



State of Nevada

Dept. of Conservation & Natural Resources

State Environmental Commission SEC.nv.gov

901 South Stewart Street, Suite 4001, Carson City, Nevada 89701

**Draft Minutes of the
State Environmental Commission (SEC)
February 21, 2018, Public Meeting
9:00 AM**

Nevada Legislative Building, Room 2134
401 South Carson Street
Carson City, NV

Members Present:

E. Jim Gans, chairman
Tom Porta, vice chairman
Kathryn Landreth
Kacey KC
Jason King
Rich Perry

Members Absent:

Jim Barbee
Mark Turner
Cary Richardson
Tony Wasley

Members of the Public Present:

Jim Kerr, Elko County
Bob Foerster, NV Rural Water Association
Greg Reed, GRGID
Patsy Moran
Eric Crump, Washoe County
David Gonzales, Washoe County
Allen Biaggi, NV Mining Association
Adrian Edwards, NWEA, Board of Certification

SEC Staff Present:

Peter Keegan, SEC/DAG
Valerie King, executive secretary
Shanon Pascual, recording secretary

Begin Summary Minutes

1) Call to order, Roll Call, Establish Quorum: (Discussion)

The meeting was called to order at 9:01 am by Chairman Jim Gans. Executive Secretary Valerie King confirmed that the hearing was properly noticed and that a quorum was present.

2) Public Comments: (Discussion)

Chairman Gans called for public comments. There were none.

3) Approval of the SEC meeting minutes for December 5, 2017: (Action Item)

Chairman Gans requested comments from the Commission regarding the December meeting minutes. Chairman Gans addressed corrections and then asked for a motion to approve the minutes.

Commissioner KC moved to approve the minutes, and Commissioner Landreth seconded. The minutes were unanimously approved.

Permanent Regulatory Petitions

4) Permanent Regulatory Petition – R155-17 (Attachment 1) (For Possible Action)

► *Bureau of Water Pollution Control (BWPC)*

Mr. Joe Maez, supervisor for the Technical, Compliance and Enforcement Branch, presented an overview and history of his program. The branch has largely remained the same since 1992. To arrive at an unbiased review of the program, the BWPC worked with the Nevada Board of Certification—run by the Nevada Water Environment Association (NWEA)—and a third party, the Association of Board Contractors (ABC). The review uncovered needed regulatory updates on fees, continuing education, and certification requirements.

The Nevada Board of Certification is composed of:

- Adrian Edwards, board chairman,
- Joe Crim, vice chairman,
- LeAnna Risso, secretary,
- Joseph Carter, member,
- Michael Drinkwater, member,
- Brian Oswalt, member,
- John Solvie, member, and
- Ashley Jacobson, program administrator.

Following Mr. Maez's introduction, Ms. Katrina Pascual from BWPC went over the proposed regulatory changes. There were three main parts to the proposal:

1. The proposal included 1) changing and adding requirements for the certification and renewal of wastewater operator licenses, 2) adding scaled education requirements, 3) adding scaled operator experience requirements, 4) including continuing education units for renewals, and 4) increasing renewal and reciprocity fees.
2. The proposal included new conditions for sewage treatment plants that emphasize plant treatment technology and flow rates. (NAC 445A.286, NAC 445.287, NAC 445A.288, NAC 445A.289, NAC 445A.290, NAC 445A.292)
3. The proposal included changes to NAC 455A.867 (6); specifically it updated requirements for the Underground Injection Control Program.

Ms. Pascual explained that Nevada is one of the few states that does not have education and continuing education requirements for initial, reciprocal, and renewal certifications for professional wastewater operators. These revisions would help Nevada align with professional and national standards and would strengthen the program to better safeguard state waters. The regulatory revision would increase the cost of operator certification. Initial certification fees would be raised to \$140.00, renewals would be raised to \$110.00, and reciprocity would be raised to \$150.00. The fee increase would be used to fund the certification program and finance the review applications with revised education and continuing education requirements.

After Ms. Pascaul's overview, Chairman Gans asked for questions from the Commission. BWPC staff answered their questions.

Commissioner Porta asked how the continuing education requirements would be verified. BWPC responded that education would be a requirement before certificates are given; operators would be randomly checked for compliance.

Commissioner Landreth asked if there would be a grace period for operators who have not been certified. BWPC confirmed that a grace period *would* be available until the end of the renewal cycle of the next recertification.

Chairman Gans asked if BWPC staff had enough time to maintain the new procedures. BWPC responded that NWEA is contracted to verify the program.

Commissioner KC asked if operators would need to move down a level to qualify if they were already classified at a higher level. BWPC explained that the current certification would be valid. However, operators *would* need to seek additional education before the renewal period to maintain their certification or move up in the series.

Referencing a table on page three of the proposed regulation, Commissioner Perry wondered how rural operators could be encouraged to grow professionally and improve their financial status when they predominately work on classification I facilities. He qualified his question by noting that it may be difficult for rural operators to move to a higher grade—and consequently a higher pay grade—because they may not have access to a classification II facility to gain the required experience. BWPC acknowledged Perry's concern, explaining that the question was presented at a recent public workshop. One of the reasons a restricted certificate was created, they said, was to decide the difference between those who have met the education requirements and those who have the experience. They noted that they would reexamine the evaluation process in a year to see if any improvements needed to be made to better accommodate rural operators.

Chairman Gans asked if the fee increase would cover the higher cost of the program. The BWPC responded that the contract is already covered through discharge permit fees.

Chairman Gans then asked if bureau staff got push back on fee increases during the outreach process. BWPC responded that they had questions on why the increase was not gradually phased in. Mr. Jim Kerr for the city of Elko, for example, contacted them to request a tiered approach and to ask why the fees hadn't been adjusted since 1992. BWPC reiterated the need for the increase, however, pointing to a significant budget gap and the additional administrative costs associated with the NWEA contractor.

Mr. Jim Kerr, public works superintendent with the city of Elko, then approached the microphone to share his concerns on training.

Mr. Kerr explained that it would be financially challenging for folks in rural Nevada to meet the increased education and training requirements, especially the request to renew certificates every other year. He said it would be hard to get staff in compliance on time since he manages the 4th largest county in the US (Elko County).

Mr. Kerr explained that he supports growth and education, but was concerned about the limitations the proposal might place on his plants and on the growth and mobility of his staff. In an effort to relieve this concern, Mr. Kerr proposed an alternative to having a restricted license expire; he recommended that restricted licenses be renewable. He welcomed the idea of working with BWPC to review the program in a year.

The Commission, BWPC, and Mr. Kerr agreed to review the program in a year.

Commissioner King asked Mr. Kerr how many operators he currently staffed. Mr. Kerr answered that he had seven operators on staff and that the additional training for each would stretch his budget. He also recommended online training as a cost and time-effective alternative.

Vice Chairman Porta followed up on the suggestion, asking what NWEA charged for online courses. BWPC responded that some online classes would be available for free, and that they are seeing if they should count routine safety or operational training as continuing education. Ms. Jennifer Carr, deputy administrator for NDEP, also offered her perspective that online training and video conferencing technology might allow operators to gain credits without traveling.

Mr. Rob Forester of the Nevada Rural Water Association offered his own perspective on the impact of operator training and travels costs and increased renewal fees. He noted that a three day conference can cost anywhere from \$1200.00-\$1300.00 for a single operator.

At this point in the discussion, Mr. Adrian Edwards of the Board of Certification joined from Las Vegas, offering another perspective on the issue of training requirements. He noted the administrative and professional commitment of his board to maintain and improve the professional image of wastewater operators across Nevada. He said that the Board of Certification and a majority of the certification community supported the proposed amendments because they would strengthen the certification program and benefit certified wastewater treatment operators. Because the Board of Certification administers the wastewater program for NDEP, an increase in fees would fully fund the program.

Mr. Edwards further explained that the Board of Certification conducted two surveys, the most recent in 2015, to see if a requirement for continuing education units was welcomed by operators, their supervisors, and their employers. Two thirds of the respondents felt that continuing education would enhance their performance as operators. A similar number said that their employer would support their efforts to achieve that education.

Mr. Edwards explained that continuing education was available through a number of on-site conferences and online training had grown as a suitable alternative for meeting the education requirements. His organization,

he continued, is preparing to provide low-cost or free education on NVWEA.org, and a large number of private online trainers are interested in marketing to Nevada.

The Commission sought clarification on whether NWEA was merely examining the benefit of streaming conferences or were seriously pursuing the idea. Mr. Edwards explained that since the program is mainly volunteer based, the largest obstacle is limited time. He clarified that he understood the drive and demand of the new regulation and that streaming conferences was on the list of things to pursue. Mr. Edwards emphasized that the continuing education units are not only educationally valuable, but also offer indispensable networking opportunities. He encouraged operators to attend the conference.

Motion: Vice Chairman Porta moved to adopt Regulation R155-17, dated 2/20/2018, with the provision that NDEP come back in a year and report on the progress of the program. Commissioner King seconded the motion. All voted in favor of adopting the regulation.

5) Permanent Regulatory Petition – R156-17 (Attachment 2) (For Possible Action)

► *Bureau of Safe Drinking Water (BSDW)*

Ms. Jennifer Carr, deputy administrator of NDEP, offered a brief background on the Safe Drinking Water Operator Certification Program.

Mr. Linh Kieu, supervisor for the Data Management and Drinking Water Operator Certification Program in the Bureau of Safe Drinking Water, then presented a petition to modify the regulations of the program covered in NAC 455A.6285 to NAC 445A.651.

According to Mr. Kieu, the NDEP's petition would ensure that operators are well-trained and have the appropriate level(s) of experience to safeguard the public water supply for the citizens and visitors of Nevada. It would also help operators keep current with regulatory requirements, operation standards, and treatment technologies. More importantly, the updates would ensure that water systems are able to retain competent, well-trained, and motivated operators, thereby protecting public health and strengthening the integrity of the Nevada Certified Drinking Water Operator Program.

Mr. Kieu clarified that the proposed regulatory changes were first recommended by a Program Review Subcommittee for the Water and Wastewater Operator's Forum. The subcommittee was formed in December 2016 and consisted of volunteer operators, forum board members, and BSDW staff.

In its current form, the subcommittee has several purposes:

- to review and ensure that Nevada's drinking water operators have the appropriate skill sets, levels of education, and experience in operations and maintenance of public water systems;
- to determine if operators have enough funds to address the needs of the regulated community;
- to promote professional development for Nevada Drinking Water operators; and
- to offer clarifications and guarantee consistency in existing regulations.

Mr. Kieu explained that the changes would 1) make sure Nevada certified operators have enough training and experience, 2) bring the operator certification program closer to industry standards, 3) keep the program up to date with available technologies and practices, and 4) keep state operators on track with regulations under the Safe Drinking Water Act. On the ground level, the proposal would offer operators the opportunity to get certifications at two grades above the system at which they are working. This would allow operators to develop both personally and professionally.

Mr. Kieu went on to explain that the subcommittee solicited feedback from the regulated community by emailing all 1400 Nevada-certified drinking water operators three separate times. In September 2017, they conducted one stakeholder meeting in Las Vegas during the Tri-State Seminar for water and wastewater operators.

During outreach, some operators commented that they were concerned about the proposed fee increases. As Mr. Kieu clarified, the regulatory change would involve a fee increase, but it would be phased in over a period of 3 years, starting in FY 2019. This would minimize the financial burden and allow systems to budget for the coming change. In addition, the fee increase would only apply to individual operators, and would not likely impact small businesses.

Mr. Kieu further addressed the fees by maintaining that they would help align revenue with the regulatory workload, address new expenses for the examination process, and lessen the financial uncertainty often attached to federal funding.

After summarizing the comments and answers from the stakeholder meeting, Mr. Kieu directed the Commission to ([Attachment 3](#)), a worksheet for deciding if an operator's current experience with complex water systems could carry over to systems with a higher classification.

After Mr. Kieu's presentation, Chairman Gans asked for questions from the Commission. Ms. Carr and Mr. Kieu fielded the questions.

Vice Chairman Porta asked for more details on stepping up 2 grades higher on the certificate. Ms. Carr and Mr. Kieu clarified that operators who work at more than one system (with varying degrees of complexity) may accumulate experience to help determine if they qualify to move up two grades. The current classification structure, they explained, is largely based on population rather than the complexity of a treatment process. As a result, some operators who work at highly advanced facilities are limited in their ability to achieve higher certifications because they serve areas with low populations. Some of these operators also work at multiple water systems, each with different treatment processes. The modification would allow such operators to advance 2 grades above their current classified system based on the complexity of the system they service.

Chairman Gans asked for questions or comments from the public. There were none.

Motion: Commissioner Landreth moved to adopt Regulation R156-17, dated 1/10/2018. Commissioner KC seconded the motion. All voted in favor of adopting the regulation.

