

**NDEP PROCEDURAL FLOW TO:  
REVISED PROPOSED REGULATION OF THE  
STATE ENVIRONMENTAL COMMISSION  
LCB File No. R125-04**

August 6, 2004

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

**PART 1 – DEFINITIONS**

**Section 1.** Chapter 445B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

**Sec. 2.** *“Administrative revision to a Class I operating permit” means a revision of an existing Class I operating permit that incorporates the relevant conditions of an operating permit to construct.*

**Sec. 15.** NAC 445B.036 is hereby amended to read as follows:

**445B.036 “Class I source” defined.** “Class I source” means any stationary source ~~[which]~~ :  
*1. Which is subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive [-];*  
*2. For which the owner or operator has proposed the construction of a major modification; or*  
*3. Which is a major stationary source.*

**Sec. 3.** *“Clean unit” means a clean unit as defined in 40 C.F.R. § 52.21(b)(42) that has been designated by the Director pursuant to 40 C.F.R. § 52.21(y) and authorized in an operating permit to construct pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation.*

**Sec. 4.** *“Major modification” has the meaning ascribed to it in 40 C.F.R. § 52.21.*

**Sec. 5.** *“Major stationary source” has the meaning ascribed to it in 40 C.F.R. §52.21(b)(1).*

**Sec. 6.** *“Plantwide applicability limitation” means a plantwide applicability limitation as defined in 40 C.F.R. § 52.21(aa)(2)(v) that has been approved by the Director and authorized in an operating permit to construct pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation.*

**Sec. 7.** *“Pollution control project” means a pollution control project as defined in 40 C.F.R. § 52.21(b)(32) that has been approved by the Director and authorized in an operating permit to construct pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation.*

**Sec. 16.** NAC 445B.157 is hereby amended to read as follows:

**445B.157 “Revision of an operating permit” defined.** “Revision of an operating permit” means any modification of , or any administrative amendment *or administrative revision*, to an operating permit.

**Sec. 17.** NAC 445B.211 is hereby amended to read as follows:

**445B.211 Abbreviations.** The abbreviations used in NAC 445B.001 to 445B.3497, inclusive, *and sections*

*2 to 13, inclusive, of this regulation* have the following meanings:

<i>BACT</i> .....	<i>best available control technology</i>
Btu .....	British thermal unit
C.F.R. ....	Code of Federal Regulations
<del>[CO]</del> .....	<del>carbon monoxide</del>
CO <sub>2</sub> .....	carbon dioxide
°F .....	degree Fahrenheit
Hg.....	mercury
<del>[H<sub>2</sub>O]</del> .....	<del>water</del>
H <sub>2</sub> S .....	hydrogen sulfide
lb.....	pound
<i>NO</i> .....	<i>nitric oxide</i>
NO <sub>x</sub> .....	nitrogen oxides
O <sub>2</sub> .....	oxygen
ppm.....	parts per million
SO <sub>2</sub> .....	sulfur dioxide
VOC .....	volatile organic compound

## **PART 2 – ADOPTION BY REFERENCE**

**Sec. 20.** NAC 445B.221 is hereby amended to read as follows:

**445B.221 Adoption by reference of provisions of federal law and regulations.** 1. Title 40 C.F.R. §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive,

~~[51.100(nn), 51.165 and 52.21,]~~ *51.100(nn) and 51.165*, and Appendix S and Appendix W of Title 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2002.

2. *Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, 2003.*

3. The following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, 2003:

(a) Subpart A, except §§ 60.4, 60.8(b)(3) and 60.11(e).

(b) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW and AAAA.

~~[3-]~~ 4. Subparts A, B, C, D, E, F, H, I, J, K, L, M, N, O, P, Q, R, T, V, W, Y, BB and FF of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 2003.

~~[4-]~~ 5. Subparts A, B, F, G, H, I, *J*, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, *XX*, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, *AAAA*, CCCC, GGGG, HHHH, *JJJJ, NNNN, OOOO, QQQQ, RRRR*, SSSS, TTTT, UUUU, ~~[and]~~ *VVVV, WWWW, XXXX, BBBB, CCCC, FFFF, JJJJ, KKKK*,

**LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ and SSSSS** of Title 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, 2003.

~~[5-]~~ **6.** Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2003. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, **and sections 2 to 13, inclusive, of this regulation**, the provisions of 40 C.F.R. Part 72 apply.

~~[6-]~~ **7.** Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2003. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3497, inclusive, **and sections 2 to 13, inclusive, of this regulation**, the provisions of 40 C.F.R. Part 76 apply.

~~[7-]~~ **8.** Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, and the amendments to section 7412 contained in 40 C.F.R. Part 63, Subpart C, are hereby adopted by reference as they existed on July 1, 2003.

~~[8-]~~ **9.** The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the price of \$40.

~~[9-]~~ **10.** A copy of the publications which contain these provisions may be obtained from the:  
(a) Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.  
The price is:

(1) For the volume containing §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, 51.100(nn) and 51.165 and Appendices S and W of Part 51 .....	<del>[\$40]</del> <b>\$44</b>
(2) For § 52.21.....	<del>[\$5]</del> <b>58</b>
(3) For Part 60 (Sections 60.1 to end) .....	58
(4) For Part 60 (Appendices).....	51
(5) For Parts 61 - 62 .....	43
(6) For Part 63 (Sections 63.1 to 63.599).....	58
(7) For Part 63 (Sections 63.600 to 63.1199).....	50
(8) For Part 63 (Sections 63.1200 to 63.1439).....	50
(9) For Part 63 (Sections 63.1440 to end) .....	64
(10) For the volume containing Parts 72 and 76 .....	<del>[\$9]</del> <b>61</b>

(b) Division of State Library and Archives of the Department of Cultural Affairs for 15 cents per page.

