3611 to 445B.3689, inclusive;

(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 445B.327 or 445B.3689.

2. The written notice must specify the provision of NAC 445B.001 to ~~445B.3791~~ **445B.3689**, inclusive, 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. 14.** NAC 445B.277 is hereby amended to read as follows:

445B.277 1. The Director shall issue a stop order 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 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 stationary source into compliance with NAC 445B.001 to ~~445B.3791~~ **445B.3689**, inclusive.

2. A stop order 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 445B.001 to ~~445B.3791~~ **445B.3689**, inclusive, 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. 15.** NAC 445B.281 is hereby amended to read as follows:

445B.281 1. Except as otherwise provided in NAC 445B.001 to ~~445B.3791~~ **445B.3689**, inclusive, any violation of the provisions of those sections is classified as a major violation, and a fine up to \$10,000 per day per violation may be levied.

2. For Class II and Class III sources violations of NAC ~~445B.22037~~, 445B.22067, 445B.2207, 445B.22087, subsections 3 and 4 of NAC 445B.232, subsection 8 of NAC 445B.252, subsection 2 of NAC 445B.265, paragraph (e) of subsection 1 of NAC 445B.275 and NAC 445B.331 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
NAC 445B.22037, fugitive dust.....	<u>\$500</u>	<u>\$1,000</u>	<u>\$2,000</u>
NAC 445B.22067, open burning.....	250	500	<u>1,000</u>
NAC 445B.2207 incinerator burning.....	250	500	<u>1,000</u>
NAC 445B.22087, odors.....	250	500	<u>1,000</u>
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions.....	250	500	<u>1,000</u>
Subsection 8 of NAC 445B.252, testing and sampling reporting.....	250	500	<u>1,000</u>
Subsection 2 of NAC 445B.265, reporting of monitoring systems.....	250	500	<u>1,000</u>
Paragraph (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	250	500	<u>1,000</u>
NAC 445B.331, change of location.....	250	500	<u>1,000</u>

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

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

(a) If a stationary source is a Class I source:

(1) A revision of the operating permit or the permit to construct is required pursuant to the requirements of NAC 445B.3425, 445B.344 or 445B.3441 before the stationary source may be modified; or

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

↳ as appropriate.

(b) If a stationary source is a Class II source, a revision of the operating permit or the permit to construct is required pursuant to the requirements of NAC 445B.3465 before the stationary source may be modified.

(c) If a stationary source is a Class III source, a revision of the operating permit is required pursuant to the requirements of NAC 445B.3493 before the stationary source may be modified.

(d) If a stationary source maintains one or more thermal units that emit mercury, the owner or operator of a thermal unit that emits mercury shall comply with the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive.

~~{(e) If a mercury budget source maintains one or more mercury budget units, the owner or operator of a mercury budget unit shall comply with the provisions set forth in NAC 445B.3711 to 445B.3791, inclusive.}~~

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

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

4. As used in this section:

(a) ~~{“Mercury budget unit” has the meaning ascribed to it in NAC 445B.3739.}~~

~~(b) “Operator” has the meaning ascribed to it in NAC 445B.3749 with respect to a CAMR operating permit to construct.~~

~~(c) “Owner” has the meaning ascribed to it in NAC 445B.3753 with respect to a CAMR operating permit to construct}~~

~~(d)~~ “Permit to construct” means a document issued and signed by the Director before November 1, 1995, certifying that:

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

(2) All portions of NAC 445B.305 to 445B.314, inclusive, and 445B.3395, and any other provisions of NAC 445B.001 to ~~{445B.3791}~~ **445B.3689**, inclusive, have been complied with and constitute approval of location and for construction.

~~{(e)}~~ **(b)** “Thermal unit that emits mercury” has the meaning ascribed to it in NAC 445B.3643.

**Sec. 17.** NAC 445B.2978 is hereby amended to read as follows:

**445B.298** Except as otherwise provided in NAC 445B.3364, 445B.3395, 445B.3457, 445B.3487, *or* 445B.3683 ~~[or 445B.3769]~~, the official date of submittal of an application for:

1. An operating permit;
2. An operating permit to construct;
3. A revision of an existing operating permit; or
4. A revision of an existing operating permit to construct,

↪ is the date on which the Director determines that the application is complete.

**Sec. 18.** NAC 445B.305 is hereby amended to read as follows:

445B. The Director may impose standards for emissions on a proposed stationary source that are more stringent than those found in NAC 445B.001 to ~~[445B.3791]~~ **445B.3689**, inclusive, as a condition of approving an operating permit for the proposed stationary source.

**Sec. 19.** NAC 445B.325 is hereby amended to read as follows:

445B.325 1. ~~[Except as otherwise provided in subsection 2, a]~~ 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 not later than 18 months after the effective date of the applicable requirement.

2. ~~[A Class I operating permit is not required to be reopened for a mercury budget unit. The owner or operator of a mercury budget unit shall comply with the provisions of NAC 445B.3711 to 445B.3791, inclusive. As used in this subsection:~~

~~(a) "Mercury budget unit" has the meaning ascribed to it in NAC 445B.3739.~~

~~(b) "Operator" has the meaning ascribed to it in NAC 445B.3749.~~

~~(c) "Owner" has the meaning ascribed to it in NAC 445B.3753.~~

~~3]~~ An operating permit may be terminated, reopened and revised, revised, 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 445B.001 to ~~[445B.3791]~~ **445B.3689**, inclusive, any applicable requirement, or any condition contained in the operating permit.