6) Permanent Regulatory Petition – R144-17 (For Possible Action)

► *Bureau of Air Quality Planning and Air Pollution Control*

Dr. Danilo Dragoni, chief of the Bureau of Air Quality Planning, presented the proposed amendments with updates ([Attachment 4](#)). Dr. Dragoni explained that NDEP is delegated by the U.S. Environmental Protection Agency (EPA) to execute New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants in Nevada. The proposed amendments would update the State's "adoption by reference" regulation so that industries in Nevada can continue to work with NDEP rather than EPA. In addition, this amendment would update NDEP's adoption of federal Prevention of Significant Deterioration rules and revise the requirements for the preparation, adoption, and submittal of implementation plans.

Chairman Gans asked for questions from the Commission.

Dr. Dragoni clarified that the amendment process is regularly updated every two years to respond to updates to federal regulations, and that NDEP hosted two workshops to field questions and comments.

Chairman Gans asked for questions or comments from the public. There were none.

Motion: Commissioner King moved to adopt regulation R144-17. Commissioner Perry seconded the motion. All voted in favor of adopting the regulation.

7) Permanent Regulatory Petition – R145-17 (For Possible Action)

► *Bureau of Air Quality Planning and Air Pollution Control*

Dr. Danilo Dragoni, chief of the Bureau of Air Quality Planning, presented a proposal to amend NAC 445B.22097, “standards of quality for ambient air” ([Attachment 5](#)). The amendment would revise the 8-hour ozone standard in the Nevada standards table from 0.075 to 0.070 parts per million to adhere to federal standards. The amendment would also simplify the table by deleting the “National Standards” and “Method” columns since both columns are included only for reference and often inaccurately reflect the current federal standards.

Dr. Dragoni explained that the state of Nevada is required by law to adopt federal ozone standards. The U.S. Environmental Protection Agency (EPA) establishes National Ambient Air Quality Standards (NAAQS) for certain pollutants, called criteria pollutants. Each state is required to enforce these standards. If NDEP fails to timely implement the NAAQS, EPA may sanction the State by withholding federal highway funds and taking charge of NAAQS oversight in Nevada. Such a change in oversight could cause delays for the regulated industry since EPA has no mandatory time frame for issuing permits.

Chairman Gans asked for questions from the Commission.

Commissioner Perry asked whether any areas in Nevada would be in danger of noncompliance following these changes. Dr. Dragoni explained that the only area in non-attainment would be Las Vegas Valley which is not under the jurisdiction of NDEP. New monitoring data and analysis on Jean, Ivanpah, and Garnet would prompt NDEP to request that EPA designate these areas in attainment.

Chairman Gans asked for questions or comments from the public.

Mr. Allen Biaggi, representative of the Nevada Mining Association, thanked NDEP for their responsiveness and transparency, especially in working with his association to ensure that federal and state standards were satisfied.

Motion: Commissioner Perry moved to adopt Regulation R145-17, dated 2/15/2018. Commissioner King seconded the motion. All voted in favor of adopting the regulation

Alternative Fuel Variance

8) Petition for Alternative Fuel Variance – Washoe County (For Possible Action)

► *Eric Crump and David Gonzales, Washoe County*

Mr. Eric Crump and Mr. David Gonzales, with Washoe County, asked the Commission to approve a 36 month variance to the provision of NRS 486A.180. This variance would exempt 27 county vehicles from using biodiesel and would offset financial and operational challenges created by the regulation.

Mr. Crump and Mr. Gonzales explained that Washoe County Equipment Services operates 31 diesel vehicles that fall under Nevada’s Alternative Fuel Program. These 31 vehicles are based in eight different locations across the county. Four of these vehicles are operated near a fuel site with biodiesel and primarily use the biodiesel facilities. The remaining 27 vehicles are located at six different facilities and do not have easy access to fueling stations with biodiesel. As a result, these vehicles must travel many additional miles to access

biodiesel, resulting in a loss in productivity and excess fuel and maintenance costs—an estimated \$60,747.28, annually.

Mr. Gonzales and Mr. Crump stated that they had initially employed telematics as an alternative to the variance. Certain departments in Washoe County, for example, have had telematics installed on their vehicles mainly for employee safety, dispatching, and vehicle assignment. However, Mr. Gonzales and Mr. Crump explained that Washoe County had not seen any sizeable reduction in fuel usage through telematics. Currently, none of the 31 regulated diesel vehicles have telematics installed, and it would cost \$124,000.00 to install and maintain this technology in the fleet.

Another alternative, Mr. Gonzales and Mr. Crump continued, would be to build one or more fuel sites. The estimated cost to install a single fuel site at a Washoe County facility would be in excess of \$450,000.00, not including additional operational and maintenance costs. Mr. Gonzales and Mr. Crump felt this cost was not reasonable given the availability of other, non-alternative fuel site locations already close to the vehicle locations.

Chairman Gans asked for questions from the Commission.

Commissioner Perry asked for a summary of the use and benefit of telematics. Mr. Gonzales answered that vehicle telematics record vehicle emissions and are sometimes considered a substitute to alternative fuels.

Referring to [\(Attachment 6\)](#), Dr. Dragoni explained the history, fleet composition, and current compliance situation on the alternative fuel requirements. He outlined the environmental benefits and the past regulatory changes.

Chairman Gans asked whether Washoe County had a compliance plan. Dr. Dragoni answered that he was not aware of any compliance plan going forward.

Chairman Gans then asked if NDEP staff supported the variance. Dr. Dragoni explained that they accepted the justification.

Several commissioners commented that increasingly better federal ambient air quality standards for fuels had benefited the environment. For example, conventional gasoline and diesel fuels have improved because federal mandates have made previously alternative fuels the current standard. Furthermore, improvements in vehicle production standards and fuel bending technologies have also effectively reduced emissions. The commissioners noted that the statutes may need revisited to take into account cleaner fuels across the board.

The Commission then asked for NDEP to contact affected agencies to begin exploring an effective statutory update. Mr. Greg Lovato spoke on the subject of the program, assuring the Commission that NDEP would actively explore other options through outreach to agencies and analysis of the elements of the alternative fuel program.

Chairman Gans asked for further questions or comments from the public. There were none.

Commissioner Perry then made a motion to grant Washoe County's petition for a 36 month variance on NAS Chapter 486 for 27 biodiesel vehicles as per the application, SEC Form No. 6. Vice Chairman Porta seconded the motion.

Commissioner Landreth interjected that she supported the motion with a concern that it abrogates the authority of the statute and other entities that comply with it. Commissioner Landreth cautioned against making variances a consistent practice.

All voted in favor of adopting the variance with the understanding that NDEP would update the Commission on the program at a later date.

9) Administrator's Briefing to the Commission: (Discussion)

► *Mr. Greg Lovato and Mr. Jeffrey Kinder, Nevada Division of Environmental Protection*

Mr. Greg Lovato, administrator of NDEP, updated the Commission on NDEP activity beginning with its permitting programs. From June to December 2017, the number of active air permits increased from 588 to 601. In previous years, there was a persistent backlog of 250 to 300 permitting actions. As of December 2017, however, the backlog had dropped to 218 permitting actions.

Mr. Lovato said that permits through the Bureau of Mining and Regulation and Reclamation's three branches had increased from 422 to 430 from June to December 2017. Expired permits across the programs remained constant at 19. The mining program reduced expired closure permits at about 10 to 15 per quarter while other review and permit modifications increased from 109 to 168 from June to December.

Mr. Lovato continued—the number of discharge permits from the Bureau of Water Pollution Control remained mostly stable—increasing slightly from 698 to 713—with just above 90 National Pollutant Discharge Elimination System permits and other state permits including those under the Underground Injection Control Program. Expired permits slightly decreased from 144 to 138. Applications remained relatively steady at between 30 and 40 per quarter. Total active stormwater permits decreased slightly from 2,660 to 2,629.

Mr. Lovato then highlighted NDEP's progress on several high profile programs. On February 5, 2018, the EPA deferred listing the Anaconda Copper Mine site on the EPA National Priorities List. Going forward, NDEP will directly oversee site investigation and response actions. In addition to executing the Deferral Agreement with EPA, the NDEP entered into a legally binding agreement with Atlantic Richfield Company (ARC) called the Interim Administrative Settlement Agreement and Order on Consent (IAOC). The IAOC requires ARC, under NDEP regulatory oversight, to complete interim fluid management and complete construction of long-term remedy for the former Arimetco portion of the site. The IAOC also requires ARC to complete a site-wide study of the feasibility of remedial actions to evaluate options for long-term management of the site. Mr. Lovato explained that NDEP is developing a community outreach plan and would be updating and revising its website in the coming months.

Mr. Lovato said that Nevada expects to receive \$24.8 million in a span of 3 years under the nationwide Volkswagen settlement. Nevada was certified as a beneficiary by the court in January. NDEP aims to leverage the funds to efficiently and cost effectively reduce emissions in areas of the state that have relatively higher NOx pollution.

Mr. Lovato then updated the Commission on the UNR Business Environmental Program (BEP). NDEP was authorized in the 2017 legislative session to increase funding of the program. For years the program has offered valuable, confidential assistance to businesses, saved time for NDEP staff, and increased compliance in the hazardous waste arena which has many complicated and detailed rules. The State has increased funding by \$40,000 per year for hazardous waste management and compliance assistance outreach.

Mr. Jeffrey Kinder, deputy administrator for NDEP, followed Mr. Lovato's summary with an update on NDEP's use of e-Notice and e-Access for public notice requirements. The Commission approved a temporary regulation on May 3, 2017 to allow the air program to post public notices online instead of in newspapers. This follows changes that had occurred at the federal level. The permanent regulation was adopted on September 13, 2017 and approved by the Legislative Commission later that month.

In October 2017, the air program sent a notice to 22 newspapers that serve the 15 counties under NDEP's jurisdiction. The notice explained the change and gave people the opportunity to contact NDEP on how to continue receiving information. NDEP has had no response to date.

However, Mr. Kinder said that one of the 30 air permit notices over the last year was still published in a newspaper to keep pace with public interest generated by a previous newspaper notice. Because of this interest, NDEP held a public hearing for the action and received a comment from a person subscribed to the mailing list.

Mr. Kinder reiterated that the program continues to use the mailing list and an email list for public notices. Additionally, the public information officer continues to send information to the newspapers concerning public notices, and NDEP had one newspaper select an NDEP notice and publish it on their website. NDEP developed and issued two new minor source general permits and had approximately 8 attendees for the workshop.

Members of the Commission asked about the cost savings of the new policy. Mr. Lovato and Mr. Kinder replied that NDEP is not only saving hundreds of dollars per advertisement; it is saving money on staff hours.

Vice Chair Porta wanted NDEP to update Commissioner Richardson on the public notice issue.

10) Public Comment: (Discussion)

Chairman Gans asked for public comments. There were none.

Chairman Gans asked when the next SEC meeting was scheduled. Executive Secretary King replied that the next meeting was scheduled for May 23, 2018.

11) Adjournment: (Discussion)

The meeting was adjourned at 12:25 pm.

The audio recording of this meeting is available at

http://www.sec.nv.gov/docs/0218/SEC_Meeting_2_21_18.mp3

ATTACHMENTS

ATTACHMENT 1: Regulatory Petition R155-17

ATTACHMENT 2: Regulatory Petition R156-17

ATTACHMENT 3: Handouts from Mr. Linh for R156-17

ATTACHMENT 4: Regulatory Petition R144-17

ATTACHMENT 5: Regulatory Petition R145-17

ATTACHMENT 6: Handouts Use of Alternative Fuel

ATTACHMENT 1:

Regulatory Petition R155-17

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R155-17

February 20, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted; matter in *italics* changes made following the LCB review; matter in ~~[omitted material]~~ is material to be omitted made following the LCB review

AUTHORITY: §§1-14, NRS 445A.425; §15, NRS 445A.425 and 445A.465.

A REGULATION relating to water pollution; defining the term “experience in operating”; setting forth the requirements for certification, reciprocal certification and restricted certification as an operator of a plant for sewage treatment; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to offer certain examinations for certification; setting forth the requirements for the renewal of a certificate; authorizing applicants with disabilities to receive special accommodations when taking an examination for certification; setting forth continuing education requirements for a holder of a certificate; requiring that continuing education courses be approved by the Division or the Division’s designee; authorizing the Division to suspend or revoke certain certificates under certain circumstances; establishing certain fees; revising classifications for plants for sewage treatment; revising certain provisions relating to injection wells; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Environmental Commission to require supervisors and technicians responsible for the operation and maintenance of plants for sewage treatment to be certified by the State Department of Conservation and Natural Resources. (NRS 445A.425) **Sections 1-14** of this regulation revise requirements for the certification of such supervisors and technicians. **Section 3** sets forth the requirements for a person to apply for certification as an operator of a plant for sewage treatment, including the minimum requirements for education and experience in operating a plant for sewage treatment for each grade of certification. **Section 2** defines the term “experience in operating.” **Section 4** sets forth the requirements for a person to apply for a certificate by reciprocity. **Section 5** sets forth the requirements for a person who does not have the experience required for a full certificate to apply for a restricted certificate. **Section 6** authorizes the holder of a certificate or certificate by reciprocity to renew the certificate once

every 2 years by submitting an application for renewal to the Division of Environmental Protection of the Department.

Section 7 requires the Division to offer examinations for certification in each grade of certification to qualified applicants at least 3 times per year. **Section 8** provides that an applicant who is disabled may request certain accommodations when taking an examination.