(c) Internet at the following website: <http://www.gpoaccess.gov/nara/index.html>.

~~[10-]~~ **11.** For the purposes of the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

~~[11-]~~ **12.** Except as otherwise provided in subsections ~~[5 and 6;]~~ **6 and 7**, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3497, inclusive, **and sections 2 to 13, inclusive, of this regulation** for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

~~[12-]~~ **13.** For the purposes of this section, “administrator” as used in the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the Director.

## **PART 3 – THE PERMITTING PROCESS ENTRY POINT**

**Sec. 22.** NAC 445B.287 is hereby amended to read as follows:

**445B.287 Operating permits: General requirements; exception; restrictions on transfers.**

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

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

(1) A revision of the operating permit or the permit to construct is required pursuant to the requirements of NAC 445B.3425 , ~~and~~ 445B.344 *or section 8 of this regulation* 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.

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

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

4. For the purposes of this section, “permit to construct” means a document issued and signed by the Director before November 1, 1995, certifying that:

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

(b) All portions of NAC 445B.305 to 445B.314, inclusive, and 445B.3395, and any other provisions of NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 13, inclusive, of this regulation* have been complied with and constitute approval of location and for construction.

**Sec. 30.** NAC 445B.3361 is hereby amended to read as follows:

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

(a) Apply for and obtain a new or revised operating permit to construct pursuant to NAC 445B.001 to 445B.3497, inclusive ~~†~~, *and sections 2 to 13, inclusive, of this regulation*; or

(b) Apply for and obtain a new or revised Class I operating permit pursuant to NAC 445B.001 to 445B.3497, inclusive ~~†~~

~~2.14~~, and sections 2 to 13, inclusive, of this regulation.

2. To obtain a designation for an emission unit as a clean unit, the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the designation of the clean unit pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation.

3. To obtain an approval of a pollution control project as specified in 40 C.F.R. § 52.21(z)(1), the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the approval of a pollution control project pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation, before the owner or operator begins actual construction of the pollution control project.

4. To establish a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the approval of the plantwide applicability limitation pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation. To revise or renew a Class I operating permit to construct for the approval of a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a revised or renewed Class I operating permit to construct for the approval of a plantwide applicability limitation pursuant to NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation.

5. Except as otherwise provided in subsection 7, if an owner or operator obtains an operating permit to construct, the owner or operator is not required to obtain an operating permit or revised operating permit before commencing initial construction, start-up and operation of the proposed new Class I stationary source or the modification to the existing Class I stationary source.

~~3.14~~

6. Except as otherwise provided in this subsection and subsection 7, if an owner or operator has a valid operating permit to construct, the owner or operator may continue to operate a new Class I stationary source or modifications to an existing Class I stationary source under that operating permit to construct if the owner or operator submits a complete application for a Class I operating permit within 12 months after the date of initial start-up of the new Class I stationary source or modifications to the existing Class I stationary source. *The provisions of this subsection do not apply to:*

(a) A Class I operating permit to construct for the designation of the clean unit. A Class I operating permit to construct for the designation of the clean unit must be incorporated into the Class I operating permit pursuant to 40 C.F.R. § 52.21(y)(8).

(b) A Class I operating permit for the approval of a pollution control project.

(c) A Class I operating permit to construct for the approval of a plantwide applicability limitation.

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

(a) Obtain a Class I operating permit to construct for the construction or change in operation of the existing Class I stationary source; and

(b) Obtain an administrative revision to an operating permit to incorporate the conditions of the Class I operating permit to construct into the existing Class I operating permit pursuant to section 8 of this regulation before commencing with the construction or change in operation of the existing Class I stationary source.

Sec. 36. NAC 445B.3375 is hereby amended to read as follows:

**445B.3375 Class I-B application: Filing requirement.** 1. ~~[Am]~~ *Except as otherwise provided in subsection 7 of NAC 445B.3361, an* owner or operator of a stationary source must file a Class I-B 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 I-B 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 I-B application within 12 months after the date on which the Class II operating permit was issued to the affected source.

## **PART 4 – THE OPERATING PERMIT to CONSTRUCT PROCESS**

### **Application Content:**

Sec. 23. NAC 445B.295 is hereby amended to read as follows:

**445B.295 Application: General requirements.** ~~[Am]~~ *Except as otherwise provided in sections 9, 10 and 11 of this regulation, 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 his 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. 24.** NAC 445B.297 is hereby amended to read as follows:

**445B.297 Application: Submission of application and supplementary or corrected information.** 1. An applicant for an operating permit must:

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

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

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

2. In addition to the requirements set forth in subsection 1, an applicant for a Class I operating permit must submit a copy of the application directly to the Administrator. *The provisions of this subsection do not apply to applications for operating permits to construct that are subject to sections 9, 10 and 11 of this regulation.*

**Sec. 31.** NAC 445B.3363 is hereby amended to read as follows:

**445B.3363 Operating permit to construct: Application.** 1. ~~It~~ *Except as otherwise provided in sections 9, 10 and 11 of this regulation, in* addition to the information required pursuant to NAC 445B.295, an application for ~~a~~ *a Class I* operating permit to construct or for a revision to ~~a~~ *a Class I* operating permit to construct must include:

(a) Descriptions of all emissions of any regulated pollutants for which the source is defined as a major source.

(b) A description of all emissions of regulated air pollutants from all emission units.

(c) 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.

(d) 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.

(e) Any other information required by any applicable requirement.

(f) The calculations on which the information described in this subsection are based.

(g) Citations to and a description of all applicable requirements.

(h) A reference to any applicable test method used for determining compliance with each applicable requirement.