~~[4.]~~ **3.** The Director shall notify the holder of the operating permit at least 30 days before he terminates, reopens and revises, revises, 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.

~~[5.]~~ **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 revision of, or the revocation and reissuance of the operating permit within 90 days after receipt of the notice from the Administrator.

~~[6.]~~ 5. If the Director reopens an operating permit, he shall revise only those portions of the operating permit for which cause exists.

~~[7.]~~ 6. The reopening of an operating permit pursuant to this section must comply with all of the relevant requirements for the issuance or revision of a permit, including the requirements related to the content of the permit and the requirements for notice, public participation and comment, and a review by any affected states.

**Sec. 20.** NAC 445B.3265 is hereby amended to read as follows:

445B.3265 1. An operating permit may be revoked if the control equipment is not operating.

2. An operating permit may be revoked by the Director upon determining that there has been a violation of NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive, or the provisions of 40 C.F.R. § 52.21, or 40 C.F.R. Part 60 or 61, Prevention of Significant Deterioration, New Source Performance Standards, and National Emission Standards for Hazardous Air Pollutants, adopted by reference in NAC 445B.221.

3. The revocation is effective 10 days after the service of a written notice, unless a hearing is requested.

4. To reissue a revoked operating permit, the holder of the revoked permit must file a new application with the Director, accompanied by the fee for an initial operating permit as specified in NAC 445B.327. An environmental review of the stationary source must be conducted as though construction had not yet commenced.

**Sec. 21.** NAC 445B.3361 is hereby amended to read as follows:

**445B.3361** 1. To establish a new Class I stationary source or modify an existing Class I stationary source, the owner or operator of a proposed new Class I stationary source or the existing Class I stationary source must:

(a) Apply for and obtain a new or revised:

(1) Operating permit to construct pursuant to NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive; or

(2) Class I operating permit pursuant to NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive; *and*

(b) If the owner or operator of the Class I stationary source operates a thermal unit that emits mercury, apply for and obtain a new or revised mercury operating permit to construct for the thermal unit that emits mercury and comply with the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive~~[- and~~

~~(c) If the owner or operator of the Class I stationary source operates a mercury budget unit, apply for and obtain a CAMR operating permit to construct or revised CAMR operating permit to construct and comply with the provisions of NAC 445B.3711 to 445B.3791, inclusive}.~~

2. To establish a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the approval of the plantwide applicability limitation pursuant to NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive. To revise or renew a Class I operating permit to construct for the approval of a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a revised or renewed Class I operating permit to construct for the approval of a plantwide applicability limitation pursuant to NAC 445B.001 to ~~[445B.3791]~~ 445B.3689, inclusive.

3. Except as otherwise provided in subsection 5, if an owner or operator obtains an operating permit to construct, the owner or operator is not required to obtain an operating permit or revised operating permit before commencing initial construction, start-up and operation of the proposed new Class I stationary source or the modification to the existing Class I stationary source.

4. Except as otherwise provided in this subsection and subsections 5 and 6, if an owner or operator has a valid operating permit to construct, the owner or operator may continue to operate a new Class I stationary source or modifications to an existing Class I stationary source under that operating permit to construct if the owner or operator submits a complete application for a Class I operating permit within 12 months after the date of initial start-up of the new Class I stationary source or modifications to the existing Class I stationary source. The provisions of this subsection do not apply to a Class I operating permit to construct for the approval of a plantwide applicability limitation.

5. If the conditions of an existing Class I operating permit would prohibit the construction or change in operation of the existing Class I stationary source and the owner or operator is not seeking to revise the Class I operating permit at the Class I stationary source pursuant to subparagraph (2) of paragraph (a) of subsection 1, the owner or operator must concurrently:

(a) For the construction or change in operation of the existing Class I stationary source:

(1) Obtain a Class I operating permit to construct; or

(2) If the construction or change in operation involves mercury emissions from a thermal unit that emits mercury, obtain a mercury operating permit to construct pursuant to NAC 445B.3611 to 445B.3689, inclusive; and

(b) Obtain an administrative revision to an operating permit to incorporate the conditions of the Class I operating permit to construct into the existing Class I operating permit pursuant to NAC 445B.3441 before commencing with the construction or change in operation of the existing Class I stationary source.

6. If an owner or operator has a valid~~[(a) M]~~ mercury operating permit to construct, the owner or operator may continue to operate the thermal unit that emits mercury which is located at an existing Class I stationary source if the owner or operator submits a complete application to revise the existing Class I operating permit within 12 months after the determination of the NvMACT contained in the mercury operating permit to construct by the Director.