Section 9 requires each holder of a certificate to complete certain hours of continuing education every 2 years to renew the certificate. **Section 10** requires a course of training to be approved by the Division for the course of training to be eligible to receive credit for the requirements of continuing education. **Section 11** sets forth certain circumstances under which the Division may deny an application or suspend or revoke a full certificate, provisional certificate or restricted certificate.

Section 12 provides that the provisions governing the certification of operators of a plant for sewage treatment do not apply to an industrial facility. **Section 13** increases the fees charged by the Division for an initial certificate or reciprocal certificate and sets forth certain additional fees. **Section 14** revises the classification of a plant for sewage treatment.

Under existing law, the Commission is authorized to adopt regulations relating to the injection of fluids through a well. (NRS 445A.425, 445A.465) **Section 15** of this regulation clarifies that a plan for corrective action must identify all known wells within the area of review.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. *As used in NAC 445A.286 to 445A.292, inclusive, and sections 2 to 11, inclusive, of this regulation, “experience in operating” means having been actively engaged in the operation and maintenance activities of a plant for sewage treatment.*

Sec. 3. 1. *A person responsible for the operation and maintenance of a plant for sewage treatment must be certified as an operator of a plant for sewage treatment.*

2. *To apply for certification as an operator of a plant for sewage treatment:*

(a) *An applicant must submit an application to the Division or its designee that is accompanied by the appropriate fee set forth in NAC 445A.287.*

(b) The applicant must be at least 18 years of age, possess a high school diploma or a general educational development certificate or its equivalent and meet the following additional education requirements:

(1) For Grade I, 60 contact hours of education related to sewage treatment.

(2) For Grade II, 120 contact hours of education related to sewage treatment.

(3) For Grade III, 120 contact hours of education related to sewage treatment and two postsecondary courses of instruction related to sewage treatment.

(4) For Grade IV, 120 contact hours of education related to sewage treatment and four postsecondary courses of instruction related to sewage treatment.

(c) The applicant must have the following experience in operating a plant for sewage treatment:

<i>Certification Grade</i>	<i>Experience</i>
<i>Grade I</i>	<i>1 year experience in operating at a Classification I facility or higher</i>
<i>Grade II</i>	<i>Grade I Certification and 2 years experience in operating, with at least 1 year at a Classification II facility or higher</i>
<i>Grade III</i>	<i>Grade II Certification and 3 years experience in operating, with at least 1 year at a Classification III facility or higher</i>
<i>Grade IV</i>	<i>Grade III Certification and at least 4 years experience in operating, with at least 1 year at a Classification IV facility</i>

(d) Except as otherwise provided in section 4 of this regulation, the applicant must pass the applicable examination or examinations for certification. The examinations must be taken in ascending order beginning with the Grade I examination for certification as an operator of a plant for sewage treatment.

3. An applicant who has been certified as an operator of a plant for sewage treatment in another state must disclose in writing any past or pending disciplinary actions related to every other such certification.

4. As used in this section, “postsecondary course of instruction” means a successfully completed college level course which is at least 36 hours of wastewater related instruction.

Sec. 4. 1. *A certificate as an operator of a plant for sewage treatment may be issued by the Division without examination as required by section 3 of this regulation on a case-by-case basis to a person in a comparable classification who has passed an equivalent written examination and who holds a full certification in another state, territory or possession of the United States or another country if the requirements for the certification of operators are consistent with and not of a lower standard than the provisions of this chapter, as determined by the Division.*

2. To apply for certification by reciprocity as an operator of a plant for sewage treatment, an applicant must submit an application to the Division or its designee, which must include, without limitation:

(a) Evidence of the education and experience in operating a plant for sewage treatment of the applicant supporting the certification at the grade level that is requested;

(b) Evidence of any continuing education units completed by the applicant for the certification held by the applicant;

(c) Evidence of the valid, unexpired full certificate held by the applicant for which reciprocity is requested; and

(d) The fee required pursuant to NAC 445A.287.

3. An incomplete application or an application that includes an expired certificate will not be considered. The Division shall review an application to determine whether the application meets the requirements of this section and shall respond to the applicant with a written decision not more than 60 days after the receipt of the application.

4. The Division will not grant a request for certification by reciprocity for a reciprocal certificate issued by another state, territory or possession of the United States or another country.

Sec. 5. 1. *A person may apply to the Division for a restricted certificate as an operator of a plant for sewage treatment if the person does not meet the requirements for a full certificate. A restricted certificate does not authorize the holder of the certificate to operate in direct responsible charge a plant for sewage treatment at the restricted grade level.*

2. To apply for a restricted certificate, a person must:

(a) Meet the following requirements for his or her specific grade:

(1) For Restricted Grade I, a high school diploma or a general educational development certificate or the equivalent;

(2) For Restricted Grade II, hold an active Grade I full certification for a minimum of 1 year and meet the Grade II education requirements set forth in section 3 of this regulation;

(3) For Restricted Grade III, hold an active Grade II full certification for a minimum of 1 year and meet the Grade III education requirements set forth in section 3 of this regulation; and

(4) For Restricted Grade IV, hold an active Grade III full certification for a minimum of 1 year and meet the Grade IV education requirements set forth in section 3 of this regulation; and

(b) Pass the applicable examination or examinations for certification for the restricted grade level.

3. A restricted certificate may be converted to a full certificate if the applicant:

(a) Meets the experience requirement for the equivalent full certificate set forth in section 3 of this regulation; and

(b) Holds an active, full certificate for the grade below.

4. A restricted certificate is valid for ~~4 years~~ 5 years after the date of its issuance and may not be renewed. After a restricted certificate has expired, an operator may take the examination for certification again and submit a new application for a restricted certificate pursuant to the requirements of this section.

Sec. 6. 1. *A certificate issued pursuant to section 3 or 4 of this regulation may be renewed once every 2 years if the holder of the certificate submits a completed application for renewal on the form supplied by the Division before the expiration date of the certificate, which must include, without limitation:*

(a) Evidence of completion of the requirements of continuing education set forth in section 9 of this regulation; and

(b) The fee for renewal set forth in NAC 445A.287.

2. If the holder of a certificate issued pursuant to section 3 or 4 of this regulation does not renew the certificate before the expiration date of the certificate, the Division will suspend the certificate. Except as otherwise provided in subsection 3, to renew a suspended certificate, the holder of the certificate must, in addition to the requirements of subsection 1, pay the reinstatement fee set forth in NAC 445A.287.

3. If the holder of a certificate issued pursuant to section 3 or 4 of this regulation does not renew a suspended certificate within 6 months after the expiration date of the certificate, the holder of the certificate shall be deemed decertified. Except as otherwise provided in subsections 4 and 5, the holder of a certificate who is decertified may not renew the certificate.

4. If the holder of an expired certificate issued pursuant to section 3 or 4 of this regulation provides to the Division documentation of health problems that made the holder unable to meet the requirements of continuing education for renewal of his or her certificate in the time provided pursuant to section 9 of this regulation, the holder of the expired certificate may request, within 2 years after the expiration date of the certificate, that the certificate be reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.287 and verification that all requirements of continuing education have been satisfied.

5. If the holder of a certificate issued pursuant to section 3 or 4 of this regulation provides to the Division documentation of military duty that made the holder unable to meet the requirements of continuing education for renewal of his or her certificate in the time provided pursuant to section 9 of this regulation, the holder of the expired certificate may request, within 4 years after the expiration date of the certificate, that the certificate be

reinstated and renewed by payment of the reinstatement fee set forth in NAC 445A.287 and verification that all requirements of continuing education have been satisfied.

Sec. 7. 1. *The Division shall offer separate examinations for certification as an operator of a plant for sewage treatment in each of the four grades of certification for qualified applicants.*

2. The examinations for certification must be offered by the Division at least 3 times per year.

3. The Division, or its designee, shall review the qualifications of each applicant for certification who applies to take an examination for certification.

Sec. 8. *If an applicant has a disability that restricts the ability of the applicant to take an examination for certification under standard conditions, the applicant may request special accommodations for taking the examination at the time of application. Such a request must be submitted to the Division in writing. ~~[by a recognized health care or mental health care provider and must state the nature of the disability and the special testing arrangements that are requested.]~~*

Sec. 9. 1. *Every 2 years, each holder of a certificate as an operator of a plant for sewage treatment must complete the following requirements of continuing education within the effective period of the certificate to qualify for the renewal of the certificate:*

(a) The holder of a Grade I certificate must earn at least 5 contact hours of participation in a course of training.

(b) The holder of a Grade II certificate must earn at least 10 contact hours of participation in a course of training.

(c) The holder of a Grade III certificate must earn at least 15 contact hours of participation in a course of training.

(d) The holder of a Grade IV certificate must earn at least 20 contact hours of participation in a course of training.

2. A course of training required pursuant to subsection 1 must be approved by the Division or its designee pursuant to section 10 of this regulation.

3. An operator who holds a full certificate and a restricted certificate at a higher grade level than the full certificate must comply with the requirements for continuing education for the full certificate to qualify for renewal.

Sec. 10. 1. *The Division or its designee shall not grant any credit of continuing education to the holder of a certificate as an operator of a plant for sewage treatment for completion of training pursuant to section 9 of this regulation unless the course of training is:*

(a) Approved by the Division or its designee; and

(b) Relevant to the subject matter of the certificate.

2. The Division or its designee shall not approve a course of training pursuant to subsection 1 unless a written request for approval is submitted to the Division by the provider of the course of training or the holder of a certificate, which includes, without limitation:

(a) An outline of the course of training, which must state the subjects to be included in the instruction and the time to be allotted for each subject of instruction; and

(b) A list of the objectives of the instructor, which must specify the essential points of the instruction and the methods of instruction to be used to illustrate these points.

3. A public utility may request the written approval of the Division or its designee for the utility to provide a course of training for the employees of the utility that is intended to comply with the requirements of continuing education set forth in section 9 of this regulation.

Sec. 11. *The Division may deny an application for a certificate as an operator of a plant for sewage treatment or suspend or revoke a full certificate, provisional certificate or restricted certificate if the applicant or holder of the certificate:*

1. In applying for or obtaining a certificate, has submitted to the Division any application, document, record, report or affidavit, or any information in support thereof, which is false or fraudulent;

2. Is grossly negligent, incompetent or has committed misconduct in the performance of his or her duties as an operator of a plant for sewage treatment;

3. Has demonstrated disregard for the health and safety of the public and the environment;

4. Has acted outside the rights and privileges of the grade for which he or she holds a certificate;

5. Has been convicted of a violation of any federal law or law of any state relating to water quality, including, but not limited to, the Clean Water Act, 33 U.S.C. §§ 1251 et seq.;

6. Has been convicted of a felony or other crime involving moral turpitude, dishonesty or corruption;

7. Has willfully made to a governmental agency with regulatory authority any false statement which is material to the administration or enforcement of any provision of this chapter or chapter 445A of NRS;

8. *Has failed to renew his or her certification; or*

9. *Has violated, attempted to violate, assisted or abetted in the violation of, or conspired to violate any provision of this chapter or chapter 445A of NRS.*

Sec. 12. NAC 445A.286 is hereby amended to read as follows:

445A.286 The provisions of NAC 445A.286 to 445A.292, inclusive, *and sections 2 to 11, inclusive, of this regulation* do not apply to:

1. A package plant for sewage treatment with a capacity of 5,000 gallons or less per day;

~~for~~

2. Any other plant for sewage treatment, including, without limitation, a septic system, with a capacity of 10,000 gallons or less per day ~~;~~ *or*

~~3. An industrial facility.~~

Sec. 13. NAC 445A.287 is hereby amended to read as follows:

445A.287 1. ~~[A person responsible for the operation and maintenance of a plant for sewage treatment must be certified as an operator of a plant for sewage treatment.~~

~~2. To apply for certification as an operator of a plant for sewage treatment, a person must submit an application to the Division or its approved designee that is accompanied by the appropriate fee.~~

~~3.]~~ The following fees must be paid to the Division:

Certification	Fee	Period
Initial <i>certificate</i>	[\$60] \$140	2 years

Reciprocal <i>certificate</i>	{75} 150	2 years
<i>Renewal of a certificate</i>	110	2 years
<i>Restricted certificate</i>	90	{4} 5 years
<i>Conversion of restricted certificate to full certificate</i>	70	
<i>Reinstatement of a certificate</i>	80	

~~{4.}~~ 2. The holder of a certificate must pay to the Division a fee of \$20 for each duplicate certificate he or she requests. A fee of \$25 will be charged to any person whose check is returned to the Division because of a lack of funds.

