

PROPOSED TEMPORARY REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

Petition 2001-05

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

Authority: §§1-13, NRS 445B.210 and 445B.300.

1 **Section 1.** Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as
2 sections 2, 3, and 4 of this regulation.

3

4 **Sec. 2. “Class III source” defined.** *“Class III source” means any stationary source which*
5 *is subject to the requirements of NAC 445B.001 to 445B.395, and:*

6 1. *Emits or has the potential to emit individually or in combination, a total of 5 tons or less*
7 *per year of PM₁₀, NO_x, SO₂, CO, VOC, and H₂S;*

8 2. *Emits less than 1,000 lbs of Lead (Pb) per year.*

9 3. *Does not seek an emission limitation to avoid the requirements of 40 CFR Part 63;*

10 4. *Is not subject to the requirements of 42 U.S.C. §§ 7661-7661f;*

11 5. *Is not subject to the requirements of 40 CFR Part 60;*

12 6. *Is not subject to the requirements of 40 CFR Part 61;*

13 7. *Is not a temporary source, as defined in NAC 445B.194;*

14 8. *Is not required to obtain an operating permit to comply solely with the requirements of*
15 *NAC 445B.365 for surface area disturbances; and*

16 9. *Is not located at or part of another stationary source.*

17

18

1 **Sec. 3. Class III operating permits: Application for revision.**

2 *1. The owner or operator of a stationary source with a Class III operating permit may*
3 *request, on an application form provided by the director, a revision of the operating permit.*

4 *2. An application for a revision of a Class III operating permit must include:*

5 *(a) The name and address of the owner or operator of the stationary source;*

6 *(b) The location of the stationary source; and*

7 *(c) A description of:*

8 *(1) The existing emission units undergoing the modification and the applicable control*
9 *systems; and*

10 *(2) The proposed modification to such emission units;*

11 *(d) A description of any proposed new emission units and applicable control systems;*

12 *(e) The potential to emit for each proposed new and existing emission units for each*
13 *regulated air pollutant to which a standard applies;*

14 *(f) Any other information that the director determines is necessary to process the*
15 *application and issue a Class III operating permit pursuant to this section and NAC*
16 *445B.001 to 445B.395, inclusive.*

17
18 **Sec. 4. Class III operating permits: Filing requirements; applicability of certain**
19 **provisions.**

20 *1. An owner or operator of any stationary source operating under a Class II permit that*
21 *meets the definition of a Class III Source in section 2 of this regulation may submit an*
22 *application for and obtain a Class III operating permit.*

23 *2. For a new stationary source that meets the definition of a Class III Source in section*
24 *2 of this regulation, an owner or operator may file an application and obtain a Class III*
25 *operating permit. An operating permit shall be obtained before commencing*
26 *construction.*

1 **3. For a proposed revision of a Class III permit, an owner or operator must file an**
2 **application and obtain a revision to the Class III operating permit before commencing**
3 **construction of the proposed modification.**

4 **4. The provisions of NAC 445B.300.7, 445B.300.10, 445B.300.14 and 445B.300.15 do**
5 **not apply to Class III operating permits.**

6
7 **Sec. 5.** NAC 445B.001 is hereby amended to read as follows:

8 445B.001 As used in NAC 445B.001 to 445B.395, inclusive, **and sections 2, 3, and 4 of this**
9 **regulation**, unless context otherwise requires, the words and terms defined in NAC 445B.002 to
10 445B.211, inclusive, **and section 2 of this regulation** have the meanings ascribed to them in
11 those sections.

12
13 **Sec. 6.** NAC 445B.123 is hereby amended to read as follows:

14 445B.123 "Operating permit" has the meaning ascribed to it in NRS 445B.145. Unless otherwise
15 specifically stated, the term includes a Class I, **[and]** a Class II, **and a Class III** operating permit.

16
17 **Sec. 7.** NAC 445B.006 is hereby amended to read as follows:

18 445B.006 "Affected source" means a stationary source subject to the requirements relating to
19 acid rain **[d]** set forth in 42 U.S.C. §§ 7651-7651o, inclusive.

20
21 **Sec. 8.** NAC 445B.281 is hereby amended to read as follows:

22 445B.281 1. Except as otherwise provided in NAC 445B.001 to 445B.395, inclusive, any
23 violation of the provisions of those sections is classified as a major violation and a fine up to
24 \$10,000 per day per violation may be levied.

25 2. For Class II **and Class III** sources, violations of subsections 3 and 4 of NAC 445B.232,
26 subsection 8 of NAC 445B.252, subsection 2 of NAC 445B.265, paragraph (d) of subsection 1
27 of NAC 445B.275, and NAC 445B.331, 445B.365, 445B.381, 445B.382 and 445B.393 are

1 classified as minor or lesser violations, unless there are four or more violations of any one of those
 2 sections by a person, occurring within a period of 60 consecutive months.