~~[(b) CAMR operating permit to construct, the owner or operator may continue to operate the mercury budget unit located at an existing Class I stationary source:~~

~~(1) If the owner or operator of an existing mercury budget unit submits a complete application to revise the existing Class I operating permit on or before January 1, 2010; or~~

~~(2) If the owner or operator of a new mercury budget unit submits a complete application at the time the owner or operator is required to file the initial Class I operating permit application.]~~

7. As used in this section:

(a) ~~["CAMR operating permit to construct" has the meaning ascribed to it in NAC 445B.3713.~~

~~(b) "Existing mercury budget unit" has the meaning ascribed to it in NAC 445B.3723.~~

~~(c) "Mercury budget unit" has the meaning ascribed to it in NAC 445B.3739.~~

~~(d) "Mercury emissions" has the meaning ascribed to it in NAC 445B.3623.~~

~~[(e)] (b) "Mercury operating permit to construct" has the meaning ascribed to it in NAC 445B.3625.~~

~~[(f) "New mercury budget unit" has the meaning ascribed to it in NAC 445B.3745.~~

~~(g)~~ (c) “NvMACT” has the meaning ascribed to it in NAC 445B.3629.

~~(h)~~ (d) “Thermal unit that emits mercury” has the meaning ascribed to it in NAC 445B.3643.

**Section 22.** NAC 445B.3711, 445B.3713, 445B.3715, 445B.3717, 445B.3719, 445B.3721, 445B.3723, 445B.3725, 445B.3727, 445B.3729, 445B.3731, 445B.3733, 445B.3735, 445B.3737, 445B.3739, 445B.3741, 445B.3743, 445B.3745, 445B.3747, 445B.3749, 445B.3751, 445B.3753, 445B.3755, 445B.3757, 445B.3759, 445B.3761, 445B.3763, 445B.3765, 445B.3767, 445B.3769, 445B.3771, 445B.3773, 445B.3775, 445B.3777, 445B.3779, 445B.3781, 445B.3783, 445B.3785, 445B.3787, 445B.3789, and 445B.3791 are hereby repealed.

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## TEXT OF REPEALED SECTIONS

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**445B.3711 Definitions. (NRS 445B.210, 445B.300)** As used in NAC 445B.3711 to 445B.3791, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.3713 to 445B.3763, inclusive, have the meanings ascribed to them in those sections.

**445B.3713 “Clean Air Mercury Rule operating permit to construct” and “CAMR operating permit to construct” defined. (NRS 445B.210, 445B.300)** “Clean Air Mercury Rule operating permit to construct,” abbreviated as “CAMR operating permit to construct,” means a legally binding document that is issued by the Director pursuant to NAC 445B.3769, including, without limitation, a permit revision, specifying the requirements of the mercury budget trading program which are applicable to:

1. A mercury budget source;
2. Each mercury budget unit at the mercury budget source; and
3. The owners, operators and mercury designated representatives of the mercury budget source and of each mercury budget unit at the mercury budget source.

**445B.3715 “Compliance account” defined. (NRS 445B.210, 445B.300)** “Compliance account” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3717 “Control period” defined. (NRS 445B.210, 445B.300)** “Control period” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3719 “Emissions” defined. (NRS 445B.210, 445B.300)** “Emissions” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3721 “Excess emissions” defined. (NRS 445B.210, 445B.300)** “Excess emissions” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3723 “Existing mercury budget unit” defined. (NRS 445B.210, 445B.300)** “Existing mercury budget unit” means a mercury budget unit that commenced construction or reconstruction on or before January 30, 2004.

**445B.3725 “Low emitting unit/Integrated gasification combined cycle allocation account” and “LEU/IGCC allocation account” defined. (NRS 445B.210, 445B.300)** “Low emitting unit/Integrated gasification combined cycle allocation account,” abbreviated as “LEU/IGCC allocation account,” means a mercury allowance tracking system account for a mercury budget unit which meets the criteria set forth in subsection 2 of NAC 445B.3787.

**445B.3727 “Mercury allowance” defined. (NRS 445B.210, 445B.300)** “Mercury allowance” means an “Hg allowance” as defined in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3729 “Mercury allowance tracking system” defined. (NRS 445B.210, 445B.300)** “Mercury allowance tracking system” means an “Hg Allowance Tracking System” as defined in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3731 “Mercury allowance tracking system account” defined. (NRS 445B.210, 445B.300)** “Mercury allowance tracking system account” means an “Hg Allowance Tracking System account” as defined in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3733 “Mercury baseline emission period” defined. (NRS 445B.210, 445B.300)** “Mercury baseline emission period” means a period of operation of a new mercury budget unit of 36 consecutive months determined from measured emissions from the new mercury budget unit.

**445B.3735 “Mercury budget source” defined. (NRS 445B.210, 445B.300)** “Mercury budget source” means an “Hg Budget source” as defined in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3737 “Mercury budget trading program” defined. (NRS 445B.210, 445B.300)** “Mercury budget trading program” means an “Hg Budget Trading Program” as defined in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3739 “Mercury budget unit” defined. (NRS 445B.210, 445B.300)** “Mercury budget unit” means an “Hg Budget unit” as defined in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3741 “Mercury designated representative” defined. (NRS 445B.210, 445B.300)** “Mercury designated representative” means an “Hg designated representative” as defined in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3743 “Monitoring system” defined. (NRS 445B.210, 445B.300)** “Monitoring system” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3745 “New mercury budget unit” defined. (NRS 445B.210, 445B.300)** “New mercury budget unit” means a mercury budget unit that commenced construction or reconstruction after January 30, 2004.

**445B.3747 “New source allocation account” defined. (NRS 445B.210, 445B.300)** “New source allocation account” means a mercury allowance tracking system account for a mercury budget unit that has not established a mercury baseline emission period.