~~{5.—A holder of any certificate issued pursuant to the provisions of NAC 445A.286 to 445A.292, inclusive, may renew the certificate by submitting a fee of \$30 to the Division not later than the expiration date of the certificate. Except as otherwise provided in subsection 6, the holder of a certificate may renew the certificate after the expiration date of the certificate if he or she pays, in addition to the renewal fee, a late fee of \$20. If the holder of a certificate does not renew the certificate within 1 year after the expiration date of the certificate, the holder of the certificate shall be deemed decertified.~~

~~—6.— The holder of a certificate who is decertified may not renew the certificate.~~

~~—7.— The renewal of a certificate is effective for 2 years.}~~

Sec. 14. NAC 445A.289 is hereby amended to read as follows:

445A.289 1. For the purpose of the certification program operated pursuant to the provisions of NAC ~~{445A.284 and 445A.288,}~~ *445A.286 to 445A.292, inclusive, and sections 2*

to 11, inclusive, of this regulation, except as otherwise provided in subsection 2, a plant for sewage treatment must be classified in accordance with the following schedule:

~~PLANT CLASSIFICATION based on the type of treatment process and plant capacity:~~

	0-0.1	0.11-1.0	1.1-5.0	5.1-10.0	10.1-20.0	Greater than 20.0
	MGD	MGD	MGD	MGD	MGD	MGD
Stabilization Pond	I	I	I	I	II	III
Primary	I	I	II	III	III	IV
Biofiltration	II	II	III	III	IV	IV
Activated Sludge	III	III	III	IV	IV	IV
Tertiary and Reuse	III	III	IV	IV	IV	IV

<i>Treatment Process</i>	<i>Plant Classification</i>
<i>Stabilization Ponds or Lagoons</i>	<i>I</i>
<i>Primary Treatment (settling, grit removal, etc.)</i>	
<i>Fixed Film Treatment (E.G., trickling filters,</i>	

<i>etc.) for BOD Removal</i>	<i>II</i>
<i>Activated Sludge (without nitrogen removal and <20,000 gallons per day)</i>	
<i>Solids Treatment (thickening/dewatering)</i>	
<i>Fixed Film Treatment (e.g., RBC, trickling filters) for Nutrient Removal</i>	<i>III</i>
<i>Activated Sludge (with nitrogen removal or >20,000 gallons per day)</i>	
<i>Tertiary Treatment</i>	<i>IV</i>
<i>Activated Sludge (>10 million gallons per day)</i>	
<i>Indirect Potable Reuse</i>	

2. *The Division may deviate from this table if it determines that mitigating or intensifying factors exist to raise or lower a plant classification. Factors may include, without limitation, receiving stream water quality, process complexity, waste stream pollutant strength or variations and flow variability.*

3. As used in this section ~~["MGD" means millions of gallons per day]~~:

(a) *"BOD" means biochemical oxygen demand.*

~~(b) "RBC" means rotating biological contractor.]~~

~~{(e)}~~ (b) *“Tertiary treatment” means the process of treating wastewater beyond secondary treatment units for nutrient removal or other advanced removal methods, including, without limitation, membrane filtration.*

Sec. 15. NAC 445A.867 is hereby amended to read as follows:

445A.867 1. Except as otherwise provided in NAC 445A.8491 to 445A.8499, inclusive, an applicant for a permit to inject fluids must satisfy the Director that the underground injection will not endanger any source of drinking water. Each application for a permit must be signed by the owner or, if the owner does not operate the well, the operator of the well and must contain the following information:

- (a) The name of the facility.
- (b) The name and address of the owner.
- (c) The name and address of the operator, if different than the owner.
- (d) A description of the location of each injection well by the quarter-quarter section, section, township and range, and latitude and longitude.
- (e) A map of the location of the facility, preferably a topographic map prepared by the United States Geological Survey, extending at least 1 mile beyond the boundaries of the facility, locating each injection well for which a permit is sought and the area of review. The map must show, within the area of review, the number, location and type of all injection wells, producing wells, abandoned wells, surface bodies of water, surface and subsurface mines, quarries, public and private systems to supply water and other pertinent features on the surface.

(f) A plan for corrective action, as required pursuant to NAC 445A.899, for each ~~injection~~ well within the area of review which penetrates the zone for injection, but is not correctly completed or plugged.

(g) A narrative report, geologic cross section and isopach map in sufficient scale to detail the local geology and hydrology. The information should be sufficient to show the geologic formations, structural features and concentration of total dissolved solids for each formation, zone for injection and confining zone.

(h) The plans and drawings for construction showing the details of the casing and cementing, including the size of the hole, type of casing and type and grade of cement.

(i) The drilling log for each production or injection well owned or operated by the applicant which is located within the area of review.

(j) The proposed operating data, including:

(1) The average and maximum daily rates of injection and the volume of the fluid injected;

(2) The average and maximum pressures of the injection; and

(3) The source of the fluid injected and an analysis of its physical, chemical and biological characteristics.

(k) A chemical analysis, if available, of the fluid in the receiving formation to ensure compatibility with the injectate, and an analysis of the hydraulic conductivity of the receiving formation.

(l) The proposed procedures for injection, including additives to or storage and pretreatment, if any, of the fluid injected, the use of the well, the planned standard practices for stimulation of the well and the planned schedule for workover.

(m) A certificate that the applicant has ensured, through a performance bond or other appropriate means, the resources necessary to plug and abandon the well.

(n) A plan for plugging and abandoning the well as described in NAC 445A.923.

(o) Any other information required by the Director to ensure that the proposed operation will not degrade an underground source of drinking water. That information may include a plan for monitoring the elevation or quality of groundwater surrounding the zone for injection.

2. In addition to the requirements for subsection 1, an applicant for a permit for the injection of reclaimed water for indirect potable reuse must satisfy the requirements of NAC 445A.274 to 445A.280, inclusive, as applicable.

3. As used in this section:

(a) "Indirect potable reuse" has the meaning ascribed to it in section 5 of LCB File No. R101-16.

(b) "Reclaimed water" has the meaning ascribed to it in section 7 of LCB File No. R101-16.

ATTACHMENT 2:

Regulatory Petition R156-17

**REVISED PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R156-17

January 10, 2018

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

AUTHORITY: §§1-7, NRS 445A.860, as amended by section 3 of Assembly Bill No. 50, chapter 70, Statutes of Nevada 2017, and NRS 445A.880.

A REGULATION relating to public water systems; clarifying provisions relating to the approval of conditional staffing for a public water system; revising provisions relating to the classification of a public water system; revising the minimum passing score required for an examination for certification; revising the minimum requirements for education and experience that an applicant for certification must possess; revising continuing education requirements that the holder of a certificate must complete; increasing the fees charged by the Division of Environmental Protection of the State Department of Conservation and Natural Resources for the issuance and renewal of certificates; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Environmental Commission to adopt regulations governing operators of community water systems and noncommunity water systems, including requirements for certifying each class of operators, establishing fees for operator certificates and establishing continuing education requirements. (NRS 445A.880) **Section 1** of this regulation clarifies that the Division of Environmental Protection of the State Department of Conservation and Natural Resources may approve a certified operator at one classification lower than otherwise required for the person in responsible charge of a public water system to accommodate for vacation and temporary relief of the person in responsible charge. **Section 2** of this regulation provides that any public water system must be classified for distribution and treatment using a points system. **Section 3** of this regulation revises the minimum score that an applicant for certification must obtain to pass the examination for certification, from 70 percent to the passing score set by the testing company. **Section 4** of this regulation revises the requirements for education and experience that an applicant for certification must possess to obtain a certificate in certain classifications. **Section 5** of this regulation increases the number of hours of continuing education a holder of certain certificates must complete every 2 years to qualify to renew that

certificate. **Section 6** of this regulation revises the requirements of continuing education that an operator who holds multiple certificates must complete in order to renew both certificates. **Section 7** of this regulation increases the fees charged by the Division for issuing and renewing certificates each fiscal year.

Section 1. NAC 445A.6285 is hereby amended to read as follows:

445A.6285 1. The Division shall consider the following in making a decision to approve conditional staffing for a public water system:

- (a) The results of an inspection of the public water system;
- (b) A review of the experience in operating and training of the person holding the certificate as an operator-in-training; and
- (c) Any other reasonably available and relevant information.

2. Upon the request of the owner of a public water system serving less than 10,000 persons and the approval of the Division, a person holding a certificate as an operator-in-training may be the person in responsible charge of the public water system for not more than 6 months. The Division shall not grant approval unless it makes a finding that:

- (a) The person has the minimum amount of knowledge required to operate the public water system;
- (b) The health and safety of the public will be protected; and
- (c) The owner of the public water system can demonstrate that the public water system is unable to employ a person who holds a full certificate.

3. Not more than 30 days after approval is granted pursuant to subsection 2, the Division shall review the status of the public water system to determine whether an extension may be granted. Any decision regarding an extension must be provided to the public water system at

least 60 days before the expiration of the period specified in the approval granted pursuant to subsection 2.

4. If an emergency occurs concerning a public water system, the Division may approve any qualified person as the person in responsible charge of the public water system for a period of not more than 6 months.

5. Upon request from a public water system, the Division may approve a certified operator at one classification lower than the ~~{person in responsible charge of a}~~ *classification of the public water system pursuant to NAC 445A.629* to accommodate for vacation and temporary relief of the person in responsible charge during a 12-month period. Not more than 90 days after approval is granted pursuant to this subsection, the Division shall review the status of the public water system to determine whether an extension may be granted. Any decision regarding an extension must be provided to the public water system at least 120 days before the end of the period specified in the approval granted by the Division.

Sec. 2. NAC 445A.629 is hereby amended to read as follows:

445A.629 1. The Division shall classify all public water systems in this State pursuant to subsections 2 and 3.

2. A public water system which ~~is~~

~~—(a) Uses only~~ *uses* groundwater, surface water, groundwater under the direct influence of surface water or water provided by another public water system ~~is~~ and

~~—(b) Does not provide treatment of the water or groundwater or provides only disinfection by chlorination;~~

~~is~~ must be classified *for distribution* on a point system as follows:

ITEMS FOR DISTRIBUTION CLASSIFICATION	POINTS
Average daily population served	
25 - 500.....	5
501 - 3,300.....	10
3,301 - 10,000.....	15
10,001 - 100,000.....	20
100,001 or more.....	35
Pressure zones (1 point per zone, maximum of 5 points)	1
Storage reservoirs (1 point per reservoir, maximum of 5 points)	1
Hydropneumatic tank systems	1
Pumping stations, including wells and boosters (1 point per station, maximum of 3 points).....	1
Disinfection to maintain system residual	5
System control and data acquisition or other similar instrumentation to provide data or process control.....	3
Existence of recycled or reclaimed water distribution system within drinking water service area	5
 DISTRIBUTION CLASSIFICATION	 TOTAL POINTS

Distribution-1	5 - 19
Distribution-2	20 - 30
Distribution-3	31 - 41
Distribution-4	42 or more

3. A public water system which:

(a) Uses surface water or groundwater under the direct influence of surface water; or

(b) Uses groundwater and provides treatment of the groundwater, other than disinfection by

chlorination,

↳ must be classified *for treatment* on a point system as follows:

ITEMS FOR TREATMENT CLASSIFICATION	POINTS
Average daily population served	
25 - 500	5
501 - 3,300	10
3,301 - 10,000	15
10,001 - 100,000	20
100,001 or more	25

Source for public water system

ITEMS FOR TREATMENT CLASSIFICATION	POINTS
Groundwater	3
Groundwater under the direct influence of surface water	4
Surface water	5
Air stripping	4
Ozone	8
Ultraviolet light	8
Combination of ozone and ultraviolet light.....	10
Chemical addition for adjustments of pH	4
Iron and manganese removal.....	5
Iron and manganese sequestering.....	2
Softening - ion exchange, lime or lime soda ash process.....	10
Granular activated carbon for organic contamination	7
Coagulation for pretreatment only	5
Taste and odor control.....	4
Fluoridation	5
Chlorine-ammonia treatment.....	8
Chlorine dioxide	8
Bacteriological or chemical laboratory (other than process control)	2
Blending, aesthetic	5

ITEMS FOR TREATMENT CLASSIFICATION	POINTS
Blending, health effects.....	8
Chlorine gas or hypochlorite	5
Chlorine gas or hypochlorite generated on-site.....	6
Chemical addition (1 point for each chemical added).....	1
Primary inorganic chemical treatment	8
Point-of-use	5
Nitrate or nitrite removal.....	8
Adsorption process for aesthetics.....	3
Recycle filter backwash water to process.....	3
Recycle supernatant from sludge removal and sedimentation process	2
Recycle water from any mechanical dewatering process.....	2
System control and data acquisition or other similar instrumentation to provide data or process control.....	3
Filtration	
Conventional filtration-coagulation, flocculation, sedimentation.....	10
Direct filtration-coagulation, flocculation, sedimentation.....	10
Rapid sand	7
Diatomaceous earth	7
Slow sand.....	5

ITEMS FOR TREATMENT CLASSIFICATION	POINTS
Bag, ceramic, microfiltration, nanofiltration, reverse osmosis, membrane, electro dialysis	5

TREATMENT CLASSIFICATION	TOTAL POINTS
Treatment-1	5 - 19
Treatment-2	20 - 35
Treatment-3	36 - 45
Treatment-4	46 or more

4. The Division shall review the classification of every public water system not less than once every 3 years to determine whether the public water system continues to meet the criteria for that classification pursuant to this section. Upon a determination that the public water system no longer meets the criteria for the classification, the Division shall:

- (a) Reclassify the public water system in accordance with the criteria for classification pursuant to this section;
- (b) Deliver a written notification of the reclassification to the public water system on or before December 31 of the year in which the determination is made; and

(c) Require the public water system to comply with the requirements of the new classification within 18 months after the date the public water system receives the written notification of the determination by the Division.

