

**ADOPTED REGULATION OF  
THE STATE ENVIRONMENTAL COMMISSION**

**LCB File No. R085-16**

Effective November 2, 2016

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

AUTHORITY: §§1-24, NRS 445B.210 and 445B.300.

A REGULATION relating to air pollution; revising certain definitions; revising permitting requirements for certain sources of air pollution; revising public notice requirements for certain permits; requiring the Director of the State Department of Conservation and Natural Resources to provide certain notice to owners and operators of stationary sources operating under Class III or Class IV operating permits; requiring such owners and operators to obtain a Class II operating permit or Class II general permit; making various other changes relating to air pollution; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution and to establish standards for air quality. (NRS 445B.210) Existing law also authorizes the Commission to adopt regulations requiring owners or operators of a source of air pollution to obtain operating permits for that source generally or within a specified class or classes. (NRS 445B.300) Existing regulations establish specified classes, which include Class I, Class II, Class III and Class IV sources and set forth the permitting requirements for such sources. (NAC 445B.001-445B.3526)

This regulation in part revises the existing classes by eliminating the permit requirement for the Class III and Class IV sources. **Section 23** of this regulation provides that an existing Class III and Class IV source which meets the revised Class II source definition must obtain a Class II operating permit or request authority to operate under a Class II general permit, as applicable. **Section 3** of this regulation revises the definition of a Class II source to include those sources which have the potential to emit equal to or greater than a specified level of certain pollutants. **Section 15** of this regulation eliminates the existing application fees for Class III and Class IV sources. **Sections 1, 4, 5, 7-14, 19, 21 and 24** of this regulation make conforming changes.

Under existing regulation, the owner or operator of a Class I source is required to file either a Class I-A application or a Class I-B application to obtain a Class I operating permit depending on whether the Class I source was an existing stationary source, a new stationary source or the modification or reconstruction of certain existing stationary sources. (NAC 445B.337,

445B.3375) **Section 2** of this regulation combines the Class I-A and Class I-B application into a Class I application. **Sections 6 and 16-18** of this regulation make conforming changes.

Under existing regulation, the Director of the State Department of Conservation and Natural Resources is required to give public notice of a preliminary determination to issue or deny a Class II operating permit for a stationary source that has not previously held a Class I or Class II operating permit or for the revision of a Class II operating permit that results in an increase of emissions exceeding the thresholds for certain listed pollutants. (NAC 445B.3457) **Section 20** of this regulation requires the Director to also provide public notice when a Class II operating permit is located within 1,000 feet of a school, hospital or residential area and adds PM<sub>2.5</sub> to the list of pollutants with a threshold of 10 tons per year. **Section 20** further provides that the Director must issue, deny or grant a revision for a Class II operating permit for which public notice is required within 90 days after the official date of submittal of the application for the permit.

**Section 1.** NAC 445B.019 is hereby amended to read as follows:

445B.019 “Applicable requirement” means, as applied to a stationary source:

1. Any standard or other relevant requirement:

(a) Provided in NRS 445B.100 to 445B.640, inclusive, and NAC 445B.001 to 445B.390, inclusive, except for the standards for ambient air established in NAC 445B.22097;

(b) Provided in the applicable implementation plan approved or adopted by the EPA pursuant to 42 U.S.C. §§ 7401 to 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 to 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 to 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 to 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 to 7492, inclusive, as the standard applies to a temporary source for which the owner or operator has applied for and obtained an operating permit pursuant to NAC 445B.287 to ~~445B.3497~~, **445B.3477**, inclusive.

**Sec. 2.** NAC 445B.035 is hereby amended to read as follows:

445B.035 “Class ~~H-B~~ **I** application” means an application for a Class I operating permit that is required for any new stationary source, *existing stationary source* or significant modification to an existing stationary source which is subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive.

**Sec. 3.** NAC 445B.037 is hereby amended to read as follows:

445B.037 “Class II source” means any stationary source which ~~is~~ :

**1. Is** not subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive, but which is otherwise subject to the requirements of NAC 445B.001 to 445B.390, inclusive ~~[. The term does~~

~~not include a stationary source that is operating under a Class III operating permit issued pursuant to NAC 445B.001 to 445B.390, inclusive.];~~

2. *Is not a Class I source; and*

3. *Has a potential to emit equal to or greater than the following levels for any listed pollutant:*

<i>Pollutant</i>	<i>Potential to Emit in tons per year</i>
<i>PM<sub>2.5</sub></i> .....	<i>5</i>
<i>PM<sub>10</sub></i> .....	<i>5</i>
<i>Carbon monoxide</i> .....	<i>50</i>
<i>VOC</i> .....	<i>20</i>
<i>NO<sub>x</sub></i> .....	<i>5</i>
<i>SO<sub>2</sub></i> .....	<i>5</i>
<i>Lead</i> .....	<i>0.3</i>
<i>H<sub>2</sub>S</i> .....	<i>1</i>

Sec. 4. NAC 445B.082 is hereby amended to read as follows:

445B.082 “General permit” means an operating permit issued by the Director to cover *certain operations or activities that are substantially similar in nature and are performed by numerous similar stationary sources.*

Sec. 5. 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 ~~I~~ **and** a Class II ~~I, a Class III and a Class IV~~ operating permit;
2. An operating permit to construct; and
3. A mercury operating permit to construct, as defined in NAC 445B.3625.

**Sec. 6.** NAC 445B.141 is hereby amended to read as follows:

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

**Sec. 7.** NAC 445B.2205 is hereby amended to read as follows:

445B.2205 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:

$$E = 0.292P^{0.904}$$

when “E” is equal to or greater than 10 pounds per hour. When “E” is less than 10 pounds 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 per hour.
  - (b) “P” means the total feed sulfur, excluding hydrogen sulfide, in pounds 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 this section and NAC 445B.22047.

4. Incinerators used solely for the control of odor by the combustion of noxious sulfur containing compounds are exempt from the provisions of NAC 445B.2204 to 445B.2205, inclusive, and are governed by the provisions of NAC 445B.22027 to 445B.22037, inclusive, and 445B.287 to ~~445B.3497,~~ 445B.3477, 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 emission unit unless the emission unit is vented, incinerated or 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 40 C.F.R. Part 51, Appendix W, "Guideline on Air Quality Models," adopted by reference pursuant to NAC 445B.221, except that the Director may authorize the modification of a model specified in the "Guideline on Air Quality Models" or the use of a model not included in the "Guideline on Air Quality Models" if the Director determines that such modification or use is appropriate.

**Sec. 8.** 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.390, 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.3497,~~ 445B.3477, 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.390, 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. 9.** NAC 445B.281 is hereby amended to read as follows:

445B.281 1. Except as otherwise provided in NAC 445B.001 to 445B.390, 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.....	\$500	\$1,000	\$2,000
NAC 445B.22067, open burning.....	250	500	1,000
NAC 445B.2207, incinerator burning.....	250	500	1,000
NAC 445B.22087, odors.....	250	500	1,000
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions.....	250	500	1,000
Subsection 8 of NAC 445B.252, testing and sampling reporting.....	250	500	1,000
Subsection 2 of NAC 445B.265, reporting of monitoring systems.....	250	500	1,000
Paragraph (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	250	500	1,000
NAC 445B.331, change of location.....	250	500	1,000



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. 10.** 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 *that is a Class I or Class II 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.