**445B.3749 “Operator” defined. (NRS 445B.210, 445B.300)** “Operator” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3751 “Ounce” defined. (NRS 445B.210, 445B.300)** “Ounce” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3753 “Owner” defined. (NRS 445B.210, 445B.300)** “Owner” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3755 “Recordation” and “recorded” defined. (NRS 445B.210, 445B.300)** “Recordation” or “recorded” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3757 “Source” defined. (NRS 445B.210, 445B.300)** “Source” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3759 “Special allocation account” defined. (NRS 445B.210, 445B.300)** “Special allocation account” means a mercury allowance tracking system account in which mercury allowances that are not otherwise allocated are recorded for a control period.

**445B.3761 “Unit” defined. (NRS 445B.210, 445B.300)** “Unit” has the meaning ascribed to it in 40 C.F.R. § 60.4102, as adopted by reference in NAC 445B.221.

**445B.3763 CAMR operating permit to construct: Duties of owner or operator of mercury budget source. (NRS 445B.210, 445B.300)** In addition to obtaining a Class I, Class II or Class III operating permit as required pursuant to NAC 445B.287 to 445B.3497, inclusive, an owner or operator of a mercury budget source that has a new mercury budget unit or existing mercury budget unit shall:

1. Submit to the Director, on a form provided by the Director, an application for a CAMR operating permit to construct for the mercury budget unit on or before July 1, 2008, or 18 months before the date on which the mercury budget unit commences operation, whichever occurs later; and

2. Obtain a CAMR operating permit to construct for the mercury budget unit.

**445B.3765 CAMR operating permit to construct: Application for revision. (NRS 445B.210, 445B.300)** An owner or operator of a mercury budget source who has a CAMR operating permit to construct may submit to the Director, on a form provided by the Director, an application for a revision of the CAMR operating permit to construct.

**445B.3767 CAMR operating permit to construct: Contents of applications. (NRS 445B.210, 445B.300)** An application for a CAMR operating permit to construct submitted pursuant to NAC 445B.3763 or an application for a revision of a CAMR operating permit to construct submitted pursuant to NAC 445B.3765 must include, without limitation:

1. Information to identify the applicant, including, without limitation:
  - (a) The name and address of the company that is applying for the CAMR operating permit to construct or revision of a CAMR operating permit to construct, or the name and address of the mercury budget source if it is different from the name and address of the company;
  - (b) The name of the owner of the company and his agent; and
  - (c) The name and telephone number of the manager of the mercury budget source or another appropriate person to contact;
2. An identification of each mercury budget unit located at the mercury budget source;
3. The location of any records that the applicant must keep pursuant to the requirements of the CAMR operating permit to construct, if the records are kept at a location other than the emitting mercury budget source;
4. A mercury monitoring plan, the content of which is consistent with the appropriate provisions of 40 C.F.R. Parts 60 and 75; and
5. Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

**445B.3769 CAMR operating permit to construct: Action by Director on applications. (NRS 445B.210, 445B.300)**

1. Within 30 days after the date of receipt of an application for a CAMR operating permit to construct or an application for a revision of a CAMR operating permit to construct, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. The official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt, whichever occurs earlier.

2. If, after the official date of submittal of an application pursuant to subsection 1, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed construction or operation will comply with all of the requirements set forth in NAC 445B.3711 to 445B.3791, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified by the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

3. Within 12 months after the official date of submittal of an application for a CAMR operating permit to construct or an application for revision of a CAMR operating permit to construct, the Director shall issue or deny the CAMR operating permit to construct or the proposed revision of a CAMR operating permit to construct.

**445B.3771 CAMR operating permit to construct: Contents; noncompliance with conditions. (NRS 445B.210, 445B.300)** For each mercury budget unit:

1. Described in a CAMR operating permit to construct, the Director shall cite the legal authority for each condition contained in the CAMR operating permit to construct.

2. The CAMR operating permit to construct for the mercury budget unit must contain the following conditions:

(a) Each of the conditions and requirements of the CAMR operating permit to construct is severable, and if any is held invalid, the remaining conditions and requirements continue in effect.

(b) The holder of the CAMR operating permit to construct must comply with all conditions of the CAMR operating permit to construct. Any noncompliance constitutes a violation and is a ground for:

(1) An action for noncompliance;

(2) The revoking and reissuing, or the terminating, of the CAMR operating permit to construct by the Director; or

(3) The reopening or revising of the CAMR operating permit to construct by the holder of the CAMR operating permit to construct as directed by the Director.

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

(d) The Director may revise, revoke and reissue, reopen or terminate the CAMR operating permit to construct for cause.

(e) The CAMR operating permit to construct does not convey any property rights or any exclusive privilege.

(f) The holder of the CAMR operating permit to construct shall provide the Director, in writing and within a reasonable time, with any information that the Director requests to determine whether cause exists for revoking or terminating the CAMR operating permit to construct, or to determine compliance with the conditions of the CAMR operating permit to construct.

(g) The holder of the CAMR operating permit to construct shall allow the Director or any authorized representative of the Director, upon presentation of credentials, to:

(1) Enter upon the premises of the holder of the CAMR operating permit to construct where:

(I) The mercury budget unit is located;

(II) Activity related to the mercury budget unit is conducted; or

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

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

(3) Inspect, at reasonable times, any facilities, practices, operations or equipment, including, without limitation, any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the CAMR operating permit to construct; and

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

(h) A mercury designated representative of the mercury budget source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any

document required to be submitted pursuant to any condition of the CAMR operating permit to construct are true, accurate and complete.