5. As used in this section, “filtration” means a process for removing particulate matter from water by passing the water through porous media.

Sec. 3. NAC 445A.632 is hereby amended to read as follows:

445A.632 1. The Division shall proctor, review and grade, or enter into a contract with a person, organization or agency to proctor, review and grade, the examinations for certification. A score of not less than ~~70 percent~~ *the passing score established by the testing company that created the examination* is required to pass the examination.

2. The Division shall review, or enter into a contract with a person, organization or agency to review, the qualifications of each applicant for a full certificate to determine whether the minimum requirements for experience in operating set forth in NAC 445A.633 have been satisfied.

Sec. 4. NAC 445A.633 is hereby amended to read as follows:

445A.633 1. The Division shall issue a full certificate to an applicant who qualifies for a full certificate. Except as otherwise provided in this section, to qualify for a full certificate, an applicant must, in addition to passing the examination for certification for his or her specific classification, ~~have a high school diploma or a general equivalency diploma~~ *meet the education requirements set forth in NAC 445A.6293 for the applicable grade of certification* and have the following experience in operating *the water treatment system or distribution system* of a public water system of that classification:

Classification	Years Experience
Distribution-1	6 months
Distribution-2	1 year
Distribution-3	2 years , with 1 year of <i>Distribution-2 full certification</i>
Distribution-4	4 years , with 1 year of <i>Distribution-3 full certification</i>
Treatment-1	6 months
Treatment-2	1 year
Treatment-3	2 years , with 1 year of <i>Treatment-2 full certification</i>
Treatment-4	4 years , with 1 year of <i>Treatment-3 full certification</i>

2. Except as otherwise provided in this subsection, the Division may credit experience in operating gained in the field of wastewater treatment or in a related field toward the experience in operating required pursuant to subsection 1. *No such experience in operating may be credited toward any year of full certification in distribution or treatment that is required pursuant to*

subsection 1. Not more than one-half of the experience in operating required pursuant to subsection 1 may come from credit issued pursuant to this subsection.

3. The Division may credit all or a portion of the experience in operating gained at a lower classified facility toward the experience in operating required at a higher classified facility if:

- (a) The higher classified facility is not more than ~~one classification~~ *two classifications* higher than the highest classified facility for which the applicant is currently certified; and
- (b) The Division determines that experience in operating gained at the lower classified facility is, *based on system complexity*, equivalent to *operating at the higher classified facility* or is a satisfactory substitute for experience in operating at the higher classified facility.

↪ *No such experience in operating may be credited toward any year of full certification in distribution or treatment that is required pursuant to subsection 1.*

4. Not more than one-half of the required experience in operating may be satisfied by the successful completion of college level courses in engineering or in physical, chemical or biological sciences. *Completion of such college level courses may not be credited toward any year of full certification in distribution or treatment that is required pursuant to subsection 1.*

5. Experience in operating or relevant training may be substituted for a high school diploma or general equivalency diploma *that is required pursuant to NAC 445A.6293* upon approval of the Division. Education, training or experience in operating that is substituted for a high school diploma or general equivalency diploma may not be counted toward the experience in operating required in subsection 1.

Sec. 5. NAC 445A.639 is hereby amended to read as follows:

445A.639 1. The holder of a full certificate, provisional certificate or certificate as an operator-in-training must comply with the requirements of continuing education set forth in this section to qualify for renewal of the certificate.

2. Every 2 years, the holder of a Treatment-3, Treatment-4, Distribution-3 or Distribution-4 certificate must earn at least ~~10~~ 14 contact hours of participation in a course of training approved by the Division pursuant to NAC 445A.641 or 445A.643.

3. Every 2 years, the holder of a Treatment-1, Treatment-2, Distribution-1 or Distribution-2 certificate must earn at least ~~5~~ 7 contact hours of participation in a course of training approved by the Division pursuant to NAC 445A.641 or 445A.643.

Sec. 6. NAC 445A.640 is hereby amended to read as follows:

445A.640 1. *An operator who holds certificates for both distribution and treatment must comply with the respective requirements for continuing education for each type of certificate.*

2. An operator who holds a full certificate and a certificate as an operator-in-training at a higher classification than ~~the~~ a full certificate *in distribution or treatment* must comply with the requirements of continuing education for ~~each~~ the certificate *at the highest classification in distribution or treatment, as applicable*, to qualify for the renewal of both certificates.

Sec. 7. NAC 445A.651 is hereby amended to read as follows:

445A.651 1. The Division shall charge and collect the following fees ~~1~~ *for each fiscal year:*

	<i>FY</i>	<i>FY</i>	<i>FY</i>	<i>FY</i>
	<i>2017-</i>	<i>2018-</i>	<i>2019-</i>	<i>2020-</i>
	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>
For the issuance of a full certificate	\$84	\$100	\$110	\$120
For a certificate issued pursuant to paragraph (c) of subsection 2 of NAC 445A.6345	57	125	140	150
For the issuance of a certificate as an operator-in-training	57	90	100	110
For conversion of a certificate as an operator-in-training to a full certificate	30	30	35	40
For the issuance of a provisional certificate	30			
For the renewal of a full , <i>provisional or operator-in-training</i> certificate	30	40	45	50
For the renewal of a provisional certificate	30			
For the renewal of a certificate as an operator in-training	30			
For the reinstatement and renewal of a full certificate	100	140	145	150

↪ *The fees set forth in this subsection for Fiscal Year 2020-2021 are effective for that fiscal year and each fiscal year thereafter.*

2. *As used in this section, “fiscal year” means the 12-month period beginning on July 1 of one year and ending on June 30 of the following year.*

ATTACHMENT 3:

Handouts from Mr. Lihn for R156.17

Summary of Petition R156-17 Bureau of Safe Drinking Water

1. NAC 445A.6285, clarifies NDEP language to approve certified operator for temporary relief of person in responsible charge;
2. NAC 445A.629, clarifies that any public water must be classified for distribution and treatment using the classification point system;
3. NAC 445A.632, revises language to be consistent with the passing score set by the testing organization;
4. NAC 445A.633, revises requirements for education and experience for applicants to be certified by the program;
5. NAC 445A.639, increase the number of hours of continuing education for an operator of certain certificates;
6. NAC 445A.640, revises the requirements of continuing education for operators who hold multiple certificates;
7. NAC445A.651, increase the fees charged by the Division for issuing and renewing certifications;

Operator Experience Calculation Guidelines

NAC 445A.633 Full certificate: Issuance; required education and experience.

3. The Division may credit all or a portion of the experience in operating gained at a lower classified facility toward the experience in operating required at a higher classified facility if:

(a) The higher classified facility is not more than **two** classification higher than the highest classified facility for which the applicant is currently certified; and

(b) The Division determines that experience in operating gained at the lower classified facility is, **based on system complexity**, equivalent to **operating at the higher classified facility** or is a satisfactory substitute for experience in operating at the higher classified facility.

Guidelines

Distribution

- *Applicant still must meet time criteria in NAC 445A.633.1 as well as education requirements of NAC 445A.6293
- *Experience gained at each facility must meet a minimum of 6 months
- *Aggregate population of all water systems the applicant has gained experience (D2 and above)
- *Cannot exceed Maximum points for each distribution category
- *Total points will determine the level in which the applicant can receive a full certification
- *Work experience(s) may need to be verified through job description, supervisor verification, or equivalent method

Treatment

- *Applicant still must meet time criteria in NAC 445A.633.1 as well as education requirements of NAC 445A.6293
- *Experience gained at each facility must meet a minimum of 6 months
- *Select highest population in which applicant has gained experience (population score counted only once)
- *Select processes for each type of treatment. If processes (or sources) are the same throughout different water systems, do not add points again.
- *Total points will determine the level in which the applicant can receive a full certification
- *Work experience may need to be verified through job description, supervisor verification, or equivalent method

(1) SAVE AND PRINT THIS WORKBOOK TO THE OPERATOR'S FILE. ATTACH HARDCOPY TO APPLICATION

Distribution Experience

Operator Name: _____ Completed by: _____
 Operator ID: _____ Date: _____

ITEMS FOR DISTRIBUTION CLASSIFICATION	POINTS	PWS Name	Notes	RWS Name	Notes	PWS Name	Notes	Points Earned
Grade of System								
Average daily population served								
Amount of Experience								
Pressure zones (1 point per zone, maximum of 5 points)	1							
Storage reservoirs (1 point per reservoir, maximum of 5 points)	1							
Hydraulic tank systems (maximum 1 point)	1							
Pumping stations, including wells and boosters (1 point per station, maximum of 3 points)	1							
Disinfection to maintain system residual (maximum of 5 points)	5							
System control and data acquisition or other similar instrumentation to provide data or process control (max of 3)	3							
Existence of recycled or reclaimed water distribution system within drinking water service area								
Aggregate population served	POINTS	Aggregate Population						
25 - 500	5							
501 - 3,300	10							
3,301 - 10,000	15							
10,001 - 100,000	20							
100,001 or more	35							
TOTAL POINTS								
5-19								
20 - 30								
31 - 41								
42 or more								
DISTRIBUTION CLASSIFICATION								
Distribution-1								
Distribution-2								
Distribution-3								
Distribution-4								
Proposed Operator Distribution Classification=								
Total Points								0
N/A								

*Aggregate population (D2 and above)
 *Must exceed 6 months to count

*Cannot exceed Maximum points for each category

*Applicant still must meet time criteria in NAC 445A.633.1 as well as education requirements of NAC 445A.6293
 *Experience gained at each facility must meet a minimum of 6 months
 *Aggregate population of all water systems the applicant has gained experience (D2 and above)
 *Cannot exceed Maximum points for each distribution category
 *Total points will determine the level in which the applicant can receive a full certification
 *Work experience(s) may need to be verified through job description, supervisor verification, or equivalent method

Treatment Experience

Operator Name: _____ Completed by: _____
 Operator ID: _____ Date: _____

ITEMS FOR TREATMENT CLASSIFICATION		PWS Name:	Notes	PWS Name:	Notes	PWS Name:	Notes
Description of Treatment Process							
Grade of System							
Amount of Experience							
Average daily population served	POINTS	Water System Points		Water System Points		Water System Points	
25 - 500	5						
501 - 3,300	10						
3,301 - 10,000	15						
10,001 - 100,000	20						
100,001 or more	25						
Source for public water system							
Groundwater	3						
Groundwater under the direct influence of surface water	4						
Surface water	5						
Air stripping	4						
Ozone	8						
Ultraviolet light	8						
Combination of ozone and ultraviolet light	10						
Chemical addition for adjustments of pH	4						
Iron and manganese removal	5						
Iron and manganese sequestering	2						
Softening - ion exchange, lime or lime soda ash process	10						
Granular activated carbon for organic contamination	7						
Coagulation for pretreatment only	5						
Taste and odor control	4						
Fluoridation	5						
Chlorine-ammonia treatment	8						
Chlorine dioxide	8						
Bacteriological or chemical laboratory (other than process control)	2						
Blending, aesthetic	5						
Blending, health effects	8						
Chlorine gas or hypochlorite	5						
Chlorine gas or hypochlorite generated on-site	6						
Chemical addition (1 point for each chemical added)	1						
Primary inorganic chemical treatment	8						
Point-of-use	5						
Nitrate or nitrite removal	8						
Adsorption process for aesthetics	3						
Recycle filter backwash water to process	3						
Recycle supernatant from sludge removal and sedimentation process	2						
Recycle water from any mechanical dewatering process	2						
System control and data acquisition or other similar instrumentation to provide data or process control	3						
Filtration							
Conventional filtration-coagulation, flocculation, sedimentation	10						
Direct filtration-coagulation, flocculation, sedimentation	10						
Rapid sand	7						
Diatomaceous earth	7						
Slow sand	5						
Bag, ceramic, microfiltration, nanofiltration, reverse osmosis, membrane, electro dialysis	5						

*Must exceed 6 months to count

*Select highest population (population counted only once)

*Select processes for each type of treatment. If processes (or sources) are the same throughout different water systems, then do not add points again.