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. ~~The owner or operator of a stationary source may apply for and obtain only one Class IV operating permit for the stationary source. If the owner or operator of a stationary source is subject to more than one area source requirement or standard set forth in 40 C.F.R. Part 63, as adopted by reference in NAC 445B.221, the owner or operator must apply for and obtain a Class I, Class II or Class III operating permit, as appropriate.~~

~~4.~~ 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.

~~5.~~ 4. As used in this section:

(a) “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.390, inclusive, have been complied with and constitute approval of location and for construction.

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

**Sec. 11.** NAC 445B.288 is hereby amended to read as follows:

445B.288 1. The following categories of sources are not required to obtain an operating permit:

(a) A source that would otherwise be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters.

(b) A source that would otherwise be required to obtain an operating permit solely because it is subject to 40 C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos, section 61.145.

(c) Agricultural equipment used in the normal operation of a farm, other than agricultural equipment which is classified as, or located at, a source for which a permit is required under Title V of the Act or which is subject to any standard set forth in 40 C.F.R. Part 60 or 61.

2. The following emission units are considered to be insignificant activities unless the emission unit is otherwise subject to another specific applicable requirement, including, without limitation, any requirement or standard set forth in 40 C.F.R. Part 60, 61 or 63:

(a) Any equipment or other contrivance used exclusively for the processing of food for human consumption.

(b) An incinerator which has a rated burning capacity that is less than 25 pounds per hour.

(c) An emission unit that has a maximum allowable throughput or batch load rate of less than 50 pounds per hour, unless the emission unit directly emits, or has the potential to emit, a hazardous air pollutant.

(d) A storage container for petroleum liquid, or a storage facility for volatile organic liquid, that has a capacity of less than 40,000 gallons.

(e) Except as otherwise provided in paragraphs (f), (g) and (h), air-conditioning equipment or fuel-burning equipment that, individually, has a rating which is:

(1) Less than 4,000,000 Btu's per hour; or

(2) Equal to or greater than 4,000,000 Btu's per hour if the equipment operates less than 100 hours per calendar year.

(f) A portable internal combustion engine that has a rating for output which is:

(1) Less than 500 horsepower; or

(2) Equal to or greater than 500 horsepower if the engine operates less than 100 hours per calendar year.

(g) A stationary internal combustion engine that has a rating for output which is:

(1) Less than 250 horsepower; or

(2) Equal to or greater than 250 horsepower if the engine operates less than 100 hours per calendar year.

(h) An emergency generator. Except as otherwise provided in this paragraph, an emergency generator qualifies as an insignificant activity pursuant to this paragraph only if the emergency generator is an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages. An emergency generator that is

owned or operated by a stationary source and whose potential to emit is calculated on the basis of less than 500 hours of operation does not qualify as an insignificant activity.

3. If an emission unit is considered an insignificant activity and is subject to a limitation on its hours of operation pursuant to subsection 2, the owner or operator of the emission unit shall maintain an operating log of the hours of operation of the emission unit. The operating log must be maintained at the site of the emission unit and made available to the Director upon his or her request. The owner or operator shall retain the operating log for not less than 5 years.

4. The Director may, upon written request and a satisfactory demonstration by an applicant, approve an emission unit as an insignificant activity if the emission unit is not otherwise subject to another specific applicable requirement, including, without limitation, any requirement or standard set forth in 40 C.F.R. Part 60, 61 or 63. To be approved as an insignificant activity, an emission unit must meet the following criteria:

(a) The operation of the emission unit, not considering controls or limits on production, type of materials processed, combusted or stored, or hours of operation, will not result in:

(1) Emissions of a hazardous air pollutant that exceed 1 pound per hour or 1,000 pounds per year, as appropriate;

(2) Emissions of regulated air pollutants that exceed 4,000 pounds per year;

(3) Emissions of regulated air pollutants that exceed any other limitation on emissions pursuant to any other applicable requirement; or

(4) Emissions of regulated air pollutants that adversely impact public health or safety, or exceed any ambient air quality standards; and

(b) The emissions from the emission unit are not relied on to avoid any other applicable requirements.

↪ If there are multiple emission units, the Director may, after considering the impact of the combined emissions of multiple emission units, determine whether to approve one or more of the specific emission units as an insignificant activity.

5. Except as otherwise provided in NAC 445B.094, emissions from insignificant activities, as determined pursuant to this section, must be included in any determination of whether a stationary source is a major source.

6. A stationary source is not required to obtain an operating permit pursuant to NAC 445B.001 to 445B.390, inclusive, for *emissions below the threshold for a Class II source as set forth in NAC 445B.037 or for* any emission unit determined to be an insignificant activity in accordance with this section, as long as the stationary source is not otherwise subject to any other requirement to obtain an operating permit under Title V of the Act. Such an exclusion from the requirements relating to permitting is not an exclusion or exemption from any other requirement set forth in NAC 445B.001 to 445B.390, inclusive, relating to the operation of the emission unit determined to be an insignificant activity.

7. A stationary source which consists solely of insignificant activities as determined pursuant to this section and which is not otherwise subject to any other requirement to obtain an operating permit under Title V of the Act is not required to obtain an operating permit to operate as a stationary source. Such an exclusion from the requirements relating to permitting is not an exclusion or exemption from any other requirement set forth in NAC 445B.001 to 445B.390, inclusive, relating to the operation of the stationary source or any insignificant activity that is a part of the stationary source.

8. The provisions of this section do not apply to a thermal unit that emits mercury.

9. As used in this section, “thermal unit that emits mercury” has the meaning ascribed to it in NAC 445B.3643.

**Sec. 12.** NAC 445B.295 is hereby amended to read as follows:

445B.295 Except as otherwise provided in NAC 445B.33637, ~~and 445B.352,~~ an application for an operating permit must include:

1. 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 the owner’s agent, and the name and telephone number of the manager of the plant or another appropriate person to contact;
2. A description of the stationary 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;
3. 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 stationary source;
4. 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;
5. Limitations on the operation of the stationary source or any standards for work practices which affect emissions for all regulated air pollutants at the stationary source;
6. An explanation of any proposed exemption from any applicable requirement;
7. 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

8. Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

**Sec. 13.** NAC 445B.298 is hereby amended to read as follows:

445B.298 Except as otherwise provided in NAC 445B.3364, 445B.3395, 445B.3457 ~~445B.3487, 445B.3524~~ or 445B.3683, 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. 14.** NAC 445B.308 is hereby amended to read as follows:

445B.308 1. ~~{Except for a Class IV operating permit, in}~~ **In** any area designated as attainment or unclassifiable for a regulated air pollutant, before an operating permit or a revision of an operating permit may be issued:

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

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

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



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

(b) Will cause a violation of the applicable state implementation plan.