2. ~~[H]~~ *Except as otherwise provided in sections 9, 10 and 11 of this regulation, in addition to the information required pursuant to NAC 445B.295 and 445B.3368, an application for ~~[an]~~ a Class I operating permit to construct must contain:*

(a) For a proposed new major *stationary* source, ~~[as defined in 40 C.F.R. § 52.21, or]~~ a proposed major modification ~~[, as defined in 40 C.F.R. § 52.21,]~~ to an existing stationary source ~~[which is subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, as adopted pursuant to NAC 445B.221:]~~ *or a major modification at an existing major stationary source:*

(1) All information required ~~[by]~~ *pursuant to* 40 C.F.R. § 52.21; ~~[and]~~

(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 ~~[, as defined in NAC 445B.094,]~~ or a proposed modification ~~[, as defined in NAC 445B.099, to an existing stationary source]~~ which is not ~~[subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality:]~~ *a major modification:*

(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.

3. ~~[H]~~ *Except as otherwise provided in sections 9, 10 and 11 of this regulation, in addition to the information required in subsections 1 and 2, an application for a Class I operating permit to construct for a modification at an existing major stationary source that is not a major modification must contain:*

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

(b) *A description of the project or modification including all emission units;*

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

(d) *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);*

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

(f) *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 paragraphs (d), (e) and (f), the application must contain information on the potential of the unit to emit in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(d).*

4. *Except as otherwise provided in section 9 of this regulation, in addition to the information required pursuant to subsections 1 , 2 [and 2,] and 3 an application for an operating permit to construct must include an environmental evaluation pursuant to NAC 445B.308, 445B.310 and 445B.311.*

5. *In addition to the information required pursuant to section 9 of this regulation, an application for a Class I operating permit to construct for a modification or project at an emission unit that has been designated as a clean unit must contain a demonstration that the modification or project will not cause the unit to lose its designation as a clean unit pursuant to 40 C.F.R. § 52.21(y)(9).*

6. *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. 9. 1.** *In addition to the requirements set forth in subsection 1 of NAC 445B.297, an application for a Class I operating permit to construct for the designation of the clean unit must contain:*

*(a) A description of the air pollution control technology used to meet the emissions levels that are comparable to the BACT level of emissions reduction;*

*(b) A demonstration that the control technology qualifies or requalifies as an air pollution control technology and that an investment to install the control technology was made under the criteria established in 40 C.F.R. § 52.21(y)(3);*

*(c) A demonstration and analysis that the control technology used is comparable to the BACT in accordance with 40 C.F.R. § 52.21(y)(4);*

*(d) The date on which the air pollution control technology was installed for the emission unit;*

*(e) The date on which the air pollution control technology for the emission unit was placed into service, if known; and*

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

2. *Unless the Director determines otherwise, an application for a Class I operating permit to construct for the designation of the clean unit does not require an environmental evaluation pursuant to NAC 445B.308 to 445B.314, inclusive.*

**Sec. 10.** *In addition to the requirements set forth in subsection 1 of NAC 445B.297, an application for a Class I operating permit to construct for the approval of a pollution control project must contain:*

1. *All the information required pursuant to 40 C.F.R. § 52.21(z)(3); and*

2. *Any other information that the Director determines is necessary to process the application.*

**Sec. 11. 1.** *In addition to the requirements set forth in subsection 1 of NAC 445B.297, an application for a Class I operating permit to construct for the approval of a plantwide applicability limitation for a major stationary source must contain:*

*(a) All the information required pursuant to 40 C.F.R. § 52.21(aa)(3) and all the information necessary to establish the plantwide applicability limitation in accordance with the requirements of 40 C.F.R. § 52.21(aa)(4);*

*(b) A description of each pollutant for which the owner or operator is requesting a plantwide applicability limitation;*

*(c) For each pollutant described in paragraph (b), the proposed plantwide applicability limitation for the entire major stationary source;*

*(d) A monitoring plan that will be used to make an accurate determination of the plantwide emissions subject to the plantwide applicability limitation as specified in 40 C.F.R. § 52.21(aa)(12). The monitoring plan must identify, without limitation:*

- (1) The monitoring approach proposed for each emission unit;*
- (2) The minimum performance requirements of each such approach;*
- (3) The basis for any emissions factors proposed; and*
- (4) Any emission unit for which the owner or operator cannot demonstrate a*

*correlation between the monitored parameters and the plantwide applicability limitation at all operating points;*

*(e) If the owner or operator cannot demonstrate a correlation between the monitored parameters and the plantwide applicability limitation at all operating points as identified in paragraph (d), and the owner or operator requests to establish default values for determining compliance with the plantwide applicability limitation, any proposed default values to be used for determining compliance with the plantwide applicability limitation based on the highest potential emissions potentially operated for each emission unit;*

*(f) A description of the calculation procedures that the source will use to convert monitored data into monthly emissions on a 12-month rolling period;*

*(g) A description of any emission units that were permanently shut down after the baseline actual emissions period and the associated emissions;*

*(h) A description of any emission units for which construction began after the baseline actual emissions period and the associated emissions; and*

*(i) Any other requirements or information that the Director determines is necessary to implement and enforce the plantwide applicability limitation.*

*2. An application for a Class I operating permit to construct to allow a plantwide applicability limitation to expire and not be renewed must contain:*

*(a) A description of the proposed distribution of the emissions allowed by the plantwide applicability limitation for each emission unit or group of emission units at the major stationary source; and*

*(b) A description of the proposed methods for complying with the distribution of the allowable emissions provided in paragraph (a).*

*3. In addition to the information required pursuant to subsection 1, an application for a Class I operating permit to construct for the renewal of a plantwide applicability limitation must contain the information required pursuant to 40 C.F.R. § 52.21(aa)(10) for each plantwide applicability limitation pollutant.*

*4. In addition to the information required pursuant to subsection 1, an application for a Class I operating permit to construct for increasing a plantwide applicability limitation must contain all the information required pursuant to 40 C.F.R. § 52.21(aa)(11).*

## **Environmental Evaluation:**

**Sec. 26.** NAC 445B.308 is hereby amended to read as follows:

**445B.308 Prerequisites and conditions for issuance of operating permits: Environmental evaluation; compliance with control strategy; exemption from environmental evaluation.**

1. Before an operating permit or a revision of an operating permit may be issued ~~[for a]~~ :

*(a) For a new or modified stationary source [s];*

*(b) For a pollution control project;*

*(c) For a plantwide applicability limitation; or*

*(d) 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 ~~[deems]~~ *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 control strategy contained in the approved air quality plan.