(i) The owners and operators, and the mercury designated representative, of each mercury budget source and each mercury budget unit at the mercury budget source shall comply with the monitoring, reporting and recordkeeping requirements of 40 C.F.R. §§ 60.4170 to 60.4176, inclusive. The emissions measurements recorded and reported in accordance with 40 C.F.R. §§ 60.4170 to 60.4176, inclusive, must be used to determine compliance by each mercury budget source with the mercury budget emissions limitations set forth in paragraphs (j) to (o), inclusive.

(j) Not later than the deadline for allowance transfer for a control period, the owners and operators of each mercury budget source and each mercury budget unit at the mercury budget source shall hold, in the mercury budget source's compliance account, mercury allowances available for compliance deductions for the control period under 40 C.F.R. § 60.4154(b) in an amount not less than the ounces of total mercury emissions for the control period from all mercury budget units at the mercury budget source, as determined in accordance with 40 C.F.R. §§ 60.4170 to 60.4176, inclusive.

(k) A mercury budget unit is subject to the requirements of paragraph (j) beginning on January 1, 2010, or the deadline for meeting the unit's monitor certification requirements under 40 C.F.R. § 60.4170(b)(1) or (2), whichever occurs later.

(l) A mercury allowance must not be deducted for compliance with the requirements of paragraph (j) for a control period in a calendar year before the year for which the mercury allowance was allocated.

(m) Mercury allowances must be held in, deducted from or transferred into or among mercury allowance tracking system accounts in accordance with 40 C.F.R. §§ 60.4160, 60.4161 and 60.4162.

(n) A mercury allowance is a limited authorization to emit 1 ounce of mercury in accordance with the mercury budget trading program. No provision of the mercury budget trading program, the application for a CAMR operating permit to construct, the CAMR operating permit to construct, an exemption under 40 C.F.R. § 60.4105 or any provision of law shall be construed to limit the authority of this State or the United States to terminate or limit such authorization.

(o) Upon recordation by the Administrator pursuant to 40 C.F.R. §§ 60.4150 to 60.4162, inclusive, every allocation or transfer of a mercury allowance to or deduction of a mercury allowance from the compliance account of a mercury budget unit is incorporated automatically into any CAMR operating permit to construct of the mercury budget source that includes the mercury budget unit.

(p) If a mercury budget source emits mercury during any control period in excess of the mercury budget emissions limitation:

(1) The owners and operators of the mercury budget source and each mercury budget unit at the mercury budget source shall surrender the mercury allowances required for deduction pursuant to 40 C.F.R. § 60.4154(d)(1) and pay any fine, penalty or assessment or comply with any other remedy imposed, for the same violation of the mercury budget emissions limitation under the Act or applicable state law; and

(2) Each ounce of such excess emissions and each day of such control period constitutes a separate violation of 40 C.F.R. Part 60, Subpart HHHH, the Act and applicable state law.

(q) Unless otherwise provided, the owners and operators of the mercury budget source and each mercury budget unit at the mercury budget source shall keep on-site at the mercury budget source each of the documents described in subparagraphs (1) to (4), inclusive, for a period of 5

years after the date on which the document is created. This period may be extended for cause, at any time before the end of the 5-year period, in writing by the Director or the Administrator. The owners and operators of the mercury budget source and each mercury budget unit at the mercury budget source shall keep on-site at the mercury budget source:

(1) The certificate of representation issued pursuant to 40 C.F.R. § 60.4113 for the mercury designated representative for the mercury budget source and each mercury budget unit at the mercury budget source and documents that demonstrate the truth of the statements in the certificate of representation, provided that the certificate and documents must be retained on-site at the mercury budget source beyond the 5-year period described in this paragraph until such documents are superseded because of the submission of a new certificate of representation pursuant to 40 C.F.R. § 60.4113 changing the mercury designated representative.

(2) All emissions monitoring information required by 40 C.F.R. §§ 60.4170 to 60.4176, inclusive, provided that to the extent that 40 C.F.R. §§ 60.4170 to 60.4176, inclusive, provide for a 3-year period for recordkeeping, the 3-year period will apply.

(3) Copies of all reports, compliance certifications and other submissions, and all records made or required pursuant to the provisions of the mercury budget trading program.

(4) Copies of all documents used to complete an application for a CAMR operating permit to construct and any other submission under the mercury budget trading program or to demonstrate compliance with the requirements of the mercury budget trading program.

(r) The mercury designated representative of a mercury budget source and each mercury budget unit at the mercury budget source must submit the reports required by the mercury budget trading program, including, without limitation, those reports required pursuant to 40 C.F.R. §§ 60.4170 to 60.4176, inclusive.

(s) Each mercury budget source and each mercury budget unit at the mercury budget source must meet the requirements of the mercury budget trading program regarding liability, including, without limitation, that:

(1) Any provision of the mercury budget trading program regarding liability that applies to a mercury budget source or the mercury designated representative of a mercury budget source must also apply to the owners and operators of such source and of the mercury budget units at the mercury budget source; and

(2) Any provision of the mercury budget trading program regarding liability that applies to a mercury budget unit or the mercury designated representative of a mercury budget unit must also apply to the owners and operators of such unit.