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

(d) Will not comply with subsection 4.

3. The Director shall not issue an operating permit or a revision of an operating permit for any stationary source if the Director determines, in accordance with subsection 3 of NAC 445B.311, that the degree of emission limitation required for control of an air pollutant under this section is affected by that amount of the stack height of any source as exceeds good engineering practice stack height, including a good engineering practice stack height demonstrated by a fluid model or a field study approved by the Director in accordance with paragraph (c) of subsection 1 of NAC 445B.083, or any other dispersion technique.

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

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

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

(c) Demonstrate that all other stationary sources within this State which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC

445B.001 to 445B.390, inclusive, and all other applicable requirements and conditions of the permit.

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

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

(f) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area which have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area which have received their respective permits before the proposed stationary

source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

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

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

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

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

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

(b) Meet standards for emissions that are more stringent than those found in NAC 445B.001 to 445B.390, inclusive.

7. If a proposed stationary source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in NAC 445B.308 to

445B.314, inclusive, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

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

9. As used in this section:

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

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

**Sec. 15.** NAC 445B.327 is hereby amended to read as follows:

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

- (a) Class I operating permit to construct..... \$20,000
- (b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase ..... 5,000
- (c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase) ..... 5,000
- (d) Modification to an operating permit to construct..... 5,000
- (e) Revision of an operating permit to construct ..... 5,000

(f) Class I operating permit.....	30,000
(g) Significant revision of a Class I operating permit.....	20,000
(h) Minor revision of a Class I operating permit .....	5,000
(i) Renewal of a Class I operating permit .....	5,000
(j) Class II operating permit.....	3,000
(k) Revision of a Class II operating permit.....	2,000
(l) Renewal of a Class II operating permit.....	2,000
(m) Class II general permit .....	500
<del>(n) Class III operating permit.....</del>	<del>300</del>
<del>(o) Revision of a Class III operating permit .....</del>	<del>200</del>
<del>(p) Renewal of a Class III operating permit.....</del>	<del>250</del>
<del>(q)</del> Surface area disturbance permit.....	500
<del>(+)</del> <del>(o)</del> Revision of a surface area disturbance permit.....	200
<del>(s)</del> <del>(p)</del> Administrative amendment of an operating permit.....	200
<del>(+)</del> <del>(q)</del> Replacement of a lost or damaged operating permit to construct or an operating permit.....	200
<del>(u)</del> <del>(r)</del> Request for change of location of an emission unit .....	100
<del>(v)</del> <del>(s)</del> Administrative revision to a Class I operating permit.....	500
<del>(w)</del> <del>(t)</del> Class I operating permit to construct for the approval of a plantwide applicability limitation .....	20,000
<del>(x) Class IV operating permit.....</del>	<del>50</del>

↪ An applicant must pay the entire fee when the applicant submits ~~an~~ *the* application to the Director.

2. The fee to revise an operating permit so that the operating permit is consistent with any guidelines established by the Division of Environmental Protection of the State Department of Conservation and Natural Resources pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire fee when the applicant submits an application to the Director.

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

- (a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality ..... \$50,000
- (b) Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source ..... 50,000
- (c) Class I operating permit to construct..... 50,000
- (d) Conversion of an operating permit to construct into a Class I operating permit involving only one phase ..... 5,000
- (e) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase) ..... 5,000
- (f) Revision of an operating permit to construct..... 5,000
- (g) Administrative amendment of an operating permit or operating permit to construct..... 200
- (h) Replacement of a lost or damaged operating permit to construct or an operating permit ..... 200

- (i) Request for the change of location of an emission unit ..... 100
- (j) Administrative revision to a Class I operating permit ..... 500

↪ An applicant must pay the entire fee when the applicant submits ~~an~~ *the* application to the Director.

4. If no changes need to be made to convert an operating permit to construct into a Class I operating permit, no fee will be assessed.

5. Except as otherwise provided in this subsection, the annual fee based on emissions for a Class I stationary source is \$16 per ton times the total tons of each regulated pollutant emitted during the preceding calendar year. The annual fee based on emissions does not apply to emissions of carbon monoxide or emissions of greenhouse gases.

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

(a) Emissions must be calculated using:

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

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

(3) Data from:

(I) A test for emission compliance;

(II) A continuous emission monitor;

(III) The most recently published issue of *Compilation of Air Pollutant Emission*

*Factors*, EPA Publication No. AP-42; or

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

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

7. Except as otherwise provided in this section, the annual fee for maintenance of a stationary source is:

(a) For a Class I source qualifying as:

(1) A major stationary source that is issued a prevention of significant deterioration permit.....\$30,000

(2) A major stationary source that is not issued a prevention of significant deterioration permit.....25,000

(3) A major source that is not a major stationary source and is issued a Class I operating permit.....20,000

(4) A major source that is not a major stationary source and is issued a Class I operating permit for a municipal solid waste landfill.....15,000

(b) For a Class II source that has the potential to emit:

(1) Eighty tons or more per year but less than 100 tons per year of any one regulated air pollutant except carbon monoxide.....5,000

(2) Eight tons or more per year but less than 10 tons per year of any single hazardous air pollutant.....5,000

(3) Twenty tons or more per year but less than 25 tons per year of any combination of hazardous air pollutants.....5,000

(4) Fifty tons or more per year but less than 80 tons per year of any one regulated air pollutant except carbon monoxide.....3,000



(5) Twenty-five tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide.....	1,000
(6) Less than 25 tons per year of any one regulated air pollutant except carbon monoxide.....	500
(c) For a Class II source that is issued a Class II general permit.....	500
(d) For a Class III source .....	250
(e)] For a surface area disturbance permit for a total disturbance of:	
(1) Five or more acres but less than 20 acres.....	250
(2) Twenty or more acres but less than 50 acres.....	500
(3) Fifty or more acres but less than 100 acres .....	750
(4) One hundred or more acres but less than 200 acres .....	1,000
(5) Two hundred or more acres but less than 500 acres .....	2,000
(6) Five hundred or more acres.....	5,000
(f) For a Class IV source.....	50

8. The fee for conducting an informal review of a proposed new major source or proposed modification of an existing major source pursuant to NAC 445B.2915 is \$50,000.

9. The annual fee for maintenance of a stationary source for the fiscal year during which an operating permit or an operating permit to construct is issued for the stationary source is included in the fee for the operating permit or operating permit to construct.

10. Except as otherwise provided in this section, the fees relating to emission reduction credits are as follows:

(a) Determination of an application for an emission reduction credit .....	\$10,000
(b) Request for the transfer of an emission reduction credit.....	2,000

(c) Request for the redemption of an emission reduction credit.....	2,000
(d) Administration of a reciprocity request for an emission reduction credit.....	1,000
(e) Determination review of a reciprocity request for an emission reduction credit .....	9,000

↪ An applicant must pay the entire fee when the applicant submits an application or request to the Director. A fee may be assessed only once for each application or request regardless of the number of emission reduction credits contained within the application or request.