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

	First	Second	Third
	Offense	Offense	Offense
6 Subsection 3 or 4 of NAC			
7 445B.232, reporting of excess			
8 emissions.....	\$125	\$250	\$500
9 Subsection 8 of NAC 445B.252,			
10 testing and sampling			
11 reporting.....	100	200	400
12 Subsection 2 of NAC 445B.265,			
13 reporting of monitoring			
14 systems.....	100	200	400
15 Paragraph (d) of subsection 1			
16 of NAC 445B.275, recordkeeping,			
17 monitoring, reporting or			
18 compliance certification.....	50	100	200
19 NAC 445B.331, change of location.....	100	200	400
20 NAC 445B.381, open burning.....	50	100	200
21 NAC 445B.382, incinerator			
22 burning, equal to or less			
23 than 25 lbs per hour.....	50	100	200
24 greater than 25 lbs per hour.....	50	100	200
25 NAC 445B.365, fugitive dust....	125	250	500
26 NAC 445B.393, odors.....	100	200	400

27

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

3 [Environmental Comm'n, Air Quality Reg. §§ 2.8.1-2.8.4, eff. 11-7-75; A 12-4-76]—(NAC A
4 10-22-87; 12-8-89; 12-13-93)—(Substituted in revision for NAC 445.699)

5
6 **Sec. 9.** NAC 445B.300 is hereby amended to read as follows:

7 445B.300 1. Except as otherwise provided in this subsection and NAC 445B.303, within 60
8 calendar days after the date on which an application for a Class I operating permit or for the
9 significant revision of such an operating permit is received, the director shall determine if the
10 application is complete. If substantial additional information is required, the director shall determine
11 that the application is incomplete and return the application to the applicant. If substantial additional
12 information is not required, the director shall determine that the application is complete. Unless the
13 director determines that the application is incomplete within 60 days after the date of receipt, the
14 official date of submittal shall be deemed to be the date on which the director determines that the
15 application is complete or 61 days after the date of receipt, whichever is earlier.

16 2. Except as otherwise provided in this subsection and NAC 445B.303, within 180 calendar
17 days after the official date of submittal of an application for a Class I operating permit or for the
18 revision of a Class I operating permit, the director shall make a preliminary determination to issue
19 or deny the operating permit or the revision of the operating permit. The director shall give
20 preliminary notice of his intent to issue or deny the operating permit or the revision of the operating
21 permit within 180 calendar days after the official date of submittal.

22 3. Within 10 working days after the receipt of an application for a minor revision of a Class I
23 operating permit, the director shall determine if the application is complete. If substantial additional
24 information is required, the director shall determine the application to be incomplete and return the
25 application to the applicant. If substantial additional information is not required, the director shall
26 determine the application to be complete. Unless the director determines that the application is
27 incomplete within 10 working days after the date on which the director receives the application,

1 the official date of submittal is the date on which the director determines that the application is
2 complete, or 11 working days after the date of receipt, whichever is earlier.

3 4. Except as otherwise provided in NAC 445B.319 and 445B.320, within 10 working days
4 after the date of receipt of an application for a Class II *or a Class III* operating permit or for the
5 revision of a Class II *or a Class III* operating permit, the director shall determine if the application
6 is complete. If substantial additional information is required, the director shall determine that the
7 application is incomplete and return the application to the applicant. If substantial additional
8 information is not required, the director shall determine the application to be complete. Unless the
9 director determines that the application is incomplete within 10 working days after the date of
10 receipt of the application, the official date of submittal of the application shall be deemed to be the
11 date on which the director determines that the application is complete or 11 working days after the
12 date of receipt, whichever is earlier. ~~Within 60 days~~ *After the official date of submittal*, the
13 director shall issue or deny such an operating permit or the revision of such an operating permit~~[-]~~ :

14 *(a) Within 60 days for a Class II source; or*

15 *(b) Within 30 days for a Class III source.*

16 5. If, after the official date of submittal, the director discovers that additional information is
17 required to act on the application, the director may request additional information necessary to
18 determine whether the proposed operation will comply with all of the requirements set forth in
19 NAC 445B.001 to 445B.395, inclusive. The applicant must provide in writing any additional
20 information that the director requests within the time specified in the request of the director. Any
21 delay in the submittal of the requested information will result in a corresponding delay in the action
22 of the director on the application ~~[submitted to the director pursuant to subsection 1, 2 or~~
23 ~~10]~~.