(t) No provision of the mercury budget trading program, an application for a CAMR operating permit to construct, a CAMR operating permit to construct or an exemption under 40 C.F.R. § 60.4105 shall be construed as exempting or excluding the owners and operators and the mercury designated representative of a mercury budget source or mercury budget unit at the mercury budget source from compliance with any other provision of the applicable state implementation plan, a federally enforceable permit or the Act.

(u) The owner or operator of the mercury budget unit shall comply with the mercury monitoring plan which is required to be submitted pursuant to subsection 4 of NAC 445B.3767.

(v) Any other requirements which the Director determines are necessary.

**445B.3773 CAMR operating permit to construct: Expiration. (NRS 445B.210, 445B.300)** For a new mercury budget unit or a modified mercury budget unit:

1. Except as otherwise provided in this subsection, if construction will occur in one phase, a CAMR operating permit to construct for a new mercury budget unit or modified mercury budget unit expires if construction is not commenced within 18 months after the date of issuance of the permit or if construction of the mercury budget unit is delayed for at least 18 months after initiated. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

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

**445B.3775 Trading budgets for annual allocations of mercury allowances for Nevada. (NRS 445B.210, 445B.300)**

1. The trading budget for annual allocations of mercury allowances for Nevada for:

(a) Control periods 2010 to 2017, inclusive, is 0.285 tons (9120 ounces/allowances) per control period; and

(b) Control period 2018 and each control period thereafter, is 0.112 tons (3584 ounces/allowances) per control period.

2. The Director shall not allocate mercury allowances in excess of the trading budget allowances for Nevada as set forth in subsection 1.

**445B.3777 Director: Submission of mercury allowance allocations to Administrator. (NRS 445B.210, 445B.300)** The Director shall submit to the Administrator the mercury allowance allocations, in a format prescribed by the Administrator and in accordance with NAC 445B.3781, for:

1. Control periods 2010, 2011 and 2012, by November 17, 2006; and

2. Control period 2013 and each control period thereafter, by October 31, 2009, and October 31 of each year thereafter, respectively, for each mercury budget unit that has established a mercury baseline emissions period.

**445B.3779 Director: Establishment of certain mercury allowance tracking system accounts; notification of Administrator of allocation distribution for each control period. (NRS 445B.210, 445B.300)**

1. The Director shall establish the mercury allowance tracking system accounts as follows:

(a) For a new source allocation account:

(1) For control periods 2010 to 2017, inclusive, 800 mercury allowances; and

(2) For control period 2018 and each control period thereafter, 112 mercury allowances.

(b) For a LEU/IGCC allocation account:

(1) For control periods 2010 to 2017, inclusive, 3,200 mercury allowances; and

(2) For control period 2018 and each control period thereafter, 112 mercury allowances.

(c) For a special allocation account, for control period 2010 and each control period thereafter, all allowances not otherwise allocated pursuant to paragraphs (a) and (b) and NAC 445B.3781.

2. The Director shall notify the Administrator of the allocation distribution for each control period.

**445B.3781 Director: Determination of mercury allowance allocations for certain mercury budget units. (NRS 445B.210, 445B.300)**

1. For control periods 2010, 2011 and 2012, the Director shall determine the mercury allowance allocation for each mercury budget unit that commenced operation before January 1, 2001, based on:

(a) Mercury emissions factors determined from testing performed at the mercury budget source;

(b) The highest calendar year of gross megawatts output achieved by each mercury budget unit for control periods 2003, 2004 and 2005; and

(c) The corresponding capacity factor for the year determined from paragraph (b), as reported to the Public Utilities Commission of Nevada.

2. For control period 2013 and each control period thereafter, the Director shall determine the mercury allowance allocation for each mercury budget unit that commenced operation before January 1, 2001, and any other mercury budget unit that has established a mercury baseline emission period, based on actual mercury emissions data measured and as reported for each mercury budget unit for control period 2009 and each year thereafter and:

(a) Each mercury budget unit's capacity factors, as contained in the resource plan approved by the Public Utilities Commission of Nevada; or

(b) An 80 percent capacity factor for a mercury budget unit that does not have a resource plan approved by the Public Utilities Commission of Nevada.

3. If necessary, the allocation will be prorated with other mercury budget units that have established a mercury baseline emission period using the total gross megawatts for the preceding 36-month period of operation.

4. The Director shall not allocate mercury allowances to any mercury budget source or mercury budget unit that is permanently retired and that is exempted under 40 C.F.R. § 60.4105(a), or which has an expired CAMR operating permit to construct.

5. As used in this section, "resource plan" has the meaning ascribed to it in NAC 704.9156.

**445B.3783 Annual requests for certain transfers between mercury allowance tracking system accounts; mercury allowances for certain pollution control projects. (NRS 445B.210, 445B.300)**

1. Except as otherwise provided in subsection 4, on or before 15 business days before June 1, 2011, and June 1 of each year thereafter, for each mercury budget source that has been provided allocations in excess of the total actual emissions for all mercury budget units at the mercury budget source for the preceding control period, the mercury designated representative shall submit a request to the Administrator to transfer from the compliance account of the mercury budget source to the LEU/IGCC allocation account the amount of mercury allowances that exceeds actual mercury emissions from all mercury budget units at the mercury budget source.