11. For the fiscal year beginning on July 1, 2009, and for each fiscal year thereafter, the Director shall:

(a) Increase the dollar per ton emissions rate that is used to calculate the annual fee based on emissions by an amount that is equal to 2 percent of the dollar per ton emissions rate for the immediately preceding fiscal year;

(b) Increase the annual fee for maintenance of a stationary source by an amount that is equal to 2 percent of the annual fee for maintenance of the stationary source for the immediately preceding fiscal year; and

(c) Increase each fee required by subsection 10 by an amount that is equal to 2 percent of the fee for the immediately preceding fiscal year.

↪ The Director may, during any fiscal year, suspend an increase in a rate or fee specified in this subsection.

12. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to subsections 5 and 7 not later than July 1 of each year.

13. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his or her annual fee installments within 30 days after the date on which payment

becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late fee must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his or her annual fees.

14. As used in this section, “prevention of significant deterioration permit” means an operating permit that is issued for a major source in accordance with the conditions set forth in 40 C.F.R. § 52.21.

**Sec. 16.** NAC 445B.3368 is hereby amended to read as follows:

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

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

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

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

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

- (d) Any other information required by any applicable requirement.
- (e) The calculations on which the information in this subsection and subsection 1 are based.
- (f) Citations to and a description of all applicable requirements.
- (g) A reference to any applicable test method used for determining compliance with each applicable requirement.
- (h) A compliance plan that contains the following:
  - (1) A description of the compliance status of the stationary source with respect to all applicable requirements.
    - (I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.
    - (II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis.
    - (III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a narrative description of how the stationary source will achieve compliance with each such requirement.
  - (3) Schedules of compliance as follows:
    - (I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.
    - (II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely

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

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

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

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

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

↪ The content requirements of the compliance plan specified in this paragraph apply and must be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations adopted pursuant to Title IV of the Act with regard to the

schedule and methods the source will use to achieve compliance with the emissions limitations relating to acid rain.

(i) Requirements for compliance certification, including:

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

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

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

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

3. In addition to the information required pursuant to subsections 1 and 2, ~~{a- Class I-B}~~ *an* application for a Class I operating permit must ~~{contain:}~~ *include, without limitation:*

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

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

(2) A description of all emissions of each regulated pollutant for which the source is a major stationary source or that will increase by a significant amount as a result of the major modification;

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

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

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

(b) For a proposed new major source or a proposed significant revision to an existing stationary source:

(1) All information required by NAC 445B.308 to 445B.313, inclusive;

(2) Any other information that the Director determines is necessary to process the application; and

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

(c) For a proposed new major source or a proposed significant revision to an existing stationary source which is subject to the requirements of 42 U.S.C. § 7412 regarding hazardous air pollutants:

(1) All information required by NAC 445B.308 to 445B.313, inclusive;

(2) For a source subject to the requirements of 42 U.S.C. § 7412(g), all information required by 40 C.F.R. § 63.43(e);

(3) For a source subject to the requirements of 42 U.S.C. § 7412(j), all information required by 40 C.F.R. § 63.53; and

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

(d) For a revision to a Class I operating permit for a modification at an existing major stationary source that is not a major modification:

(1) All applicable information required to make the determinations pursuant to 40 C.F.R. § 52.21(a)(2);

(2) A description of the project or modification, including all emission units;

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

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

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

(6) Detailed information used to demonstrate that emissions increases associated with any increased utilization that an emission unit could have accommodated during the baseline emission period is unrelated to the proposed project or modification, including any increased utilization due to product demand growth, in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(c).

↪ In lieu of subparagraphs (4), (5) and (6), the application must ~~contain~~ *include* information on the potential of the unit to emit in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(d).

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

**Sec. 17.** NAC 445B.3375 is hereby amended to read as follows:

445B.3375 1. Except as otherwise provided in subsections 5 and 6 of NAC 445B.3361, an owner or operator of a stationary source must file a Class ~~H-B~~ *I* application, on a form provided by the Director, and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

(a) A Class I existing stationary source;



(b) A proposed modification for which a revision of an operating permit is requested pursuant to NAC 445B.3425 or 445B.344 to a Class I stationary source;

(c) A modification to a Class II source that results in total emissions of any regulated air pollutant above the thresholds defined in NAC 445B.094 for a major source;

(d) A proposed new Class I stationary source;

(e) A proposed new Class I stationary source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the Class I stationary source is subject only to the requirements of 42 U.S.C. § 7412(r); or

(f) A proposed new stationary source which is included in a category of sources designated by the Administrator pursuant to 42 U.S.C. § 7661a(a).

2. If a new stationary source becomes subject to the requirements of a Class I stationary source, the owner or operator of the new stationary source must submit a Class ~~H-B~~ I application to the Director within 12 months after the date on which the new stationary source becomes subject to the requirements for Class I sources.

3. An affected source that is not a major source and is not otherwise subject to the requirements of paragraph (f) of subsection 1 may apply for a Class II operating permit. If an affected source obtains a Class II operating permit pursuant to this subsection, the affected source must file with the Director:

(a) A completed application for an acid rain permit before the source commences operation; and

(b) A Class ~~H-B~~ I application within 12 months after the date on which the Class II operating permit was issued to the affected source.

**Sec. 18.** NAC 445B.3395 is hereby amended to read as follows:

445B.3395 1. Except for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21 and as otherwise provided in this subsection, within 60 days after the date on which an application for a Class I operating permit or for the significant revision of a Class I operating permit is received, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine that the application is complete. Unless the Director determines that the application is incomplete within 60 days after the date of receipt, the official date of submittal shall be deemed to be the date on which the Director determines that the application is complete or 61 days after the date of receipt, whichever is earlier.

2. For sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 30 days after the date of receipt of an application for a Class I operating permit or for the revision of a Class I operating permit, the Director shall determine whether the application contains adequate information to process the application. The official date of submittal of the application shall be deemed to be 31 days after the date of receipt, unless the Director determines before that date that substantial additional information is required. If the Director determines that substantial additional information is required, the Director shall return the application to the applicant. The Director shall require the applicant to submit a new application or the applicant may formally withdraw the application.

3. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request such additional information that is necessary to determine whether the proposed operation will comply with all the requirements set forth in NAC 445B.001 to 445B.390, inclusive. The applicant must provide in writing any

additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director pursuant to subsection 1 or 2.

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

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

6. The Director's review and preliminary intent to issue or deny a Class I operating permit or the revision of a Class I operating permit and the proposed conditions for the Class I operating permit must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, and in the air

quality region where the source is located for 30 days to enable public participation and comment and a review by any affected states.