Water System Treatment Points= 0 0 0

Total 0

Proposed Operator Treatment Classification= N/A

TREATMENT CLASSIFICATION	TOTAL POINTS
Treatment-1	5-19
Treatment-2	20 - 35
Treatment-3	36 - 45
Treatment-4	>45

- *Applicant still must meet time criteria in NAC 445A.633.1 as well as education requirements of NAC 445A.6293
- *Experience gained at each facility must meet a minimum of 6 months
- *Select highest population in which applicant has gained experience (population score counted only once)
- *Select processes for each type of treatment. If processes (or sources) are the same throughout different water systems, do not add
- *Total points will determine the level in which the applicant can receive a full certification
- *Work experience may need to be verified through job description, supervisor verification, or equivalent method

Operator Certification Proposed Fee Study

Total personnel cost (Salary and Fringes) for Operator Certification (FY17)	Annual			Hourly		
	FY12	FY13	FY14	FY15	FY16	FY17
ESIII	\$96,589	\$46.44	\$34.83	\$23.22	\$11.61	0.25 hrs
AAIII	\$66,970	32.17	24.13	16.09	8.04	0.5 hrs
Total	\$163,509					

Collected Operator Certification Fees	FY12	FY13	FY14	FY15	FY16	FY17
Total Fees Collected	\$47,124.00	\$51,665.00	\$52,961.00	\$59,693.00	\$60,497.50	\$62,944.00
Percentage Covered by Fees (FY17 Basis)	28.82%	31.60%	32.39%	36.51%	37.00%	38.50%

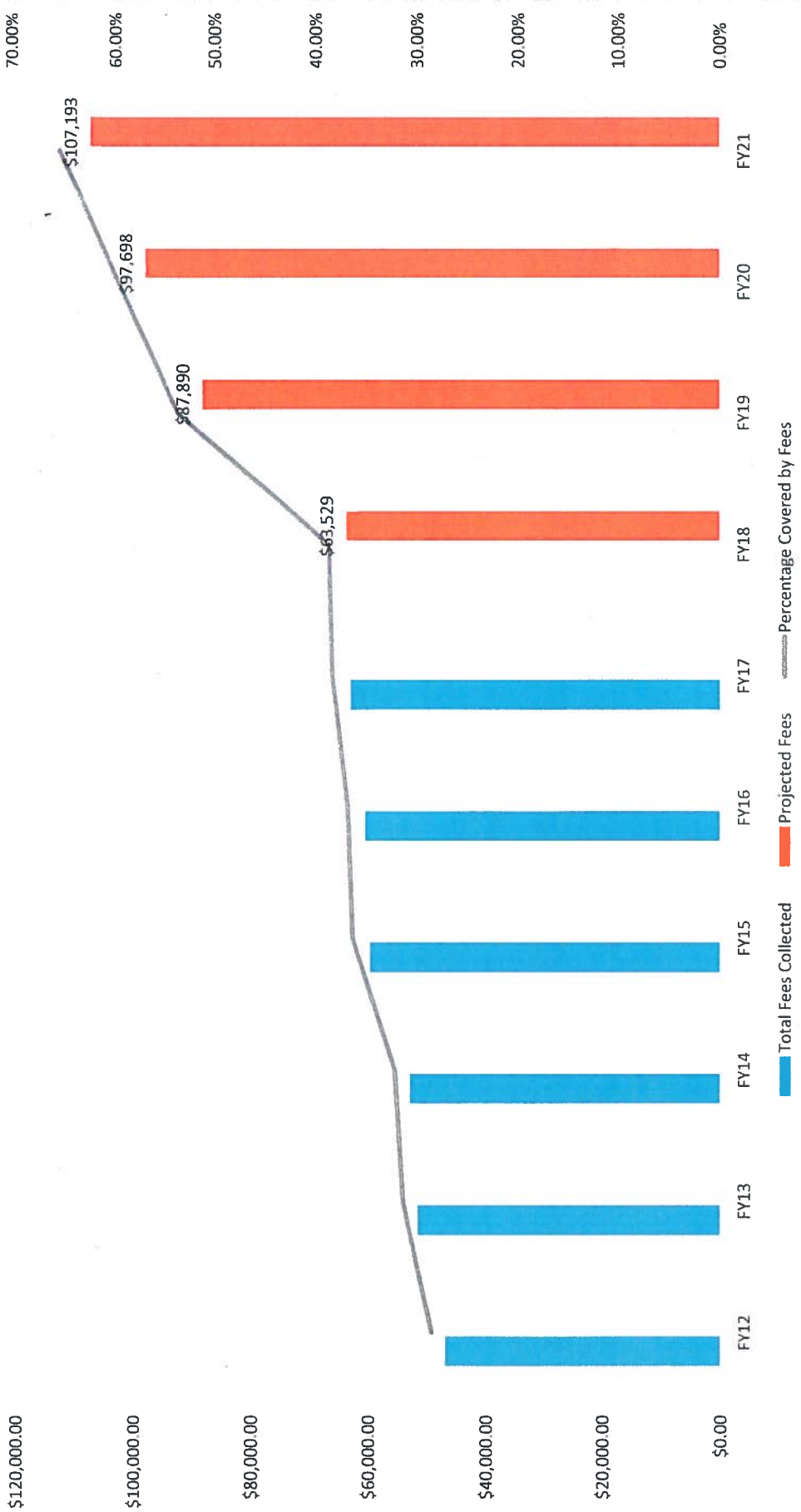
Application Type	FY12	FY13	FY14	FY15	FY16	FY17	Average Projected Growth	Projected FY18 (4% Growth)
Test Applications: Full	188	172	193	208	220	198		198
Test Applications: OIT	112	135	130	154	157	206		206
Conversions	26	34	63	60	65	63		63
Renewals	639	1036	682	777	771	833		866
Reinstatements	33	35	51	40	32	37		37
Reciprocities	56	38	35	48	51	60		62
Total Applications	1054	1450	1154	1287	1296	1433		1433
Percentage Growth		27%	-2.6%	10%	6%	4%		

Operator Certification Program Fees:	Current Fees	Justification	Projected FY18 (4% Growth)	Projected FY19 (+10% rounded)	Projected FY20 (+10% rounded)	Projected FY21 (+10% rounded)	Projected FY22 (+10% rounded)	Percentage of Amount Increased
NAC 445A.651 Fees of Division. The Division shall charge and collect the following fees:								
For the issuance of a full certificate	\$84	\$82 contract test + 1/2 hr ESIII & 1/2 hr AAIII	\$121	\$120	\$120	\$120	\$120	43%
For the issuance of a certificate as an operator-in-training	\$57	\$82 contract test + 1/4 hr ESIII & 1/2 hr AAIII	\$110	\$110	\$110	\$110	\$110	93%
For the conversion of a certificate as an operator in training to a full certificate	\$30	1/2 hr ESIII & 1/2 hr AAIII	\$39	\$40	\$40	\$40	\$40	33%
For the issuance of a provisional certificate	(\$30)							
For the renewal of a full, provisional, or operator-in-training certificate	\$30	3/4 hr ESIII & 1/2 hr AAIII	\$51	\$50	\$50	\$50	\$50	67%
For the renewal of a provisional certificate	(\$30)							
For the renewal of a certificate as an operator-in-training	(\$30)							
For the reinstatement and renewal of a full certificate	\$100	New Renewal Fee + \$100 Penalty (Operating w/out Cert)	\$151	\$150	\$150	\$150	\$150	50%
For a certificate issued pursuant to paragraph (c) of subsection 2 of NAC 445A.6345 (Reciprocity)	\$57	3 hrs ESIII & 1/2 hr AAIII	\$155	\$150	\$150	\$150	\$150	163%

3 Year Step Increase (10% annually) - WITH ROUNDED TOTALS: Revenue based on Projected FY18 application types	Current Fees	Projected FY18 (4% Growth)	FY18 Projected Revenue	FY19 Proposed Fee (80% of Justifiable fees rounded)	FY19 Projected Revenue	FY20 Fee Rate (+10% rounded)	FY20 Projected Revenue	FY21 Fee Rate (+10% rounded)	FY21 Projected Revenue
Test Applications: Full	\$84	198	\$16,598	\$100	\$19,760	\$110	\$21,736	\$120	\$23,712
Test Applications: OIT	\$57	206	\$11,737	\$90	\$18,533	\$99	\$20,592	\$110	\$22,651
Conversions	\$30	63	\$1,903	\$30	\$1,903	\$33	\$2,220	\$39	\$2,538
Renewals	\$30	866	\$25,990	\$40	\$34,653	\$44	\$38,984	\$50	\$43,316
Reinstatements	\$100	37	\$3,744	\$140	\$5,242	\$145	\$5,429	\$150	\$5,616
Reciprocities	\$57	62	\$3,557	\$125	\$7,800	\$138	\$8,736	\$154	\$9,360
Totals			\$63,529		\$87,890		\$97,698		\$107,193

Collected Operator Certification Fees	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21
Total Fees Collected	\$47,124.00	\$51,665.00	\$52,961.00	\$59,693.00	\$60,497.50	\$62,944.00	\$63,529	\$87,890	\$97,698	\$107,193
Projected Fees										
Percentage Covered by Fees	28.82%	31.60%	32.39%	36.51%	37.00%	38.50%	38.85%	53.75%	59.75%	65.56%

Figure 1: BSDW Op Cert Proposed Fee Collections



ATTACHMENT 4:

Regulatory Petition R144-17

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R144-17

December 28, 2017

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

AUTHORITY: §1, NRS 445B.210.

A REGULATION relating to air pollution; adopting by reference certain provisions of federal regulations relating to air quality; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution and to establish standards for air quality. (NRS 445B.221) Under existing regulations, the Commission has adopted by reference certain provisions of federal regulations relating to air quality. This regulation revises the provisions which the Commission has adopted by reference.

Section 1. NAC 445B.221 is hereby amended to read as follows:

- 445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(nn) and 51.301 and Appendix S of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on ~~April 25, 2016.~~ *July 1, 2017.*
2. Title 40 C.F.R. § 51.165 is hereby adopted by reference as it existed on July 1, ~~2002.~~ *2017.*
3. Appendices M and W of 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, ~~2015.~~ *2017.*

4. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on ~~December 28, 2015.~~ **July 1, 2017.**

5. Appendix E of 40 C.F.R. Part 52 is hereby adopted by reference as it existed on July 1, ~~2015.~~ **2017.**

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

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3), 60.8(g) and 60.11(e), as it existed on July 1, ~~2015.~~ **2017;**

(b) Section 60.21 of Subpart B, as it existed on July 1, ~~2015.~~ **2017;**

(c) Subparts C, Cb, Cc, Cd, Ce, **Cf**, D, **Da**, Db, Dc, E, Ea, Eb, Ec, **F**, G, Ga, H, I, **J**, **Ja**, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, Y, Z, AA, AAa, CC, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, **XXX**, AAAA, CCCC, DDDD, EEEE, FFFF, IIII, JJJJ, ~~and~~ **KKKK and OOOO** as they existed on July 1, ~~2015;~~

~~(d) Subpart Da as it existed on April 6, 2016;~~

~~(e) Subpart F as it existed on July 27, 2015;~~

~~(f) Subparts J and Ja as they existed on February 1, 2016; and~~

~~(g) Subpart OOOO as it existed on August 12, 2015.~~ **2017.**

7. Appendices A, B and F of 40 C.F.R. Part 60 are hereby adopted by reference as they existed on ~~July 17, 2015.~~ **September 13, 2017.**

8. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, ~~W,~~ Y, BB and FF of 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, ~~2015.~~ **2017.**

9. Appendix B of 40 C.F.R. Part 61 is hereby adopted by reference as it existed on July 1, ~~2015;~~ **2017.**

10. The following subparts of 40 C.F.R. Part 63 are hereby adopted by reference:

(a) Subparts B, C, F, G, H, I, L, M, N, O, Q, R, S, T, U, W, X, **Y, CC**, EE, HH, II, JJ, KK, ~~MM;~~ OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, EEE, GGG, HHH, III, JJJ, MMM, OOO, PPP, QQQ, TTT, **UUU**, VVV, AAAA, ~~EEEE;~~ DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, **DDDDD**, EEEEE, FFFFF, GGGGG, HHHHH, **JJJJJ, KKKKK**, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, SSSSS, **UUUUU**, WWWW, ZZZZ, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, JJJJJ, LLLLL, MMMMM, NNNNN, OOOOO, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, VVVVV, WWWW, XXXXX, ZZZZZ, AAAAAA, BBBBBB, CCCCCC, EEEEEE and HHHHHH as they existed on July 1, ~~2015;~~ **2017;**

(b) ~~Subparts~~ **Subpart A** ~~[, Y, CC and UUU]~~ as ~~they~~ **it** existed on ~~February 1, 2016;~~ **October 11, 2017; and**

(c) ~~Subpart GG as it existed on December 7, 2015;~~

~~(d)~~ Subpart LLL as it existed on ~~September 11, 2015;~~

~~(e)~~ Subpart RRR as it existed on ~~September 18, 2015;~~

~~(f)~~ Subpart DDDDD as it existed on ~~November 20, 2015;~~

~~(g)~~ Subparts JJJJ and KKKKK as they existed on ~~December 28, 2015; and~~

~~(h)~~ Subpart UUUUU as it existed on ~~April 6, 2016.~~ **August 22, 2017.**

11. Appendix A of 40 C.F.R. Part 63 is hereby adopted by reference as it existed on ~~February 1, 2016.~~ **July 1, 2017.**

12. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, ~~2015.~~ **2017.** If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 72 apply.

13. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, ~~2015.~~ **2017.** If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 76 apply.

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

15. 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 is available ~~from the National Technical Information Service of the United States Department of Commerce~~, **free of charge**, at the Internet address ~~http://www.ntis.gov, for the price of \$42.~~ **<https://www.osha.gov>**.

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

(a) Division of State Library, Archives and Public Records of the Department of Administration for 10 cents per page.