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

(d) Will not comply with subsection 3.

3. ~~[To]~~ *Except as otherwise provided in subsection 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 incorporated 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.3497, inclusive, *and sections 2 to 13, inclusive, of this regulation* 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 ~~[it proposes to locate]~~ *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 incorporated by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

*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 as basic nonattainment for ozone must:*

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

*(b) Adopt as an emission limitation for the stationary source the best available control technology for volatile organic compounds and nitrogen oxides from the stationary source.*

*(c) Demonstrate that all other stationary sources within this State that are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3497, inclusive, and sections 2 to 13, inclusive, of this regulation and all other applicable requirements and conditions of the permit.*

*(d) Demonstrate an offset ratio of 1 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source that 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 located in an area designated as basic nonattainment for ozone.*

*(e) 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 that 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 that 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, demonstrate that the emissions 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 incorporated 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 ~~[-as those terms are defined in 40 C.F.R. § 52.21,]~~ 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 incorporated by reference in NAC 445B.221.

~~[5-]~~ 6. The Director may impose any reasonable conditions on his 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.3497, inclusive ~~[-~~

~~—6-]~~, and sections 2 to 13, inclusive, of this regulation.

7. Where 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.

~~[7-]~~ 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 control strategy.

~~[8-]~~ 9. An owner or operator of a Class II source may request an exemption from the requirement to submit an environmental evaluation. Within 30 days after receipt of a written request for an exemption, the Director shall grant or deny the request and notify the owner or operator in writing of his determination.

~~[9-]~~ 10. As used in this section:

(a) “Lowest achievable emission rate” has the meaning ascribed to it in 40 C.F.R. § 51.165, as incorporated by reference in NAC 445B.221.

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

(c) “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. 27.** NAC 445B.310 is hereby amended to read as follows:

**445B.310 Environmental evaluation: Applicable sources.** An applicant for an operating permit, a revision to an operating permit or a request for a change of location, which is not subject to the provisions of 40 C.F.R. ~~[Part]~~ § 52.21, as adopted by reference in NAC 445B.221, must submit with the application an environmental evaluation for:

1. A new stationary source which emits, or has the potential to emit, greater than 25 tons of a regulated air pollutant per year;

2. A modification to an existing stationary source that meets the following criteria:

(a) The existing stationary source has the potential to emit greater than 25 tons of a regulated air pollutant per year; and

(b) The proposed modification has the potential to emit greater than 10 tons of a regulated air pollutant per year; ~~(e)~~

3. *The approval of a pollution control project, the approval of a plantwide applicability limitation or the approval to allow a plantwide applicability limitation to expire and not be renewed; or*

4. Upon written notice from the Director, any other source or combination of sources.

## **Application Processing Timelines:**

**Sec. 25.** NAC 445B.298 is hereby amended to read as follows:

**445B.298 Application: Official date of submittal.** Except as otherwise provided in NAC 445B.3364, 445B.3395 ~~(or 445B.3457;)~~ , *445B.3457 or 445B.3487*, 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. 32.** NAC 445B.3364 is hereby amended to read as follows:

**445B.3364 Operating permit to construct: Review of application and determination of completeness by director; notice.** 1. Except for sources that are subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 45 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a Class I operating permit to construct, 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 45 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 the 46th day after the date of receipt, whichever is earlier. Within 90 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny ~~(a)~~ *a Class I* operating permit to construct or a revision of a Class I operating permit to construct.

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 to construct or for the revision of a Class I operating permit to construct, 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. Within 180 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny an operating permit to construct or a revision of an operating permit to construct. For the purposes of 40 C.F.R. § 52.21, the application shall be deemed to be complete on the date that the Director

makes the preliminary determination to issue or deny a Class I operating permit to construct or a revision of an operating permit to construct.

*3. For the submittal of an application for a Class I operating permit to construct for the designation of the clean unit or a Class I operating permit to construct for the approval of a pollution control project, within 10 days after the date of receipt of such an application, 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 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 the 11th day after the date of receipt, whichever is earlier. Within 60 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct for the designation of the clean unit or Class I operating permit to construct for the approval of a pollution control project.*

*4. For the submittal of an application for a Class I operating permit to construct for the approval of a plantwide applicability limitation, within 30 days after the date of receipt of such an application, 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 30 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 the 31st day after the date of receipt, whichever is earlier. Within 120 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct for the approval of a plantwide applicability limitation.*

5. If, after the official date of submittal, the Director discovers that additional information is required to act on ~~the~~ *an* 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.3497, inclusive ~~H~~, *and sections 2 to 13, inclusive, of this regulation.* 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.

~~[4-]~~ 6. The Director's review and preliminary intent to issue or deny an operating permit to construct or a revision of an operating permit to construct and the proposed conditions for the operating permit to construct must be made public and maintained on file with the Director during normal business hours at 333 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 days to enable public and EPA participation and comment.