7. The Director shall:

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

(b) Provide written notice to:

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

(2) Any affected state; and

(3) Any affected local air pollution control agency;

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

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

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

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

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

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

or

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

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

- (a) Identify the affected facility and the name and address of the applicant;
- (b) Include the name and address of the authority processing the Class I operating permit;
- (c) Identify the activity or activities involved in the Class I operating permit and the emissions change involved in any revision of the Class I operating permit;
- (d) State that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable;

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

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

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

keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

11. Except as otherwise provided in subsection 12 and NAC 445B.319, 445B.342 and 445B.3425, within 12 months after the official date of submittal of a Class ~~H-B~~ / I application for an operating permit or revision of an operating permit, the Director shall issue or deny the operating permit or revision of the operating permit. The Director shall make the decision by taking into account:

- (a) Written comments from the public, affected states and the Administrator;
- (b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;
- (c) Information submitted by proponents of the project; and
- (d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.

↪ The Director shall send to the Administrator a copy of the final operating permit issued by the Director after approving the Class ~~H-B~~ / I application.

12. For stationary sources subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, adopted by reference pursuant to NAC 445B.221, the Director shall issue or deny an application for a Class I operating permit, or the revision or renewal of a Class I operating permit, within 12 months after the official date of submittal of an application for a new Class I operating permit or the revision of a Class I operating permit. The application shall be deemed to be complete for the purposes of 40 C.F.R. § 52.21 on the date that the Director makes the preliminary determination to issue or deny the Class I operating permit or the revision of the Class I operating permit.

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

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

15. If the Administrator objects to the issuance of a Class I operating permit or a revision of a Class I operating permit of his or her own accord or in response to a public petition, the Director shall submit revised proposed conditions for the Class I operating permit or the revision of a Class I operating permit in response to the objection within 90 days after the date on which he or she is notified of the objection.

16. If construction will occur in one phase, a Class I operating permit or the revision of a Class I operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

17. If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the Director. A Class I operating permit or the revision of a Class I operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if the initial phase of

construction is not commenced within 18 months after the projected date of the commencement of construction approved by the Director. The Director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

**Sec. 19.** NAC 445B.3453 is hereby amended to read as follows:

445B.3453 1. Except as otherwise provided in subsection 3, an owner or operator of any ~~{stationary}~~ *Class II* source ~~{that is not subject to the requirements of NAC 445B.337 or 445B.3375}~~ must submit an application for and obtain a Class II operating permit . ~~{or, if applicable, a Class III operating permit pursuant to NAC 445B.3485.}~~

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

3. The owner or operator of a thermal unit that emits mercury which is located at a Class II stationary source shall comply with the provisions of NAC 445B.3611 to 445B.3689, inclusive. As used in this subsection, “thermal unit that emits mercury” has the meaning ascribed to it in NAC 445B.3643.

**Sec. 20.** NAC 445B.3457 is hereby amended to read as follows:

445B.3457 1. Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class II operating permit or for the revision of a Class II operating permit, accompanied by the applicable fee, the Director shall determine if the application is complete. If substantial additional information is required, the



Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier.

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.390, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

3. ~~If notice to the public is not required pursuant to subsection 5, the~~ *The* Director shall issue or deny a Class II operating permit or the revision of a Class II operating permit :

*(a) If notice to the public is not required pursuant to subsection 5, within 60 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit ~~H~~ ; or*

*(b) If notice to the public is required pursuant to subsection 5, within 90 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit.*

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

(a) Make a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit within ~~115~~ 45 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit;

(b) Take such action as is necessary to ensure compliance with the provisions of subsections 6, 7 and 8, as applicable; and

(c) Issue or deny the Class II operating permit or the revision of the Class II operating permit taking into account:

(1) Written comments from the public;

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

(3) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.

5. ~~Public~~ *The Director shall provide public* notice ~~is required for an application~~ *of the preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit* for:

(a) A Class II operating permit for a stationary source that has not previously held a Class I operating permit or Class II operating permit; ~~or~~

(b) *A Class II operating permit for a stationary source that is located within 1,000 feet of a school, hospital or residential area; or*

(c) The revision of a Class II operating permit for which the Director determines that the change to the stationary source results in an increase in allowable emissions that exceeds any of the following thresholds:

Pollutant	Threshold in tons per year
Carbon monoxide .....	40
Nitrogen oxides .....	40
Sulfur dioxide .....	40
<i>PM<sub>2.5</sub></i> .....	<i>10</i>
PM <sub>10</sub> .....	15
Ozone measured as VOC .....	40
Lead.....	0.6

6. ~~For the~~ *If* notice *is* required pursuant to subsection 5 , ~~and~~ at the time the Director makes a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit pursuant to subsection 4, the Director shall:

(a) Make the preliminary determination public and maintain it on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment;

(b) Cause to be published on an Internet website designed to give general public notice an electronic copy of the Director’s notice of proposed action;

(c) Provide written notification of the Director’s proposed action to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(d) Provide notice of the Director’s proposed action and a copy of the ~~application~~ *draft Class II operating permit* to a public library in the area in which the proposed new Class II

source or the proposed modification to the existing Class II source is located for posting to ensure that adequate notice is given to the public;

(e) Provide notice of the Director's proposed action and a copy of the ~~application~~ *draft Class II operating permit* to the Administrator and to any local air pollution control agency having jurisdiction in the area in which the proposed new Class II source or the proposed modification to the existing Class II source is located; and

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

7. The notice required pursuant to subsection 5 must include:

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

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

(c) The name, address and telephone number of a representative from the state agency that is processing the Class II operating permit or the revision of the Class II operating permit;

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

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

(f) A summary of the analysis of the effect of the proposed new Class II source or the proposed modification to the existing Class II source on the quality of air, as analyzed by the state agency processing the Class II operating permit or the revision of the Class II operating permit;

(g) A statement indicating that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable; and

(h) A brief description of the procedures for public participation.

8. All comments ~~concerning the applications~~ *on the draft Class II operating permit and the Director's review and preliminary determination to issue or deny a Class II operating permit or a revision of a Class II operating permit* for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

9. If construction will occur in one phase, a Class II operating permit or the revision of a Class II operating permit for a new or modified stationary source expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is delayed for 18 months or more after the construction begins. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

10. If construction will occur in more than one phase, the projected date of commencement of construction of each phase must be approved by the Director. A Class II operating permit or the revision of a Class II operating permit for a new or modified stationary source expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the Director. The Director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

**Sec. 21.** NAC 445B.3477 is hereby amended to read as follows:

445B.3477 1. The Director may issue a Class II general permit covering numerous similar stationary sources.

2. Before issuing a Class II general permit, the proposed conditions for the Class II general permit must be made public and maintained on file with the Director during normal business

hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment. The Director shall:

(a) Cause to be published a notice in one or more newspapers of general circulation in the area in which the Class II general ~~operating~~ permit is applicable;

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

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

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

3. The notice required pursuant to subsection 2 must include, without limitation:

(a) The name and address of the state agency processing the Class II general permit;

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

(1) The proposed conditions for the Class II general permit;

(2) All relevant supporting materials; and

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

(c) A description of the proposed Class II general permit and a summary of the emissions involved;

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

(e) A summary of the impact of the proposed Class II general permit on the quality of the air;

(f) A statement indicating that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable; and

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

4. All comments concerning the proposed Class II general permit for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. The Director shall give notice of any public hearing scheduled pursuant to this section at least 30 days before the 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.