(b) Government ~~Printing~~ **Publishing** Office, free of charge, at the Internet address **<http://www.gpo.gov/fdsys/>**.

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

(a) ASTM D5504-08, “Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Chemiluminescence,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D5504-08 is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~[\$54.]~~ **\$55.20**.

(b) ASTM D2234/D2234M-07, “Standard Practice for Collection of a Gross Sample of Coal,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2234/D2234M-07 is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~[\$54.]~~ **\$55.20**.

(c) ASTM D2013-07, “Standard Practice for Preparing Coal Samples for Analysis,” set forth in Volume 05.06 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D2013-07 is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~[\$61.20.]~~ **\$62.40**.

(d) ASTM D6784-02(2008), “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” set forth in Volume 11.07 of the *2008 Annual Book of ASTM Standards*. A copy of ASTM D6784-02(2008) is available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, by telephone at (877) 909-2786 or at the Internet address <http://www.astm.org>, for the price of ~~[\$61.20.]~~ **\$62.40**.

(e) ASTM D2015, "Standard Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter," dated April 10, 2000. A copy of ASTM D2015 is available for purchase at the IHS Standards Store, 15 Inverness Way East, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~[\$63.]~~ \$64.

(f) ASTM D5865, "Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter," dated July 10, 1996. A copy of ASTM D5865 is available for purchase at the IHS Standards Store, 15 Inverness Way East, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~[\$51.]~~ \$64.

(g) ASTM D1989, "Standard Test Method for Gross Calorific Value of Coal and Coke by Microprocessor Controlled Isoperibol Calorimeters," dated July 10, 1997. A copy of ASTM D1989 is available for purchase at the IHS Standards Store, 15 Inverness Way East, Englewood, Colorado 80112, or at the Internet address <http://global.ihs.com>, for the price of ~~[\$63.]~~ \$64.

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

19. Except as otherwise provided in subsections 12 and 13, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3689, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

20. For the purposes of this section, "administrator" as used in the provisions of 40 C.F.R. Part 60, except Subpart B § 60.21, and Parts 61 and 63, adopted by reference pursuant to this section, means the Director.

ATTACHMENT 5:

Regulatory Petition R145-17

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R145-17

February 15, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted;
matter in *italics* are changes made following the LCB review.

AUTHORITY: §§1, 2 and 4-9, NRS 445B.210 and 445B.300; §3, NRS 445B.210.

A REGULATION relating to air pollution; revising provisions relating to standards of ambient air quality; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Environmental Commission to establish standards for air quality. (NRS 445B.210) **Section 3** of this regulation revises the provisions prescribing the minimum state and federal standards of quality for ambient air for certain particulate matter. **Sections 1, 2 and 4-9** of this regulation make conforming changes.

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

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

1. Any standard or other relevant requirement:

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

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

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

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

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

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

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

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

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

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

4. Any national ambient air quality standard or requirement regarding increments or visibility adopted pursuant to 42 U.S.C. §§ 7470 to 7492, inclusive, as the standard applies to a temporary source for which the owner or operator has applied for and obtained an operating permit pursuant to NAC 445B.287 to 445B.3497, inclusive.

Sec. 2. NAC 445B.153 is hereby amended to read as follows:

445B.153 “Regulated air pollutant” means:

1. Nitrogen oxides or any volatile organic compounds;

2. Any pollutant subject to:

(a) A national ambient air quality standard and any constituents or precursors for such pollutants identified by the Administrator;

(b) A standard or requirement adopted pursuant to 42 U.S.C. § 7411; or

(c) A *state* standard established pursuant to NAC 445B.22097;

3. Any Class I or Class II substance subject to a standard adopted pursuant to 42 U.S.C. §§ 7671 to 7671q, inclusive; or

4. Any pollutant that otherwise is subject to regulation under the Act, except that any hazardous air pollutant regulated under 42 U.S.C. § 7412 is not a regulated air pollutant unless the hazardous air pollutant is also regulated as a constituent or precursor of an air pollutant listed pursuant to 42 U.S.C. § 7408.

Sec. 3. NAC 445B.22097 is hereby amended to read as follows:

445B.22097 1. The table contained in this section lists the minimum *state* standards of quality for ambient air.

		[NEVADA] STATE STANDARDS ^{A, B, D}		[NATIONAL STANDARDS ^E]		
POLLUTANT	AVERAGING TIME	CONCENTRATION ^C	[METHOD ^P]	[PRIMARY ^{C, E}]	[SECONDARY ^{C, E}]	[METHOD ^P]
Ozone	8 hours	{0.075} 0.070 ppm	{Chemiluminescence}	{0.075 ppm}	{Same as primary}	{Chemiluminescence}
Ozone-Lake Tahoe Basin, #90	1 hour	0.10 ppm (195 µg/m ³)	{Ultraviolet-absorption}	{-}	{-}	{-}
Carbon monoxide less than 5,000' above mean sea level	8 hours	9 ppm (10,500 µg/m ³)	{Nondispersive-infrared-photometry}	{9 ppm (10 mg/m ³)}	{None}	{Nondispersive-infrared-photometry}
At or greater than 5,000' above mean sea level		6 ppm (7,000 µg/m ³)		{None}		
Carbon monoxide at any elevation	1 hour	35 ppm (40,500 µg/m ³)		{35 ppm- (40 mg/m ³)}		
Nitrogen dioxide	Annual arithmetic mean	0.053 ppm (100 µg/m ³)	{Gas-phase-chemiluminescence}	{53 ppb ^G }	{Same as primary}	{Gas-phase-chemiluminescence}
	1 hour	100 ppb	{-}	{100 ppb}	{None}	
Sulfur dioxide	Annual arithmetic mean	0.030 ppm (80 µg/m ³)	{Ultraviolet fluorescence}	{0.03 ppm ^H (1971 standard)}	{None}	{Spectrophotometry- (Pararosaniline method)}
	24 hours	0.14 ppm (365 µg/m ³)		{0.14 ppm ^H (1971 standard)}		
	3 hours	0.5 ppm (1,300 µg/m ³)		{None}		
	1 hour	75 ppb	{-}	{75 ppb}	{None}	
Particulate matter as PM ₁₀	24 hours	150 µg/m ³	{High-volume-PM ₁₀ -sampling}	{150 µg/m ³ }	{Same as primary}	{High-or-low-volume-PM ₁₀ -sampling}
Particulate matter as PM _{2.5}	Annual arithmetic mean	12.0 µg/m ³	{-}	{12.0 µg/m ³ }	{Same as primary}	
	24 hours	35 µg/m ³	{-}	{35 µg/m ³ }	{Same as primary}	{Low-volume-PM _{2.5} -sampling}
Lead (Pb)	Rolling 3 mo. average	0.15 µg/m ³	{High-volume-sampling, acid-extraction-and-atomic-absorption-spectrometry}	{0.15 µg/m ³ }	{Same as primary}	{High-volume-sampling, acid-extraction-and-atomic-absorption-spectrometry}
Hydrogen sulfide	1 hour	0.08 ppm (112 µg/m ³) ^{F, I}	{Ultraviolet-fluorescence}	{-}	{-}	{-}

Notes:

Note A: The Director shall use the ~~[Nevada]~~ *state* standards in considering whether to issue a permit for a stationary source and shall ensure that the stationary source will not cause the ~~[Nevada]~~ *state* standards to be exceeded in areas where the general public has access. For the 2006 particulate matter as PM_{2.5} 24-hour and annual standards, the 2010 nitrogen dioxide 1-hour standard, ~~and~~ the 2010 sulfur dioxide 1-hour standard, *and the 2015 ozone 8-hour standard*, the Director shall use the form of the standards set forth in 40 C.F.R. §§ 50.11, 50.13, ~~and~~ 50.17 *and 50.19*, as those provisions existed on ~~June 23, 2014~~ *October 26, 2015*, to ensure that the ~~[Nevada]~~ *state* standard is no more stringent than the ~~[National]~~ *national ambient air quality* standard in determining whether the stationary source will comply with the ~~[Nevada]~~ *state* standards in areas where the general public has access.

Note B: ~~[The]~~ National *ambient air quality* standards are used in determinations of attainment or nonattainment. The form of a ~~[National]~~ *national ambient air quality* standard is the criteria which must be satisfied for each respective concentration level of a standard for the purposes of attainment. The form for each ~~[National]~~ *national ambient air quality* standard is set forth in 40 C.F.R. Part 50 and may be viewed at ~~[<http://www.epa.gov/air/criteria.html>.]~~
<http://www.epa.gov/criteria-air-pollutants/naaqs-table>. National primary standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health. National secondary standards are the levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a regulated air pollutant.

Note C: Where applicable, ~~[and except as otherwise described in Note G,]~~ concentration is expressed first in units in which it was adopted. Measurements of air quality that are expressed as mass per unit volume, such as micrograms per cubic meter, must be corrected to a reference temperature of 25 degrees Centigrade and a reference pressure of 760 mm of Hg (1,013.2

millibars), except measurements of particulate matter as PM_{2.5} and lead (Pb), which are calculated in micrograms per cubic meter at local conditions; “ppb” in this table refers to parts per billion by volume, or nanomoles of regulated air pollutant per mole of gas; “ppm” refers to parts per million by volume, or micromoles of regulated air pollutant per mole of gas; “µg/m³” refers to micrograms per cubic meter.

Note D: ~~[Reference method as described by the EPA.]~~ Any ~~[reference method specified in accordance with 40 C.F.R. Part 50 or any]~~ reference method or equivalent method designated in accordance with 40 C.F.R. Part 53 may be ~~[substituted.]~~ *used to measure a regulated air pollutant.*

Note E: ~~[National primary standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health.]~~

Note F: ~~National secondary standards are the levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a regulated air pollutant.]~~

Note G: ~~The official National annual standard for nitrogen dioxide is 0.053 ppm. The National annual standard is identified in this table in equivalent units of parts per billion for the purpose of simplifying its comparison with the National 1-hour standard which is also identified in parts per billion.]~~

Note H: ~~The 1971 National sulfur dioxide standards remain in effect for an area until 1 year after the area is designated for the 2010 National sulfur dioxide standard, except that in an area designated nonattainment for the 1971 National sulfur dioxide standards, the 1971 standards remain in effect until an implementation plan to attain or maintain the 2010 National sulfur dioxide standards is approved.]~~

~~Note I:~~ The *state* ambient air quality standard for hydrogen sulfide does not include naturally occurring background concentrations.

2. ~~[These]~~ *The state* standards of quality for ambient air are minimum goals, and it is the intent of the Commission in this section to protect the existing quality of Nevada's air to the extent that it is economically and technically feasible.

Sec. 4. NAC 445B.233 is hereby amended to read as follows:

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

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

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

(c) Any one of the following conditions existed:

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

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

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

2. If the owner or operator misrepresents facts or fails to disclose facts of which he or she had prior knowledge, the Director shall deem that the period of excess emissions violates NAC 445B.001 to 445B.390, inclusive.

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

Sec. 5. NAC 445B.308 is hereby amended to read as follows:

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

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

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

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

(a) Will prevent the attainment and maintenance of the state ~~for national~~ ambient air quality standards. For the purposes of this paragraph, only those *state* ambient air quality standards that

have been established in NAC 445B.22097 need to be considered in the environmental evaluation.

- (b) Will cause a violation of the applicable state implementation plan.
- (c) Will cause a violation of any applicable requirement.
- (d) Will not comply with subsection 4.

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

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

- (a) Comply with the provisions of 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.
- (b) Adopt as an emission limitation for the stationary source the lowest achievable emission rate for each nonattainment regulated air pollutant from the stationary source.
- (c) Demonstrate that all other stationary sources within this State which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC

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

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

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

(f) Comply with one of the following:

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

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

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

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

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

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

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

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

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

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

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

9. As used in this section:

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

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

Sec. 6. NAC 445B.3364 is hereby amended to read as follows:

445B.3364 1. Except for sources that are subject to the permitting requirements set forth in 40 C.F.R. § 52.21 or sources subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, 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 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 sources subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, 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 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 180 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 or the revision of the Class I operating permit to construct.

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 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.390, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

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 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249 and in the air quality region where the source is located for 30 days to enable public and EPA participation and comment.

7. The Director shall:

(a) Publish notice of the Director's preliminary intent to issue or deny an operating permit to construct or a revision of an operating permit to construct and a copy of the proposed Class I operating permit on an Internet website 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;

(e) Provide a copy of the Director's preliminary intent to issue or deny the operating permit to construct to each affected local air pollution control agency;

(f) Establish a 30-day period for comment from the public and the EPA; and

(g) 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 7, the notice required for a Class I operating permit to construct or for a revision of a Class I operating permit to construct must:

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

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

(c) Identify 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) State that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable;

(e) Include the name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the Class I operating permit 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;

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

(g) If applicable, include 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.

10. Except as otherwise provided in subsections 11 to 14, inclusive, 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. The Director shall make the 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 *national ambient air quality standards, the state ~~and national~~ ambient air quality standards* contained in NAC445B.22097 and the applicable state implementation 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 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. For a source, or proposed source, subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, 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.

14. 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.