~~[5-]~~ 7. The Director shall:

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

(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;

(d) Provide a copy of the Director's preliminary intent to issue or deny the operating permit to construct and the proposed operating permit to construct to the Administrator; ~~[and]~~

(e) Establish a 30-day period for comment from the public and the EPA ~~†~~  
~~—6.† ; and~~

*(f) If the application is for an administrative revision to a Class I operating permit, provide written notice to each affected state.*

**8.** In addition to the requirements set forth in subsection ~~[5,]~~ **7**, the notice required for a Class I operating permit to construct or for a revision of ~~[an]~~ **a Class I** operating permit to construct must identify:

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

(b) The name and address of the authority processing the Class I operating permit to construct;

(c) The activity or activities involved in the Class I operating permit to construct and the change of emissions involved in any revision of the Class I operating permit to construct;

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

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

~~—7.† ; and~~

*(f) If applicable, a description of any revisions to a Class I operating permit resulting from an administrative revision to the Class I operating permit.*

**9.** All comments concerning the Director's review and the preliminary intent for the issuance or denial of a Class I operating permit to construct or of a revision of a Class I operating permit to construct 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.

~~[8.†]~~ **10.** Except as otherwise provided in ~~[subsection 9,]~~ **subsections 11, 12 and 13**, within 180 days after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct.

~~[9. For]~~ **The Director shall make his decision by taking into account:**

*(a) Written comments from the public;*

*(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 control strategy contained in the air quality plan.*

*11. Except as otherwise provided in subsection 12, for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 12 months after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct.*

*12. The Director shall issue or deny a Class I operating permit to construct for the designation of a clean unit, for the approval of a pollution control project or for the approval of a plantwide applicability limitation within 30 days after the close of the period for public participation or 30 days after the hearing, if a hearing is scheduled pursuant to this section, whichever occurs later.*

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

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

*15. If, on his own or pursuant to a request by a person pursuant to subsection 14, the Administrator objects to the issuance of an administrative revision to a Class I operating permit, the Director shall submit revised proposed conditions for the Class I operating permit in response to the objection within 90 days after the date on which he is notified of the objection.*

## **Permit Content:**

**Sec. 33.** NAC 445B.3365 is hereby amended to read as follows:

**445B.3365 Operating permit to construct: Required conditions.** *Except as otherwise provided in sections 12 and 13 of this regulation:*

1. The Director shall cite the legal authority for each condition contained in an operating permit to construct.

2. An operating permit to construct must contain the following conditions:

(a) The expiration date of the operating permit to construct must be defined as described in NAC 445B.3366.

(b) The holder of the operating permit to construct shall retain records of all required monitoring data and supporting information for 5 years after the date of the sample collection, measurement, report or analysis. Supporting information includes , *without limitation*, all records regarding calibration and maintenance of the monitoring equipment and all original stripchart recordings for continuous monitoring instrumentation.

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

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

(1) An action for noncompliance;

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

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

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

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

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

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

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

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

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

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

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

(3) Inspect, at reasonable times, any facilities, practices, operations or equipment, including any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the operating permit to construct; and

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

(j) A responsible official of the stationary source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the operating permit to construct are true, accurate and complete.

3. An operating permit to construct must contain:

(a) All applicable requirements, emission limits and standards;

(b) Monitoring methods adequate to show compliance;

(c) Adequate recordkeeping and reporting requirements as deemed by the Director; and

(d) Any other requirements deemed necessary by the Director.

***4. In addition to the requirements established in subsections 1, 2 and 3, if the operating permit to construct is a Class I operating permit to construct for the approval of a pollution control project, the Class I operating permit to construct must contain the information set forth in 40 C.F.R. § 52.21 (z)(6).***

***Sec. 12. 1. The Director shall cite the legal authority for each condition contained in a Class I operating permit to construct for the designation of a clean unit.***

***2. A Class I operating permit to construct for the designation of a clean unit must contain the following conditions:***

***(a) The expiration date of the Class I operating permit to construct must be determined in accordance with subsection 5 of NAC 445B.3366.***

***(b) The holder of the Class I operating permit to construct shall retain records of all required monitoring data and supporting information for at least 5 years after the date of the***

*sample collection, measurement, report or analysis. For the purposes of this paragraph, “supporting information” includes, without limitation, all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.*

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

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

*(e) The Class I operating permit to construct does not convey any property right or exclusive privilege.*

*(f) A responsible official of the stationary source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the Class I operating permit to construct are true, accurate and complete.*

*3. In addition to the requirements set forth in subsections 1 and 2, a Class I operating permit to construct for the designation of a clean unit must contain:*

*(a) All applicable requirements, emission limits and standards;*

*(b) Monitoring methods adequate to show compliance;*

*(c) Adequate recordkeeping and reporting requirements determined necessary by the Director; and*

*(d) Any other requirements determined necessary by the Director.*

*4. In addition to the requirements established in subsections 1, 2 and 3, a Class I operating permit to construct for the designation of a clean unit must contain the information set forth in 40 C.F.R. § 52.21(y)(8).*

**Sec. 13. 1.** *The Director shall cite the legal authority for each condition contained in a Class I operating permit to construct for the approval of a plantwide applicability limitation.*

**2.** *A Class I operating permit to construct for the approval of a plantwide applicability limitation must contain the following conditions:*

*(a) The expiration date of the Class I operating permit to construct must be determined in accordance with subsection 6 of NAC 445B.3366.*

*(b) The holder of the Class I operating permit to construct shall retain records pursuant to 40 C.F.R. § 52.21(aa)(13).*

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

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

*(1) An action for noncompliance;*

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

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

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

*(f) The Director may revise, revoke and reissue, reopen and revise, or terminate the Class I operating permit to construct for cause.*

*(g) The Class I operating permit to construct does not convey any property right or exclusive privilege.*

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

*(i) The holder of the Class I operating permit to construct shall allow the Director or any authorized representative of the Director, upon presentation of credentials, to:*

*(1) Enter upon the premises of the holder of the Class I operating permit to construct where:*

*(I) The stationary source is located;*

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

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

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

*(3) Inspect, at reasonable times, any facilities, practices, operations or equipment, including any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the Class I operating permit to construct; and*