5. The Director may issue the Class II general permit after considering:

(a) Written comments from the public;

(b) The comments made during public hearings concerning the proposed Class II general permit;

(c) Information submitted by proponents of the Class II general permit; and

(d) The effect of the Class II general permit on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.

6. A Class II general permit must set forth the criteria by which stationary sources may qualify for the Class II general permit.

7. After the effective date of a Class II general permit, the owner or operator of any stationary source that meets the criteria set forth in the Class II general permit may request

authority to operate under the Class II general permit. The request must be in writing and must include all the information required by the Class II general permit.

8. The Director shall grant or deny authority to operate under a Class II general permit within 30 days after his or her 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 Class II general permit is not subject to the requirements of NAC 445B.3457.

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

10. The Director shall not grant authority to operate under a Class II general permit to an affected source.

11. The term of a Class II general permit is 5 years.

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

13. A stationary source which obtains authorization to operate under a Class II general permit but is later determined not to qualify under the conditions of the Class II general permit may be subject to an action enforcing the prohibition against operating without a permit.

**Sec. 22.** NAC 445B.3665 is hereby amended to read as follows:

445B.3665 1. An owner or operator of a tier-3 thermal unit:



(a) Must have an operating permit issued pursuant to NAC 445B.001 to 445B.390, inclusive, to operate the thermal unit;

(b) Shall submit documentation to the Director on an annual basis which certifies that the thermal unit satisfies the criteria to be a tier-3 thermal unit; and

(c) Is not required to submit an application for or obtain a mercury operating permit to construct.

2. Within 90 days after the date of final notification of the determination of de minimis mercury emissions by the Director pursuant to NAC 445B.3657, an owner or operator of a tier-3 thermal unit shall ~~+~~

~~—(a) Submit~~ *submit* an application to revise the conditions of the operating permit of the stationary source that was issued pursuant to NAC 445B.001 to 445B.390, inclusive, to limit the potential to emit mercury, without any controls for mercury emissions, to an amount not to exceed de minimis mercury emissions. ~~+~~ ~~or~~

~~—(b) If the owner or operator of the tier 3 thermal unit has a Class III operating permit, submit an application to convert the Class III operating permit of the stationary source to a Class II operating permit which includes conditions to limit the potential to emit mercury, without any controls for mercury emissions, to an amount not to exceed de minimis mercury emissions.]~~

**Sec. 23.** 1. No Class III or Class IV operating permit may be issued, renewed or revised on or after November 2, 2016.

2. If a stationary source operating under a Class III or Class IV operating permit meets the definition to be a Class II source, the owner or operator must, in relation to the stationary source:

(a) Submit an application for a Class II operating permit pursuant to NAC 445B.3453, as amended by section 19 of this regulation; or

(b) Request authority to operate under a Class II general permit pursuant to subsection 7 of NAC 445B.3477, as amended by section 21 of this regulation.

3. If a stationary source operating under a Class III or Class IV operating permit meets the definition to be a Class II source, the owner or operator must submit an application for a Class II operating permit or request authority to operate under a Class II general permit, as applicable:

(a) Except as otherwise provided in paragraph (b), on or before the expiration date of the Class III or Class IV operating permit.

(b) If the Class III or IV operating permit expires during the period beginning on November 2, 2016 and ending 180 days thereafter, on or before the date that is 180 days after the date that the Class III or IV operating permit expires.

4. Except as otherwise provided in this subsection, an application or request for authority submitted pursuant to this section must be accompanied by the fee for a Class II operating permit or Class II general permit, as applicable, that is set forth in NAC 445B.327, as amended by section 15 of this regulation. If an application or request for authority is submitted 1 year or more before the expiration of the Class III or IV operating permit, the applicable fee for the application or request for authority must be reduced by an amount equal to 20 percent of the last amount paid for the issuance or renewal application for each full year that the Class III or IV operating permit is still valid.

5. Notwithstanding any provision of chapter 445B of NAC to the contrary, if a stationary source operating under a Class III or Class IV operating permit meets the definition to be a Class II source and the owner or operator submits an application for a Class II operating permit or a request for authority to operate under a Class II general permit, the owner or operator's Class III

or Class IV operating permit is valid until the Director issues or denies a Class II operating permit or grants authority to operate under a Class II general permit, as applicable.

6. As used in this section:

(a) “Class II source” has the meaning ascribed to it in NAC 445B.037, as amended by section 3 of this regulation.

(b) “Director” has the meaning ascribed to it in NAC 445B.053, as that section existed before November 2, 2016.

(c) “General permit” has the meaning ascribed to it in NAC 445B.082, as amended by section 4 of this regulation.

(d) “Operating permit” has the meaning ascribed to it in NAC ~~445B.1232,~~ **445B.123**, as that section existed before November 2, 2016.

(e) “Owner or operator” has the meaning ascribed to it in NAC 445B.127, as that section existed before November 2, 2016.

(f) “Stationary source” has the meaning ascribed to it in NAC 445B.187, as that section existed before November 2, 2016.

**Sec. 24.** NAC 445B.021, 445B.034, 445B.222, 445B.337, 445B.338, 445B.3385, 445B.3485, 445B.3487, 445B.3489, 445B.3493, 445B.3497, 445B.352, 445B.3522 and 445B.3524 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**445B.021 “Area source” defined. (NRS 445B.210)** “Area source” means any stationary source of hazardous air pollutants that is not a major source.

**445B.034 “Class I-A application” defined. (NRS 445B.210)** “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 to 7661f, inclusive.

**445B.222 Area sources. (NRS 445B.210, 445B.300)** The following area sources, as adopted by reference in NAC 445B.221, are subject to the provisions of NAC 445B.001 to 445B.390, inclusive:

	40 C.F.R. Part 63
Area Source Category	Subpart
Aluminum, copper, and other nonferrous foundries	<i>ZZZZZZ</i>
Asphalt processing and asphalt roofing manufacturing	AAAAAAA
Chemical manufacturing	VVVVVV
Chemical preparations industry	BBBBBBB

Area Source Category	Subpart
Chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks	N
Clay ceramics manufacturing	RRRRRR
Gasoline dispensing facilities	CCCCCC
Gasoline distribution bulk terminals, bulk plants, and pipeline facilities	BBBBBB
Glass manufacturing	SSSSSS
Industrial, commercial, and institutional boilers	JJJJJJ
Nine metal fabrication and finishing source categories	XXXXXX
Paint stripping and miscellaneous surface coating operations	HHHHHH
Paints and allied products manufacturing	CCCCCC
Perchloroethylene air emission standards for dry cleaning facilities	M
Plating and polishing operations	WWWWWW
Secondary nonferrous metals processing	TTTTTT
Stationary reciprocating internal combustion engines	ZZZZ

**445B.337 Class I-A application: Filing requirement. (NRS 445B.210, 445B.300)**

1. An owner or operator of a stationary source must file a Class I-A application, on a form provided by the Director, and obtain a Class I operating permit for:

- (a) A Class I existing stationary source;

(b) A Class I existing stationary source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the stationary source is subject only to the requirements of 42 U.S.C. § 7412(r);

(c) A Class I existing stationary source in a category of sources designated by the Administrator pursuant to 42 U.S.C. § 7661a(a);

(d) An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e); or

(e) An affected source.