2. On or before 5 business days before February 28, 2011, and February 28 of each year thereafter, for each mercury budget source that has been allocated mercury allowances in an amount less than that of the total actual emissions for all mercury budget units at the mercury budget source for the preceding control period, the Director shall submit a request to the Administrator to transfer from the special allocation account to the compliance account of the

mercury budget source the amount of mercury allowances necessary to balance the mercury budget source's actual mercury emissions for the control period. If the amount of mercury allowances in the special allocation account is less than the balance necessary to equal the actual mercury emissions from all the mercury budget sources for the control period, the Director shall prorate mercury allowances using the total gross megawatts from all eligible mercury budget units for the control period.

3. The Director shall not allocate mercury allowances to any mercury budget unit to cover allowances needed by the mercury budget source pursuant to 40 C.F.R. § 60.4154(d).

4. A mercury budget source may retain allocations in excess of the total actual emissions that result from the voluntary installation and operation of pollution control equipment or enhancement of operation of process equipment which results in mercury emissions reductions. Mercury allowances will be allocated only for the control period in which the pollution control equipment began operating or an enhancement to the process equipment occurred. The retention of mercury allowances will not be allowed for pollution control projects resulting from a settlement for noncompliance with any local, state or federal regulatory proceeding.

**445B.3785 Requests for mercury allowance allocations for new source allocation accounts; annual requests for certain transfers between mercury allowance tracking system accounts; administration of certain unallocated allowances from new source allocation accounts. (NRS 445B.210, 445B.300)**

1. For each new source allocation account, the mercury designated representative of a mercury budget source shall submit, in a format specified by the Director, a request to the Director for mercury allowance allocations starting with control period 2010 or the control period in which a new mercury budget unit commences commercial operation, whichever occurs later, until the first control period after the mercury budget source has established a mercury baseline emission period for which the unit is allocated mercury allowances under NAC 445B.3783. The mercury allowance allocation request must be based on an 80 percent capacity factor. The mercury allowance allocation request must be submitted on or before July 1 of the first control period for which the mercury allowances are requested and after the date on which the mercury budget unit commences commercial operation.

2. In reviewing each mercury allowance allocation requested pursuant to subsection 1, the Director shall:

(a) Accept an allowance allocation request only if the request meets, or is adjusted by the Director as necessary to meet, the requirements of subsection 1.

(b) Determine the sum of the mercury allowances requested in all allowance allocation requests accepted pursuant to paragraph (a) for the control period. If the number of mercury allowances in the new source allocation account is:

(1) Equal to or greater than the sum of mercury allowances requested, the Director shall allocate to the mercury budget source a number of mercury allowances equal to the number requested.

(2) Less than the sum of mercury allowances requested, the Director shall allocate mercury allowances to the mercury budget source on a prorated basis, using the total gross megawatts from all eligible mercury budget units for the preceding control period.

(c) Notify each mercury designated representative of a mercury budget source that submitted an allowance allocation request of the amount of mercury allowances allocated for the control period to the mercury budget source for each new mercury budget unit covered by the request.

3. On or before 15 business days before June 1, 2011, and June 1 of each year thereafter, for each mercury budget source that has been provided allocations in excess of the total actual emissions for all new mercury budget units at the mercury budget source for the preceding control period, the mercury designated representative shall submit a request to the Administrator to transfer from the compliance account of the mercury budget source to the LEU/IGCC allocation account the amount of allocations that exceeds actual mercury emissions from all new mercury budget units at the mercury budget source.

4. On or before 5 business days before February 28, 2011, and February 28 of each year thereafter, for each mercury budget source that has been provided allocations in an amount less than that of the total actual emissions for all new mercury budget units at the mercury budget source for the preceding control period, the Director shall submit a request to the Administrator to transfer from the special allocation account to the compliance account of the mercury budget source the amount of allocations necessary to balance the mercury budget source's actual mercury emissions for the control period.

5. On or before October 31, 2010, and October 31 of each year thereafter, the Director shall submit a request to the Administrator to transfer the number of mercury allowances determined in paragraph (b) of subsection 2 from the new source allocation account to the compliance account of each mercury budget source.

6. The Director shall not allocate mercury allowances to any mercury budget unit to cover allowances needed by the mercury budget source pursuant to 40 C.F.R. § 60.4154(d).

7. Mercury allowances not transferred pursuant to subsection 5 will accrue for control periods 2010 to 2017, inclusive. On or before February 1, 2018, the Director shall submit a request to the Administrator to transfer all remaining unallocated allowances for control periods 2010 to 2017, inclusive, to the LEU/IGCC allocation account.

8. For control period 2018 and each year thereafter, mercury allowances not transferred pursuant to subsection 5 will accrue in the new source allocation account until allocated pursuant to subsection 2.

**445B.3787 Distribution of mercury allowances from LEU/IGCC allocation accounts for mercury budget units qualifying as level I or level II mercury emission units; periodic reevaluation of LEU/IGCC allocation account emission rates. (NRS 445B.210, 445B.300)**

1. The mercury designated representative of a mercury budget unit qualifying as a level I or level II mercury emission unit pursuant to the provisions of subsection 2 may submit, in a format specified by the Director, an application to the Director requesting mercury allowances from the LEU/IGCC allocation account for each qualifying mercury budget unit, on or before February 1 of the calendar year following the applicable control period.