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

*(j) A responsible official of the stationary source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the Class I operating permit to construct are true, accurate and complete.*

*3. In addition to the requirements established in subsections 1 and 2, a Class I operating permit to construct for the approval of a plantwide applicability limitation must contain the information set forth in 40 C.F.R. § 52.21(aa)(7) as adopted by reference in NAC 445B.221.*

## **Permit Expiration:**

**Sec. 34.** NAC 445B.3366 is hereby amended to read as follows:

**445B.3366 Operating permit to construct: Expiration; extension.** 1. If construction will occur in one phase, an operating permit to construct 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 after initiated. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

2. If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the Director. An operating

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

3. An operating permit to construct issued to a new *major* stationary source or issued for a *major* modification to an existing stationary source that is subject to the permitting requirements set forth in 40 C.F.R. § 52.21 is subject to the expiration requirements established in 40 C.F.R. § 52.21(r)(2).

4. ~~[An]~~ *Except as otherwise provided in this subsection, an* operating permit to construct expires if a complete application for a Class I operating permit or modification of an existing Class I operating permit is not submitted within 12 months after the date of initial start-up. *The provisions of this subsection do not apply to:*

*(a) A Class I operating permit to construct for the designation of a clean unit;*

*(b) A Class I operating permit for the approval of a pollution control project; or*

*(c) A Class I operating permit to construct for the approval of a plantwide applicability limitation.*

*5. An operating permit to construct for the designation of a clean unit expires pursuant to the expiration provision in 40 C.F.R. § 52.21(y)(6) or if the designation of the clean unit is lost for failing to comply with the provisions of 40 C.F.R. § 52.21(y)(9).*

*6. A plantwide applicability limitation expires at the end of the plantwide applicability limitation effective period in accordance with 40 C.F.R. § 52.21(aa)(9), unless the plantwide applicability limitation is renewed pursuant to subsection 3 of section 11 of this regulation. If the owner or operator is not going to renew the plantwide applicability limitation, the operating permit for the Class I stationary source must be revised to incorporate the redistribution of the emissions allowed by the plantwide applicability limitation that is expiring in accordance with subsection 2 of section 11 of this regulation. For the purposes of this subsection, “plantwide applicability limitation effective period” means the “PAL effective period” as that term is defined in 40 C.F.R. § 52.21(aa)(2)(vii).*

## **PART 5 – CHANGES NECESSARY FOR THE OPERATING PERMIT PROCESS**

**Sec. 28.** NAC 445B.319 is hereby amended to read as follows:

**445B.319 Operating permits: Administrative amendment.** 1. The holder of an operating permit may request or the Director may initiate an administrative amendment of an operating permit to:

(a) Correct typographical errors;

(b) Identify a change in the name, address or telephone number of any person identified in the operating permit, or provide a similar minor administrative change at the stationary source;

(c) Require more frequent monitoring or reporting by the holder of the operating permit;

(d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or revision of the operating permit; or

(e) Allow for a change in ownership or operational control of a stationary source if the Director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the Director a

written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

2. A holder of an operating permit must request an administrative amendment on an application provided by the Director. The application must be accompanied by a fee in the amount specified in NAC 445B.327.

3. The Director shall:

(a) Issue or deny an application for an administrative amendment within 30 days after receipt of the application.

(b) ~~Send~~ *If the administrative amendment is for a Class I operating permit, send* a copy of the administrative amendment to the Administrator.

**Sec. 8. 1. *To modify a Class I stationary source in accordance with subsection 7 of NAC 445B.3361, the owner or operator of the Class I stationary source must submit an application for an administrative revision to a Class I operating permit to incorporate the conditions of a Class I operating permit to construct into the existing Class I operating permit for the Class I stationary source.***

**2. *The Director shall issue a revised Class I operating permit or deny the application for an administrative revision to a Class I operating permit within the timelines established for processing an application for a Class I operating permit to construct as specified in NAC 445B.3364.***

**3. *An application for an administrative revision to a Class I operating permit must comply with the requirements for an application for a Class I operating permit set forth in NAC 445B.295, 445B.297 and 445B.3368, and the requirements relating to public participation and comment and a review by any affected states and the Administrator pursuant to NAC 445B.3395.***

**4. *An application for an administrative revision to a Class I operating permit must be accompanied by the appropriate fee set forth in NAC 445B.327.***

## **Application Content:**

**Sec. 35.** NAC 445B.3368 is hereby amended to read as follows:

**445B.3368 Application: Additional requirements; exception.** 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.

(2) A description that includes the following:

(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 application for a Class I operating permit must contain:

(a) For a proposed new major *stationary* source or a proposed ~~[significant]~~ *major* modification to an existing stationary source : ~~[which is subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, as adopted pursuant to NAC 445B.221-]~~

(1) All information required ~~[by]~~ *pursuant to* 40 C.F.R. § 52.21; ~~[and]~~

(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 ~~[modification]~~ *revision* to an existing stationary source : ~~[which is not subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality:]~~

(1) All information required by NAC 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 ~~[modification]~~ *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; and

(2) 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 in 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 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.*

## **Application Processing Timelines:**

**Sec. 37.** NAC 445B.3395 is hereby amended to read as follows:

**445B.3395 Review of application and determination of completeness by director; notice; expiration of permit.** 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.3497, inclusive **H**, *and sections 2 to 13, inclusive, of this regulation.* 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 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 333 West Nye Lane, Carson City, Nevada, 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; and

(2) Any affected state;

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

(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 identify:

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

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

(c) 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) 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

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

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 I-B application, the Director shall issue or deny the application for a Class I-B operating permit or for a revision of the Class I-B operating permit. The Director shall make his decision by taking into account ~~written~~ :

(a) *Written* comments from the public, affected states and the Administrator ~~and the comments~~ ;

(b) *Comments* made during public hearings ~~on~~ *concerning the application and* the Director's ~~review and preliminary intent~~ *preliminary determination* for issuance or denial ~~information~~ ;

(c) *Information* submitted by proponents of the project ; and ~~the~~

(d) *The* effect of such a facility on the maintenance of the ~~State,~~ *state* and national ambient air quality standards contained in NAC 445B.22097 and the control strategy contained in the air quality plan.