15. 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).

16. If, on his or her own or pursuant to a request by a person pursuant to subsection 15, 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 or she is notified of the objection.

Sec. 7. NAC 445B.3395 is hereby amended to read as follows:

445B.3395 1. Except for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21 and as otherwise provided in this subsection, within 60 days after the date on which an application for a Class I operating permit or for the significant revision of a Class I operating permit is received, the Director shall determine whether the application is complete. If

substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine that the application is complete. Unless the Director determines that the application is incomplete within 60 days after the date of receipt, the official date of submittal shall be deemed to be the date on which the Director determines that the application is complete or 61 days after the date of receipt, whichever is earlier.

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

3. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request such additional information that is necessary to determine whether the proposed operation will comply with all the requirements set forth in NAC 445B.001 to 445B.390, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director pursuant to subsection 1 or 2.

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

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

6. The Director's review and preliminary intent to issue or deny a Class I operating permit or the revision of a Class I operating permit and the proposed conditions for the Class I operating permit must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, and in the air quality region where the source is located for 30 days to enable public participation and comment and a review by any affected states.

7. The Director shall:

(a) Publish notice of the Director's preliminary intent to issue or deny a Class I operating permit or the revision of a Class I operating permit and a copy of the proposed Class I operating permit on an Internet website designed to give general public notice;

(b) Provide written notice to:

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

(2) Any affected state; and

(3) Any affected local air pollution control agency;

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

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

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

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

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

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

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

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

- (a) Identify the affected facility and the name and address of the applicant;
- (b) Include the name and address of the authority processing the Class I operating permit;
- (c) Identify the activity or activities involved in the Class I operating permit and the emissions change involved in any revision of the Class I operating permit;
- (d) State that the affected facility has the potential to emit 5 or more tons per year of lead, if applicable;
- (e) Include the name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the Class I operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the Class I operating permit and which are relevant to the determination of the issuance of the Class I operating permit; and
- (f) Include a brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

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

11. Except as otherwise provided in subsection 12 and NAC 445B.319, 445B.342 and 445B.3425, within 12 months after the official date of submittal of a Class I application for an

operating permit or revision of an operating permit, the Director shall issue or deny the operating permit or revision of the operating permit. The Director shall make the decision by taking into account:

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

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

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

13. The Director shall not issue a Class I operating permit, or a revision or renewal of a Class I operating permit, if the Administrator objects to its issuance in writing within 45 days

after the Administrator's receipt of the proposed conditions for the Class I operating permit and the necessary supporting information.

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

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

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

17. If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the Director. A Class I operating permit or the revision of a Class I operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement

of construction approved by the Director. The Director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

Sec. 8. NAC 445B.3457 is hereby amended to read as follows:

445B.3457 1. Except as otherwise provided in NAC 445B.319 and 445B.342, within 10 working days after the date of receipt of an application for a Class II operating permit or for the revision of a Class II operating permit, accompanied by the applicable fee, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier.

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

3. The Director shall issue or deny a Class II operating permit or the revision of a Class II operating permit:

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

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

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

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

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

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

(1) Written comments from the public;

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

(3) The effect of such a facility on the maintenance of the ***national ambient air quality standards, the*** state ~~[and-national]~~ ambient air quality standards contained in NAC445B.22097 and the applicable state implementation plan.

5. The Director shall provide public notice of the preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit for:

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

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

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

Pollutant	Threshold in tons per year
Carbon monoxide	40
Nitrogen oxides	40
Sulfur dioxide	40
PM _{2.5}	10
PM ₁₀	15
Ozone measured as VOC	40
Lead	0.6

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

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

(b) Publish notice of the Director's preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit and a copy of the proposed Class II operating permit on an Internet website designed to give general public notice;

(c) Provide written notification of the Director's preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(d) Provide notice of the Director's preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit and a copy of the draft Class II operating permit to the Administrator and to any local air pollution control agency having jurisdiction in the area in which the proposed new Class II source or the proposed modification to the existing Class II source is located; and

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

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

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

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

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

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

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

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

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

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

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

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

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

on which the initial phase of construction may be commenced upon a showing that the extension is justified.

Sec. 9. NAC 445B.3477 is hereby amended to read as follows:

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

2. Before issuing a Class II general permit, the proposed conditions for the Class II general permit must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment. The Director shall:

(a) Publish notice of the Director's proposed conditions and a copy of the proposed Class II general permit on an Internet website 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; and

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

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

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

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

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

(2) All relevant supporting materials; and

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

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

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

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

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

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

4. All comments concerning the proposed Class II general permit for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. The Director shall give notice of any public hearing scheduled pursuant to this section at least 30 days before the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

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

(a) Written comments from the public;

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

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

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

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

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

8. The Director shall grant or deny authority to operate under a Class II general permit within 30 days after his or her receipt of a request for such authority. The Director's decision to grant or deny an application for authority to operate under the terms of a Class II general permit is not subject to the requirements of NAC 445B.3457.

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

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

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

12. The authority to operate under a Class II general permit expires after 5 years. An owner or operator of a stationary source operating under the authority of a Class II general permit shall

apply to renew the authority to operate under the Class II general permit at least 30 days before the authorization expires.

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

ATTACHMENT 6:

Handouts Use of Alternative Fuel

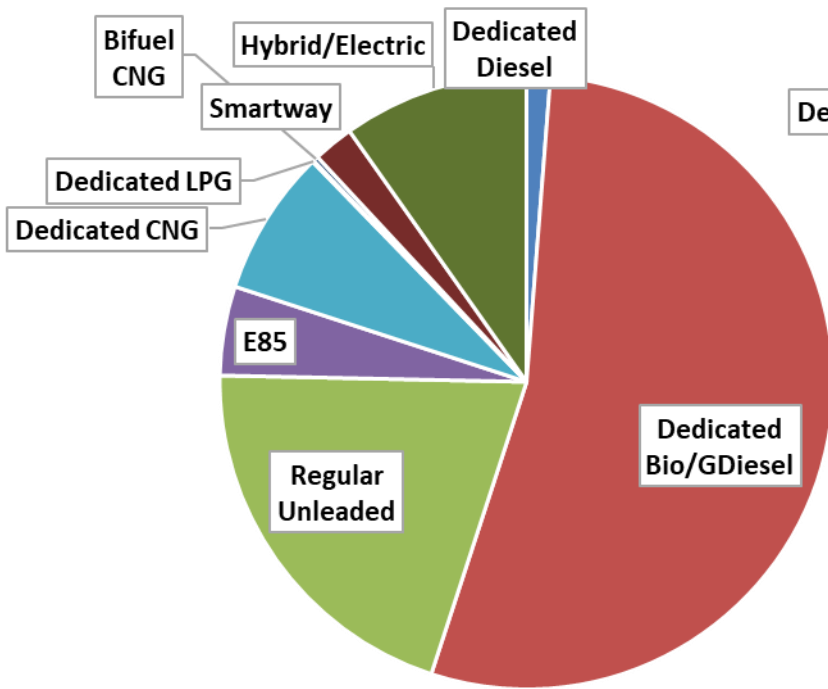
Fleets: Use of Alternative Fuel

(NRS and NAC 486A)

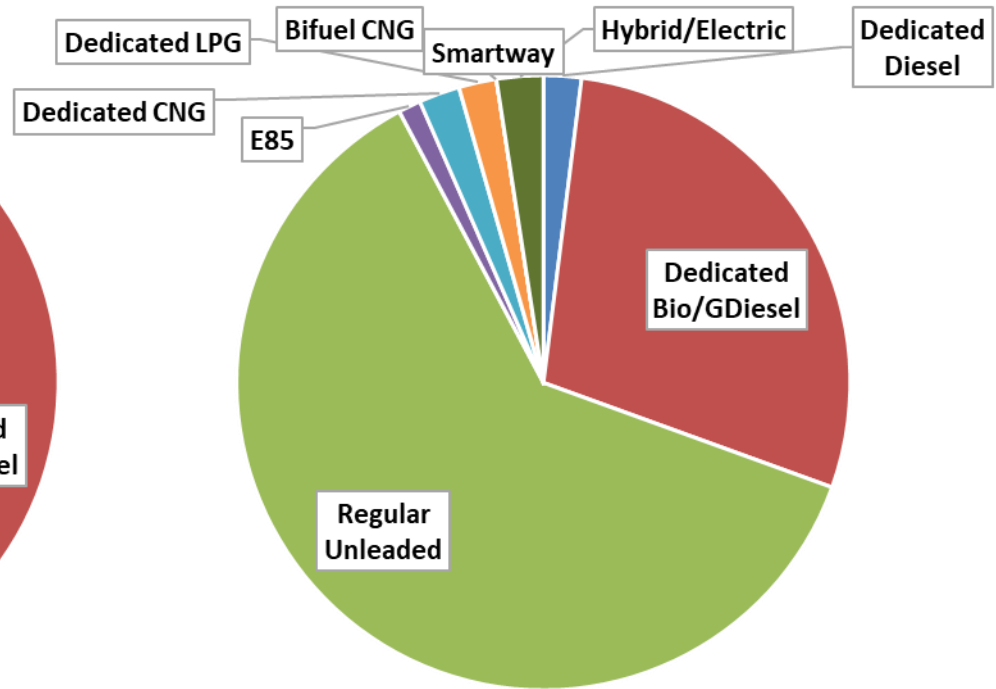
History

- NRS 486A was passed by the Nevada Legislature in 1991; NDEP began phased implementation between 1993 to 1995
- Both Clark and Washoe counties were in violation (non-attainment) of federal ambient air quality standards for carbon monoxide
- Motor vehicle emissions testing (i.e., smog check program) had just begun in Clark and Washoe counties as the primary measure to reduce carbon monoxide emissions
- Legislative intent was to augment the smog check program to help bring Clark and Washoe counties into compliance with the carbon monoxide standards
- Secondary intent was to help usher in a new era of clean fuel vehicles that would encourage adoption of alternative fuel vehicles in private fleets and among the general public
- Program applies to city, county, and state fleets in Clark and Washoe counties over 50 vehicles in size (originally was 10, but Statute changed in 2009); requires the acquisition of alternative fuel vehicles and use of alternative fuels
- Demonstrate compliance through annual reporting
- 19 regulated fleets statewide; with approximately 10,500 vehicles total

Fleet Compositions



Clark County



Washoe County

Current Compliance Situation

Out of 19 regulated fleets, two fleets are currently in non-compliance

City of North Las Vegas

Currently in variance for financial hardship. The Variance expires in November 16, 2019. The city is planning to dedicate funding to replace their non-compliant vehicles. NDEP is confident the fleet is working towards compliance.

Washoe County Service Fleet

The fleet has 31 diesel vehicles that should operate with bio-diesel. The fleet is currently in non compliance.

Past variances

2015 - Boulder City

Lost its underground storage tanks, and the nearest source of biodiesel and RFG (still an alternative fuel, at the time of variance request) were nearly a half hour away. A 3-year variance was approved in Spring of 2015 to budget for and replace their fuel tank. Completed ahead of time and variance ended on June 1, 2017

2013 - City of Henderson and Clark County fleets

Both lost availability of their GDiesel in 2013 and requested 1-year variance to resume a steady supply from the manufacturer. Converted to biodiesel and variance ended on June 30, 2014

2010-11-13 - Southern Nevada RTC

The Fleet had been on three 1-year variances in the past for lack of availability of fuel and/or vehicles. These issues have been resolved as they have since begun the process of converting their fleet over compressed natural gas (CNG).

2010-12-14 - Clark County School District

The Fleet had been on three 2-year variances in the past for financial hardship due to the costs of RFG. Once the November 2016 regulatory changes were approved, the fleet no longer needed a variance.

How fleets comply with alternative fuel requirements

Washoe County fleets

Out of 9 regulated fleets:

- 6 fleets own their fuel supply
- 1 fleet is using their existing underground tank; and are in the process of building a new smaller aboveground tank
- 1 fleet drives approximately 10-21 minutes to refuel biodiesel at the City of Reno station (under contract)

Clark County fleets

Out of 10 regulated fleets:

- 8 fleets own their fuel supply
- 1 fleet is in variance (City of North Las Vegas)
- 1 fleet purchases fuel from other regulated fleets (non-centralized fleet)

Environmental Benefits

- The role of the NRS and NAC 486A program in maintaining ambient air quality in Clark and Washoe counties is limited
- It is not used as a State Implementation Plan (SIP) control strategy (only as a contingency measure in the CO-maintenance plan for Clark County)
- Mass market adoption of alternative fuel vehicles and infrastructures never developed
- Stricter federal emission standards for new light-duty and heavy duty motor vehicles have largely contributed to the reduction of emissions
- Cleaner conventional gasoline and diesel fuels mandated by federal regulation (previous alternative fuels are now the standard)

Past Regulatory Changes

(October 2016)

- Resolved a critical issue about an alternative fuel (RFG) becoming equivalent the national standard
- Reduce the vehicle acquisition percentage from 90% to 20%
- Included language to incentivize fully electric and plug-in hybrid vehicles
- Include language to include the use of telematics as a way to comply with the program
- Simplify reporting requirements