2. If an existing stationary source becomes subject to the requirements of a Class I stationary source, the owner or operator of the existing source must submit a Class I-A application to the Director within 12 months after the date on which the stationary source becomes subject to the requirements for Class I sources.

**445B.338 Class I-A application: Period for filing; effect of application and previous permits. (NRS 445B.210, 445B.300)**

1. An owner or operator subject to the provisions of NAC 445B.337 shall file a Class I-A application in accordance with the schedule established by the Director pursuant to NAC 445B.3385.

2. 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 445B.001 to 445B.390, inclusive.

3. Except as otherwise provided in this subsection, if the owner or operator subject to the provisions of NAC 445B.337 submits a completed Class I-A application for an operating permit or a renewal of a permit in a timely manner, the owner or operator shall not be deemed to be in

violation of the requirement for an operating permit during the time the Director considers the application. The owner or operator shall be deemed to violate the requirement for an operating permit if the Director requests additional information in writing following a determination that the application is complete and the owner or operator fails to submit the requested information within a reasonable time as specified in the Director's request.

**445B.3385 Class I-A application: Schedule for filing. (NRS 445B.210, 445B.300)**

1. Within 30 days after the approval of the program by the Administrator, the Director shall:

(a) Establish a schedule for filing a Class I-A application to 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 by the Administrator pursuant to 42 U.S.C. § 7661a(a); or

(4) An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e).

(b) Notify the owners and operators of the sources listed in paragraph (a) regarding the schedule established by the Director.

2. The schedule established by the Director pursuant to subsection 1:

(a) Must require the submission of Class I-A applications within 12 months after the effective date of the program.

(b) May require the early submission of Class I-A applications by specified stationary sources if early submission is necessary for the State Department of Conservation and Natural Resources to process all Class I-A applications pursuant to NAC 445B.3395.

(c) Must be based upon the number of emission units to be addressed in the Class I operating permit for each stationary source so that the stationary sources with the least number of emission units will submit applications first and those sources with the largest number of emission units will submit applications last.

**445B.3485 Application: General requirements. (NRS 445B.210, 445B.300)**

1. If a stationary source operating under a Class II operating permit meets the requirements for a Class III source, the owner or operator of the stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the stationary source.

2. If a new stationary source meets the requirements for a Class III source, the owner or operator of the new stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the new stationary source. An operating permit must be obtained before commencing construction on a new stationary source.

3. An owner or operator of a proposed modification to a stationary source that meets the requirements for a Class III source may submit an application with the appropriate fee and obtain a revised Class III operating permit for the proposed modification to the stationary source. Such an owner or operator shall not commence construction of the proposed modification to the stationary source before filing an application for and obtaining a revised Class III operating permit.

**445B.3487 Action by Director on application; expiration of permit. (NRS 445B.210, 445B.300)**



1. Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class III operating permit or for the revision of a Class III operating permit, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. The Director shall issue or deny a Class III operating permit or the revision of a Class III operating permit within 30 days after the official date of submittal of the application.

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.390, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

3. If construction will occur in one phase, a Class III operating permit or the revision of a Class III operating permit for a new or modified stationary source expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the facility is

delayed for 18 months or more after the construction begins. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

4. If construction will occur in more than one phase, the projected date of commencement of construction of each phase must be approved by the Director. A Class III operating permit or the revision of a Class III operating permit for a new or modified stationary source expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the Director. The Director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

**445B.3489 Required contents of permit. (NRS 445B.210, 445B.300)** In addition to the conditions set forth in NAC 445B.315, Class III operating permits must contain, as applicable:

1. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with the conditions of the Class III operating permit.
2. All requirements for monitoring, testing and reporting that apply to the stationary source.
3. A requirement that the owner or operator of the stationary source promptly report any deviations from any requirements of the Class III operating permit.
4. The terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the stationary source in his or her application and approved by the Director. Such terms and conditions must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.
5. A schedule of compliance for stationary sources that are not in compliance with any applicable requirement or NAC 445B.001 to 445B.390, inclusive, at the time the Class III operating permit is issued, including:

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

**445B.3493 Application for revision. (NRS 445B.210, 445B.300)**

1. The owner or operator of a stationary source with a Class III operating permit may apply, on a form provided by the Director, for a revision of the operating permit.

2. An application for a revision of a Class III operating permit for a stationary source must include:

- (a) The name and address of the owner or operator of the stationary source;
- (b) The location of the stationary source;
- (c) A description of:
  - (1) The existing emission units undergoing modification and the applicable control systems; and
  - (2) The proposed modifications to those emission units;
- (d) A description of any proposed new emission units and applicable control systems;
- (e) The potential to emit for each proposed new and existing emission unit for each regulated air pollutant to which a standard applies; and
- (f) Any other information that the Director determines is necessary to process the application and issue a revised Class III operating permit in accordance with NAC 445B.001 to 445B.390, inclusive.

**445B.3497 Renewal of permit. (NRS 445B.210, 445B.300)**

1. All Class III operating permits must be renewed 5 years after the date of issuance.

2. A complete application for renewal of a Class III operating permit must be submitted to the Director on the form provided by the Director with the appropriate fee at least 40 days before the expiration date of the current permit for the Class III source.

3. An application for the renewal of a Class III operating permit must comply with all requirements for the issuance of an initial Class III operating permit as specified in NAC 445B.3487.

4. If an application for the renewal of a Class III operating permit is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing Class III operating permit until the permit is renewed or the application for the renewal of the Class III operating permit is denied.

5. If an application for the renewal of a Class III operating permit is not submitted in accordance with subsection 2:

(a) The stationary source may be required to cease operation when the Class III operating permit expires; and

(b) The owner or operator of the stationary source:

(1) Must apply for the issuance of a new Class III operating permit pursuant to NAC 445B.3485; and

(2) May not recommence the operation until the new Class III operating permit is issued.

6. The fee for the issuance of a new Class III operating permit or the renewal of a Class III operating permit is specified in NAC 445B.327.

**445B.352 Application: General requirements. (NRS 445B.210, 445B.300)**

1. For an area source subject to 40 C.F.R. Part 63, as adopted by reference in NAC 445B.221, whose owner or operator commenced construction or reconstruction before October

26, 2011, if the owner or operator of the area source has not been issued a valid operating permit, the owner or operator must apply for and obtain a Class IV operating permit.

2. The owner or operator of an area source subject to 40 C.F.R. Part 63, as adopted by reference in NAC 445B.221, that proposes to commence construction on or after October 26, 2011, must apply for and obtain a Class IV operating permit before commencing construction.