➡ The Director shall send a copy of the final Class I-B operating permit to the Administrator.

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 pursuant to NAC 445B.221, the Director shall issue or deny an application for a Class I operating permit, or ~~for~~ 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 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 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 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. 38.** NAC 445B.3425 is hereby amended to read as follows:

**445B.3425 Minor revision of permit.** 1. A minor revision may be made to a Class I operating permit if the revision:

- (a) Does not violate any applicable requirement;
- (b) Does not involve significant changes to the existing requirements for monitoring, reporting or recordkeeping;
- (c) Does not require or change:
  - (1) A determination of an emission limitation or other standard on a case-by-case basis;
  - (2) A determination of the ambient impact for any temporary source; or
  - (3) A visibility or increment analysis;
- (d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:
  - (1) A federally enforceable emissions cap; or
  - (2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5);
- (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive; **[and]**
- (f) Does not result in an increase in allowable emissions that exceeds any of the following specified thresholds:
  - (1) Carbon monoxide, 100 tons per year ; **H**
  - (2) Nitrogen oxides, 40 tons per year ; **H**
  - (3) Sulfur dioxide, 40 tons per year ; **H**
  - (4) PM<sub>10</sub>, 15 tons per year ; **H**
  - (5) Ozone, 40 tons per year of volatile organic compounds ; **H**
  - (6) Sulfuric acid mist, 7 tons per year **H** ; **and**
  - (7) Hydrogen sulfide (H<sub>2</sub>S), 10 tons per year **H** ; **and**
- (g) Is not a major modification at an existing major stationary source.**

2. An owner or operator must request a minor revision on an application form provided by the Director. The application must include:

- (a) A description of the modification;
- (b) A description of the emissions resulting from the modification;
- (c) An identification of any new applicable requirements that will apply because of the modification;
- (d) Suggested conditions of the operating permit;
- (e) Certification by a responsible official of the stationary source that the proposed modification complies with the criteria for a minor revision set forth in subsection 1; and
- (f) Any relevant information concerning the proposed change which is required by NAC 445B.295 and 445B.3368.

3. The Director shall:

- (a) Determine, in accordance with subsection 5 of NAC 445B.3395, whether the application for a minor revision is complete.
- (b) Transmit the application to the Administrator within 10 working days after the official date of submittal of the application.
- (c) Provide notice to any affected state within 10 working days after the official date of submittal of the application for a minor revision.
- (d) Unless the application is for a minor revision described in subsection 8 of NAC 445B.3395, enable public participation and comment and provide notice to the public concerning the application for a minor revision in the manner set forth in subsections 6 and 7 of NAC 445B.3395.
- (e) Provide a 30-day period for comment by any affected state and the public, if applicable, concerning the application.
- (f) Within 45 days after the official date of submittal of the application:
  - (1) Determine whether the proposed minor revision meets the criteria for a minor revision set forth in this section;
  - (2) Determine whether the proposed conditions of the operating permit are adequate; and
  - (3) If the Director determines that the proposed modification does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant and the Administrator.
- (g) If the Director determines that the applicant's proposed conditions of the operating permit are not adequate, draft appropriate conditions for the operating permit. Proposed conditions drafted by the Director must be submitted to the Administrator for review.

~~(h) [Unless the application is for a minor revision described in subsection 8 of NAC 445B.3395, enable public participation and comment and provide notice to the public concerning any proposed conditions drafted pursuant to paragraph (g) in the manner set forth in subsections 6 and 7 of NAC 445B.3395.~~

~~—(i)]~~ Notify the Administrator of any recommendations from an affected state which the Director does not accept.

4. The Director may issue the minor revision upon notification by the Administrator that the Administrator does not object to the minor revision. If the Administrator does not notify the Director within 45 days after the date on which the Administrator received the notification pursuant to this section or within 45 days after the date on which the Administrator receives the Director's proposed conditions, whichever is later, the Administrator shall be deemed to have not objected to the minor revision.

5. If the Administrator objects to the minor revision, the Director shall:

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

(c) Revise the proposed revision of the operating permit and forward it to the Administrator for review. ~~[If the Director revises the proposed revision of the operating permit, the Director shall, unless the application is for a minor revision described in subsection 8 of NAC 445B.3395, enable public participation and comment and provide notice to the public concerning the Director's revision of the operating permit in the manner set forth in subsections 6 and 7 of NAC 445B.3395.]~~

6. The Director shall take action pursuant to subsection 4 or 5 within 90 days after the official date of submittal of an application for a minor revision or within 15 days after the Administrator's 45-day review period ends, whichever is later.

**PART 6 – FEES**

**Sec. 29.** NAC 445B.327 is hereby amended to read as follows:

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

(a) Class I operating permit to construct.....	\$20,000
(b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....	5,000
(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000
(d) Modification to an operating permit to construct.....	5,000
(e) Revision of an operating permit to construct.....	5,000
(f) Class I operating permit .....	30,000
(g) Significant revision of a Class I operating permit .....	20,000
(h) Minor revision of a Class I operating permit.....	5,000
(i) Renewal of a Class I operating permit .....	5,000
(j) Class II operating permit .....	3,000
(k) Revision of a Class II operating permit.....	2,000
(l) Renewal of a Class II operating permit .....	2,000
(m) Class II general permit .....	400
(n) Class III operating permit.....	300
(o) Revision of a Class III operating permit.....	200
(p) Renewal of a Class III operating permit.....	250
(q) Surface area disturbance permit .....	400
(r) Revision of a surface area disturbance permit .....	200
(s) Administrative amendment of an operating permit .....	200
(t) Replacement of a lost or damaged operating permit to construct or an operating permit.....	200
(u) Request for change of location of an emission unit .....	100
<i>(v) Administrative revision to a Class I operating permit .....</i>	<i>500</i>
<i>(w) For each designation of a clean unit listed in a Class I operating permit to construct for the designation of a clean unit.....</i>	<i>5,000</i>
<i>(x) For each approval of a pollution control project listed in a Class I</i>	

*operating permit to construct for the approval of a pollution control project..... 7,500*  
 (y) *Class I operating permit to construct for the approval of a plantwide applicability limitation .....20,000*

➡ An applicant must pay the entire fee when he submits an application to the Director.