24 6. The director's review and preliminary intent to issue or deny a Class I operating permit and
25 the proposed conditions for the operating permit must be made public and maintained on file with
26 the director during normal business hours at 333 West Nye Lane, Carson City, Nevada, and in the
27 air quality region where the source is located for 30 calendar days to enable public participation

1 and comment and a review by any affected states.

2 **7. Except as provided in NAC 445B.319, 445B.320 and 445B.321, for Class I operating**
3 **permits [F] the director shall:**

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

7 (b) Provide written notice to:

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

10 (2) Any affected state;

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

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

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

16 8. Except as otherwise provided in NAC 445B.321, the provisions of subsections 6 and 7 do
17 not apply to an administrative amendment to a permit made pursuant to NAC 445B.319, a change
18 without revision to a permit made pursuant to NAC 445B.320 or a minor revision of a Class I
19 operating permit made pursuant to NAC 445B.321.

20 9. The notice required pursuant to subsection 7 must identify:

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

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

23 (c) The activity or activities involved in the operating permit and the emissions change involved in
24 any revision of the operating permit;

25 (d) The name, address and telephone number of a person from whom interested persons may
26 obtain additional information, including copies of the proposed conditions for the operating permit,
27 the application, all relevant supporting materials and all other materials which are available to the

1 authority that is processing the operating permit and which are relevant to the determination of the
2 issuance of the operating permit; and

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

5 10. All comments on the director's review and preliminary intent for issuance or denial must be
6 submitted in writing to the director within 30 calendar days after the public announcement. The
7 director shall give notice of any public hearing at least 30 days before the date of the hearing. The
8 director shall keep a record of the names of any persons who made comments and of the issues
9 raised during the process for public participation.

10 11. Except as otherwise provided in subsection 12 and NAC 445B.319, 445B.320 and
11 445B.321, within 12 months after the official date of submittal of a Class I-B application, the
12 director shall issue or deny the application for an operating permit or for a revision of the operating
13 permit. The director shall make his decision by taking into account written comments from the
14 public, affected states, and the administrator and the comments made during public hearings on the
15 director's review and preliminary intent for issuance or denial, information submitted by
16 proponents of the project and the effect of such a facility on the maintenance of the state, and
17 national ambient air quality standards contained in NAC 445B.391 and the control strategy
18 contained in the air quality plan. The director shall send a copy of the final permit to the
19 administrator.

20 12. For stationary sources subject to the provisions of 40 C.F.R. § 52.21 regarding the
21 prevention of significant deterioration of air quality, adopted pursuant to NAC 445B.221, the
22 director shall issue or deny an application for an operating permit, or for the revision or renewal of
23 such an operating permit, within 12 months after receiving a complete application.

24 13. The director shall not issue an operating permit, or a revision of or a renewal of an operating
25 permit, if the administrator objects to its issuance in writing within 45 days after the administrator's
26 receipt of the proposed conditions for the operating permit and the necessary supporting
27 information.

1 14. Any person may petition the administrator to request that he object to an operating permit as
2 provided in 40 C.F.R. § 70.8(d).

3 15. If the administrator objects to the issuance of an operating permit of his own accord or in
4 response to a public petition, the director shall submit revised proposed conditions for the
5 operating permit in response to the objection within 90 days after the date on which he is notified
6 of the objection.

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

13 17. If construction will occur in more than one phase, the projected date of the commencement
14 of construction of each phase of construction must be approved by the director. An operating
15 permit or the revision of an operating permit for a new or modified stationary source, other than a
16 stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of
17 significant deterioration of air quality, expires if the initial phase of construction is not commenced
18 within 18 months after the projected date of the commencement of construction approved by the
19 director. The director may extend only the date on which the initial phase of construction may be
20 commenced upon a showing that the extension is justified.

21
22 **Sec. 10.** NAC 445B.323 is hereby amended to read as follows:

23 445B.323 1. All operating permits must be renewed 5 years after the date of issuance.

24 2. A complete [**d**] application for renewal of an operating permit must be submitted to the
25 director on the form provided *by the director* [**by him**] with the appropriate fee;

26 (a) A [**a**]t least 180 calendar days, but no earlier than 18 months, before the expiration date of
27 the current permit for *a* Class I *stationary* source[**s; or**];

1 (b) A [a]t least 30 calendar days before the expiration date of the current permit for a Class II
2 *stationary* source[s]; *or*

3 (c) *At least 30 calendar days before the expiration date of the current permit for a Class*
4 *III stationary source and must be deemed complete at least 15 days before the expiration*
5 *date.*

6 3. Applications for renewal must comply with all requirements for the issuance of an operating
7 permit *as specified in NAC 445B.300.*

8 4. If an application for renewal is submitted *and fulfills the requirements under subsection*
9 *2 [at least 180 calendar days before the expiration of the current permit for Class I*
10 *sources, or at least 30 days before the expiration of the current permit for Class H*
11 *sources]*, the stationary source may continue to operate *under the conditions of the existing*
12 *permit* until the permit is renewed or the application for renewal is denied. [~~The continued~~
13 ~~operation of the stationary source must comply with the conditions of the expired permit.]
14 If a [request] *complete application* is not submitted in [a timely manner] *accordance with*
15 *subsection 2*, the stationary source may be required to cease operation when the permit expires,
16 and may not recommence the operation until the permit is renewed.~~

17 5. The fee for the renewal of an operating permit is as specified in NAC 445B.327.