2. The Director must accept a request for mercury allowances from the LEU/IGCC allocation account made pursuant to subsection 1 if the mercury budget unit meets the following level I or level II criteria requirements during the applicable control period:

Level I mercury budget unit	
For existing mercury budget units operated on the following fuels:	Mercury emission rate not to exceed:
Bituminous coal	$21 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with wet FGD	$61 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with dry FGD	$61 \times 10^{-6}$ lb/MWh

For new mercury budget units operated on the following fuels:	
Bituminous coal	$6 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with wet FGD	$20 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with dry FGD	$20 \times 10^{-6}$ lb/MWh
IGCC (coal gasification) technology	$20 \times 10^{-6}$ lb/MWh
Level II mercury budget unit	
For existing mercury budget units operated on the following fuels:	Mercury emission rate not to exceed:
Bituminous coal	$24 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with wet FGD	$66 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with dry FGD	$97 \times 10^{-6}$ lb/MWh
For new mercury budget units operated on the following fuels:	
Bituminous coal	$16 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with wet FGD	$53 \times 10^{-6}$ lb/MWh
Sub-bituminous coal with dry FGD	$78 \times 10^{-6}$ lb/MWh

3. On or before 15 business days before June 1 of the year following the applicable control period, the Director shall submit a request to the Administrator to transfer mercury allowances for the previous control period as determined in accordance with subsections 4 and 5. Emission rates must be verified through certified monitoring systems and relevant plant records as set forth in the mercury monitoring plan pursuant to subsection 4 of NAC 445B.3767.

4. First priority for distribution of allowances from the LEU/IGCC allocation account must be provided to mercury budget units qualifying as level I units. The mercury allowance distribution must be based on the actual mercury emissions for the prior control period of the qualifying level I unit. If sufficient mercury allowances are not available in the LEU/IGCC allocation account to cover all level I allocation requests, the Director shall prorate mercury allowances using the total gross megawatts for the preceding control period for all qualifying level I units. In no case will mercury allowance distributions exceed the actual emissions of the qualifying level I mercury emission unit.

5. Mercury budget units qualifying as level II units become eligible for any remaining unallocated allowances in the LEU/IGCC allocation account after the level I allocation distribution made pursuant to subsection 4. The mercury allowance distribution must be based on the actual mercury emissions for the prior control period of the qualifying level II unit. In this subsection, if sufficient mercury allowances are not available in the LEU/IGCC allocation account to cover all level II allocation requests, the Director shall prorate mercury allowances using the total gross megawatts for the preceding control period for all qualifying level II units. In no case will mercury allowance distributions exceed the actual emissions of the qualifying level II mercury emission unit.

6. Any unallocated allowances remaining in the LEU/IGCC allocation account after level I and level II allocation distributions are made pursuant to subsections 4 and 5 must be retained for the next control period.

7. The Director shall reevaluate the LEU/IGCC allocation account emission rates, as established pursuant to subsection 2, to determine if the emission rates established are

appropriate levels for the LEU/IGCC allocation account. The reevaluation must be conducted following control periods 2010, 2011 and 2012, and every 3 years thereafter.

8. If the owner or operator of an existing mercury budget unit installs pollution control equipment which results in mercury emissions reductions pursuant to an action for noncompliance with any local, state or federal requirement, that mercury budget unit will not qualify as a level I or II mercury budget unit.

9. As used in subsection 2:

(a) "FGD" means flue gas desulfurization.

(b) "MWh" means Megawatt hours.

**445B.3789 Mercury allowances in special allocation account: Authority of Director. (NRS 445B.210, 445B.300)** For mercury allowances in the special allocation account, the Director:

1. Shall allocate such mercury allowances in accordance with the provisions of NAC 445B.3781 to 445B.3787, inclusive.

2. May auction or offer for sale such mercury allowances, with the proceeds being deposited in the State General Fund for credit to the Account for the Management of Air Quality created pursuant to NRS 445B.590.

3. May bank for future use or permanently retire such mercury allowances.

**445B.3791 Fees; late penalty. (NRS 445B.210, 445B.300)**

1. The fee for a CAMR operating permit to construct or a revised CAMR operating permit to construct is \$2,000. An applicant must pay the entire fee when he submits the application to the Director pursuant to NAC 445B.3763 or 445B.3765.

2. The owner or operator of a mercury budget source must submit an annual maintenance fee for each mercury budget unit. The annual maintenance fee must be determined as follows:

(a) For the fiscal year ending on June 30, 2008, the fee for each mercury budget unit must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 300,000 by the total number of mercury budget units. The Director shall determine the total number of mercury budget units to be charged pursuant to this paragraph on or before May 1, 2007.

(b) For each fiscal year after the fiscal year ending on June 30, 2008, the fee for each mercury budget unit must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 250,000 by the total number of mercury budget units which have previously obtained a mercury operating permit to construct. The Director shall determine the total number of mercury budget units to be charged pursuant to this paragraph each year on or before May 1 of the immediately preceding fiscal year.

3. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to this section not later than July 1 of each year.

4. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay the annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late penalty must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning the annual fees.