3. An applicant for a Class IV operating permit must submit to the Director an application on a form provided by the Director and the appropriate fees. An application for a Class IV operating permit must include:

(a) Information which identifies the applicant, including, without limitation, the name and address of the company and the name and address of the emitting facility if the name and address of the emitting facility is different from that of the company, the name of the owner of the company and the owner's agent, and the name and telephone number of the manager of the emitting facility or another appropriate person.

(b) Information sufficient to determine the suitability of the Class IV operating permit for the emitting facility.

(c) The location of any records 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.

(d) Any other information which the Director determines is necessary.

4. A responsible official of the area 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.

**445B.3522 Required contents of permit. (NRS 445B.210, 445B.300)** In addition to the conditions set forth in NAC 445B.315, a Class IV operating permit may contain any other requirements deemed necessary by the Director.

**445B.3524 Action by Director on application. (NRS 445B.210, 445B.300)** Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class IV operating permit, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date on which the Director receives the application, the official date of submittal of the application is the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. The Director shall issue or deny a Class IV operating permit within 30 working days after the official date of submittal of the application.

## **Permanent Regulation – Informational Statement**

A Regulation Relating to Air Quality

Legislative Review of Adopted Regulations as Required  
by Administrative Procedures Act, NRS 233B.066

**State Environmental Commission (SEC)**  
**LCB File No: R085-16**

### **Regulation R085-16:**

Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations to prevent, abate and control air pollution. NRS 445B.300 establishes specific authority of the SEC regarding operating permit requirements for sources of air contaminants.

#### **SPECIFIC CHANGES:**

In an effort to streamline the NDEP's air quality operating permit programs and align the resources spent on permit applications with the benefit to air quality, this regulation reforms the Class II, Class III and Class IV provisions in NAC 445B.001 to 445B.3689, inclusive.

The amendments:

- Eliminate the permit requirement for Class III and Class IV sources and redefine a Class II source. Existing Class III and Class IV sources will either not require a permit or will become a Class II source.
- Amend the public notice requirements for Class II permits to (1) add a requirement for public notice if the source is/will locate near a sensitive population, (2) add a threshold for PM<sub>2.5</sub> emissions, and (3) develop a timeline for acting on an application for a Class II permit that requires public notice.
- Housekeeping: Combine the current definitions for "Class I-A application" and "Class I-B application" into "Class I application."

The NDEP will develop additional Class II general permits for appropriate categories of sources/activities. Additionally, the NDEP will work with area sources through outreach and education programs to assist them in compliance with federal requirements.

### **1. Need for Regulation:**

These amendments streamline the NDEP air quality permitting process to enhance the timely processing of permit applications and better align the resources being spent by the NDEP on processing applications that result in a benefit to air quality. With the elimination of the Class III and Class IV permit programs, NDEP will better focus on the larger stationary sources that emit more pollutants. Currently, the NDEP often invests as much time processing a Class III application as it does a Class II application, and the air quality benefit is often substantially less.

Within the Class II category of sources, appropriate “general” permits will be developed by the NDEP to cover certain operations or activities that are substantially similar in nature and are performed by numerous stationary sources. Sources that fit the criteria of a general permit may apply for authority to operate under it. This will reduce both the cost and time required for such sources to obtain a permit.

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

On June 7, 2016 NDEP conducted a public workshop on proposed regulation R085-16. The workshop was held in Carson City and teleconferenced in Las Vegas. The meeting location in Carson City was at the Bryan Building located at 901 S. Stewart Street (Tahoe Conference Room) and teleconferenced to the NDEP office, located at 2030 East Flamingo Road, Suite 230.

Twenty-three (23) members of the public attended the workshop.

Questions from the public presented at the workshop were addressed by NDEP staff; summary minutes of the workshop are posted on the SEC website at:  
[http://www.sec.nv.gov/main/hearing\\_1016.htm](http://www.sec.nv.gov/main/hearing_1016.htm) .

Following the workshop, the SEC held a formal regulatory hearing on October 12, 2016 at the Bryan Building Tahoe Conference room located at 901 South Carson Street, Carson City. A public notice for the regulatory meeting was posted at the meeting location, at the State Library in Carson City, at the Office of the Division of Environmental Protection in Las Vegas, at the Division of Minerals in Carson City, at the Department of Agriculture, on the LCB website, on the Division of Administration website and on the SEC website.

Copies of the agenda, the public notice, and the proposed permanent regulation R085-16 were also made available at all public libraries throughout the state as well as to individuals on the SEC mailing list and the Bureau of Air Quality Planning electronic mailing list.

The public notice for the proposed regulation was published in the Las Vegas Review Journal and Reno Gazette Journal newspapers once a week for three consecutive weeks prior to the SEC regulatory meeting. Other information about this regulation was made available on the SEC website at: [http://www.sec.nv.gov/main/hearing\\_1016.htm](http://www.sec.nv.gov/main/hearing_1016.htm) .

**3. The number of persons who attended the SEC Regulatory Hearing:**

- (a) Attended October 12, 2016 hearing: 18 (approximately)
- (b) Testified on this Petition at the hearing: 1

Starla Lacy  
Director  
Nevada Energy  
6226 W. Sahara Ave.



Las Vegas, Nevada  
(702) 402-5669  
environmental@nvenergy.com

(c) Submitted to the agency written comments: 0

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

Comments were solicited from affected businesses through e-mail, a public workshop and at the October 12, 2016 SEC hearing as noted in number 2 above.

**5. 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 regulation was adopted without change because the public was satisfied with the proposed amendments.

**6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.**

Regulated Business/Industry. This regulation will have a positive economic impact on existing Class III and Class IV permit holders. Of the current Class IV permits, it is anticipated that approximately 90 percent will be rescinded, alleviating those sources of the annual maintenance fee (~\$52 for SFY 17) and any future permit-associated costs. Of the current Class III permits, it is anticipated that approximately 70 percent will be rescinded, alleviating those sources of the annual maintenance fee (~\$260 for SFY 17) and any future permit-associated costs. Regarding the sources that are anticipated to transition into the Class II program, more than 25 percent are expected to qualify for a general permit. A general permit application is \$500. For a transitioning source to apply for a regular Class II operating permit, it will cost \$3,000, reduced by an amount determined by the time remaining on their current permit.

Public. The proposed regulation will have no economic impact on the public.

**7. The estimated cost to the agency for enforcement of the adopted regulation.**

Enforcing Agency. There may be a small increase or decrease in income to the agency with the transition of some Class III and Class IV sources to Class II. Any additional income will be used to supplement the cost of outreach and education to assist sources subject to federal requirements, but no longer required to have an NDEP operating permit.

**8. 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. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulation does not overlap any other State or federal regulations.

**9. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.**

The regulation is no more stringent than what is established by federal law.

**10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The regulation does not impose a new fee. It eliminates the Class III and Class IV permitting programs and, thereby, removes application and annual maintenance fees for those programs. The regulation also reorganizes the sources currently holding Class III and Class IV permits into new categories: (1) no permit required, (2) general permit, and (3) Class II permit.