18

19 **Sec. 11.** NAC 445B.327 is hereby amended to read as follows:

20 445B.327 1. Except as otherwise provided in subsection 2, the fees for an operating permit are
21 as follows:

22 (a) Class I operating permit	\$30,000
23 (b) Significant revision of a Class I operating permit	20,000
24 (c) Minor revision of a Class I operating permit	5,000
25 (d) Renewal of a Class I operating permit	5,000
26 (e) Class II operating permit	3,000
27 (f) Revision of a Class II operating permit	2,000

1	(g) Renewal of a Class II operating permit	2,000
2	(h) Class II general permit	400
3	<i>(i) Class III operating permit</i>	300
4	<i>(j) Revision of a Class III operating permit</i>	200
5	<i>(k) Renewal of a Class III operating permit</i>	250
6	(l) Administrative amendment of an operating permit	200

7 An applicant must pay the entire fee when he submits an application to the director.

8 2. The fee to revise an operating permit so that the permit is consistent with any guidelines
9 established by the division pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire
10 fee when he submits an application to the director.

11 3. If a stationary source is subject to participation in the program for the prevention of significant
12 deterioration of air quality pursuant to 40 C.F.R. § 52.21, as incorporated by reference by NAC
13 445B.221, the owner or operator of that stationary source must obtain an operating permit. The
14 fees for such an operating permit are as follows:

15 (a) Permit for a stationary source subject to the program for the prevention of significant
16 deterioration of air quality \$50,000

17 (b) Revision of a permit for a stationary source subject to the program for the prevention of
18 significant deterioration of air quality to authorize a major modification of the stationary source
19 \$50,000

20 An applicant must pay the entire fee when he submits an application to the director.

21 4. Except as otherwise provided in this subsection, the annual fee based on emissions for a[ny]
22 stationary source is \$5.60 per ton times the total tons of each regulated pollutant[~~except carbon~~
23 ~~monoxide,~~] emitted during the preceding calendar year. ***The annual fee based on emissions***
24 ***does not apply to:***

25 (a) ***Emissions of carbon monoxide (CO); and***

26 (b) ***Class III sources.***

27 5. To determine the fee set forth in subsection 4:

- 1 (a) Emissions must be calculated using:
- 2 (1) The emission unit's actual operating hours, rates of production and in-place control
- 3 equipment;
- 4 (2) The types of materials processed, stored or combusted; and
- 5 (3) Data from:
- 6 (I) A test for emission compliance;
- 7 (II) A continuous emission monitor;
- 8 (III) The most recently published issue of "Compilation of Air Pollutant Emission Factors," EPA
- 9 Publication No. AP-42; or
- 10 (IV) Other emission factors or methods which the director has validated; or
- 11 (b) If paragraph (a) does not apply to a stationary source that was in operation during the
- 12 preceding calendar year, emissions must be calculated using the permitted allowable emissions for
- 13 that stationary source.

14 6. The annual fee for maintenance of a stationary source is:

- | | |
|---|---------------------|
| 15 (a) For a Class I source | \$12,500 |
| 16 (b) For a Class II source that has the potential to emit 50 tons or more per year of any one | |
| 17 regulated air pollutant except carbon monoxide | \$3,000 |
| 18 (c) For a Class II source that has the potential to emit 25 tons or more per year but less than 50 | |
| 19 tons per year of any one regulated air pollutant except carbon monoxide | \$1,000 |
| 20 (d) For a Class II source that has the potential to emit less than 25 tons per year of any one | |
| 21 regulated air pollutant except carbon monoxide | \$250 |
| 22 <i>(e) For a Class III source</i> | <i>\$250</i> |
| 23 (f) For a surface area disturbance | \$250 |

24 7. The department shall collect all fees required pursuant to subsections 4 and 6 not later than

25 July 1 of each year.

26 8. The fees required pursuant to subsections 4 and 6 are due and payable to the "Nevada State

27 Treasurer, Environmental Protection" within 45 days after the date of the invoice.

28 # # # #