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

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

(a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality.....	\$50,000
(b) Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source .....	50,000
(c) Class I operating permit to construct.....	50,000
(d) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....	5,000
(e) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000
(f) Revision of an operating permit to construct .....	5,000
<del>[(g) Revision of an operating permit for a modification that is not a major modification, as defined in 40 C.F.R. § 52.21, of a stationary source .....</del>	<del>10,000]</del>
<del>[(h)] (g) Administrative amendment of an operating permit or operating permit to construct .....</del>	<del>200</del>
<del>[(+)] (h) Replacement of a lost or damaged operating permit to construct or an operating permit.....</del>	<del>200</del>
<del>[(+)] (i) Request for the change of location of an emission unit .....</del>	<del>100</del>
<i>[(j) Administrative revision to a Class I operating permit.....</i>	<i>500</i>

➡ An applicant must pay the entire fee when he submits an application to the Director.

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

5. Except as otherwise provided in this subsection, the annual fee based on emissions for a stationary source is \$5.60 per ton times the total tons of each regulated pollutant emitted during the preceding calendar year. The annual fee based on emissions does not apply to:

- (a) Emissions of carbon monoxide; or
- (b) Class III stationary sources.

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

(a) Emissions must be calculated using:

- (1) The emission unit's actual operating hours, rates of production and in-place control equipment;
- (2) The types of materials processed, stored or combusted; and
- (3) Data from:
  - (I) A test for emission compliance;
  - (II) A continuous emission monitor;

(III) The most recently published issue of *Compilation of Air Pollutant Emission Factors*, EPA Publication No. AP-42; or

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

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

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

- (a) For a Class I source..... \$12,500
- (b) For a Class II source that has the potential to emit 50 tons or more per year of any one regulated air pollutant except carbon monoxide.....3,000
- (c) For a Class II source that has the potential to emit 25 tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide.....1,000
- (d) For a Class II source that has the potential to emit less than 25 tons per year of any one regulated air pollutant except carbon monoxide.....250
- (e) For a Class III source.....250
- (f) For a surface area disturbance.....250

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

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

## **PART 7 – OTHER, NON-NSR RELATED CHANGES**

**Sec. 14.** NAC 445B.001 is hereby amended to read as follows:

**445B.001 Definitions.** As used in NAC 445B.001 to 445B.3497, inclusive, *and sections 2 to 13, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, *and sections 2 to 7, inclusive, of this regulation* have the meanings ascribed to them in those sections.

**Sec. 18.** NAC 445B.22043 is hereby amended to read as follows:

**445B.22043 “Sulfur emissions” defined.** For the purposes of NAC 445B.2204 to ~~445B.22063,~~ **445B.2205**, inclusive, total feed sulfur must be calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere.

When furnaces, sinter machines, sinter boxes, roasters, converters, or other similar devices are used for converting ores, concentrates, residues, or slag to the metal or the oxide of the metal either wholly or in part, the combined sulfur input of all units must be used to determine the allowable emission.

**Sec. 19.** NAC 445B.2205 is hereby amended to read as follows:

**445B.2205 Sulfur emissions: Other processes which emit sulfur.** 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 . ~~and 445B.22057-~~

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.22063,~~ **445B.2205**, inclusive, and are governed by *the provisions of* NAC **445B.22027 to 445B.22037, inclusive, and** 445B.287 to 445B.3497, inclusive, and ~~445B.22027 to 445B.22037, inclusive.~~ *sections 2 to 13, inclusive, of this regulation.*

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. 21.** NAC 445B.230 is hereby amended to read as follows:

**445B.230 Plan for reduction of emissions.** 1. Any person who is able to cause or permit the emission of 100 tons (90.7 metric tons) or more per year of a regulated air pollutant from a stationary source shall prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the air quality plan for the State of Nevada.

2. Any person required to have an operating permit who is able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant shall, upon written notice from the Director, prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the air quality plan for the State of Nevada.

3. The written notice required under subsection 2 must be transmitted in accordance with subsection ~~[3 of NAC 445B.275]~~ 4 to all persons who are within the same classification of sources as defined in the *Standard Industrial Classification Manual*, 1987, and who are able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant.

*4. 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. 39.** NAC 445B.032, 445B.139, 445B.140 and 445B.195 are hereby repealed.

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### TEXT OF REPEALED SECTIONS

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**445B.032 “Calcine” defined. (NRS 445B.210)** “Calcine” means the solid materials produced by a roaster.

**445B.139 “Precious metal” defined. (NRS 445B.210)** “Precious metal” means a metal of the gold, silver or platinum metal group.

**445B.140 “Precious metal processing plant” defined. (NRS 445B.210)** “Precious metal processing plant” means a facility which is primarily engaged in crushing, screening, grinding, handling, loading, transferring or storing any precious metal or precious metal ore.

**445B.195 “Thermit process” defined. (NRS 445B.210)** “Thermit process” means an exothermic reaction produced by heating finely divided aluminum on a metal oxide causing reduction of the oxide.