

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R046-19

August 27, 2019

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

AUTHORITY: §1 and 12, NRS 445B.210; §§2, 3 and 5-11, NRS 445B.210 and 445B.300; §4, NRS 445B.210 and 445B.570.

A REGULATION relating to air pollution; revising various fees for operating permits; authorizing the Director of the State Department of Conservation and Natural Resources to renew Class I or Class II operating permits in certain situations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations concerning air pollution, including regulations that prevent, abate and control air pollution. (NRS 445B.210)

Existing law provides that an “operating permit” is a permit which is signed and issued by the Director of the Department of Conservation and Natural Resources, by his or her designee or certain other persons, that approves, with conditions, the construction and operation a source of any air contaminant. (NRS 445B.145) Existing law requires the Commission to charge appropriate fees for the issuance of operating permits with the amounts for the fees being sufficient to pay the expenses of administering the provisions governing air pollution. (NRS 445B.300) Existing regulations set forth various fees for operating permits. (NAC 445B.327) **Section 9** of this regulation revises various fee amounts that are provided for in existing regulations.

Section 1 of this regulation provides the procedure through which a Class I or Class II operating permit may be renewed by the Director. **Sections 2 and 3** of this regulation make conforming changes. **Section 9** creates new fees for the renewal of a Class I or Class II operating permit.

Section 9 additionally provides that 10 percent of the amount of certain fees is nonrefundable and will be used to pay the costs of determining whether the application is complete.

Section 9 also revises the fees for the maintenance of a stationary source and phases in these revised fees.

Existing regulations set forth a fee of \$50,000 for conducting an informal review of a proposed new major source or proposed modification of an existing major source. (NAC 445B.327) **Section 9** removes this fee. **Section 6** of this regulation makes a conforming change.

Section 9 also revises the fee amounts charged for services relating to the application process for operating permits. **Sections 4, 5, 7, 8, 10 and 11** of this regulation make conforming changes.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto a new section to read as follows:

The Director may renew an existing Class I or Class II operating permit that was issued on or after January 1, 2018, if:

- 1. No revisions to the operating permit are necessary;*
- 2. The holder of the operating permit submits a request and pays any renewal fee set forth in NAC 445B.327; and*
- 3. The Director determines that an environmental evaluation submitted within 5 years of the request is adequate.*

Sec. 2. 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.3477, inclusive ~~[.]~~, *and section 1 of this regulation.*

Sec. 3. NAC 445B.2205 is hereby amended to read as follows:

445B.2205 1. No person may cause or permit the emission of sulfur compounds where the sulfur originates in the material being processed, excluding hydrogen sulfide and sulfur from all solid, liquid or gaseous fuel, in excess of the quantity determined by the following equation:

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

when “E” is equal to or greater than 10 pounds per hour. When “E” is less than 10 pounds per hour, the gas stream concentration must not exceed 1,000 ppm by volume.

2. For the purposes of subsection 1:

(a) “E” means the allowable sulfur emission in pounds per hour.

(b) “P” means the total feed sulfur, excluding hydrogen sulfide, in pounds per hour.

3. When sulfur emissions are due to sulfur contributions from both the fuel and the material being processed, the allowable emissions must be the sum of those allowed by this section and NAC 445B.22047.

4. Incinerators used solely for the control of odor by the combustion of noxious sulfur containing compounds are exempt from the provisions of NAC 445B.2204 to 445B.2205, inclusive, and are governed by the provisions of NAC 445B.22027 to 445B.22037, inclusive, and 445B.287 to 445B.3477, inclusive ~~§~~, *and section 1 of this regulation.*

5. A person shall not cause or permit the emission of any gas containing hydrogen sulfide which is discharged to the atmosphere from any emission unit unless the emission unit is vented, incinerated or flared, or the stream is otherwise disposed of, in a manner such that the ambient

sulfur dioxide standards and the ambient hydrogen sulfide standards are not exceeded. Before construction, compliance with the ambient standards must be based on the applicable models, bases and other requirements specified in 40 C.F.R. Part 51, Appendix W, “Guideline on Air Quality Models,” adopted by reference pursuant to NAC 445B.221, except that the Director may authorize the modification of a model specified in the “Guideline on Air Quality Models” or the use of a model not included in the “Guideline on Air Quality Models” if the Director determines that such modification or use is appropriate.

Sec. 4. NAC 445B.224 is hereby amended to read as follows:

445B.224 1. The Director shall maintain all public information obtained in the course of the performance of the duties set forth in NRS 445B.100 to 445B.845, inclusive, at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

2. The content of an operating permit is public information and cannot be certified as confidential information.

3. Information concerning the emission of a regulated air pollutant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by the EPA cannot be certified as being confidential.

4. An owner or operator who submits information under a claim of confidentiality shall

~~submit~~:

(a) *Pay the fee of \$1,000 for the request that the information be treated confidentially pursuant to this section and NRS 445B.570; and*

(b) *Submit:*

(1) One copy of the information to the Director; and

~~(b)~~ (2) One copy of the information to the Administrator.

Sec. 5. NAC 445B.288 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Less than 500 horsepower; or

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

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

(1) Less than 250 horsepower; or

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

(h) An emergency generator. Except as otherwise provided in this paragraph, an emergency generator qualifies as an insignificant activity pursuant to this paragraph only if the emergency generator is an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages. An emergency generator that is owned or operated by a stationary source and whose potential to emit is calculated on the basis of less than 500 hours of operation does not qualify as an insignificant activity.

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

4. The Director may, upon written request, *payment of the fee of \$1,000* and a satisfactory demonstration by an applicant, approve an emission unit as an insignificant activity if the emission unit is not otherwise subject to another specific applicable requirement, including, without limitation, any requirement or standard set forth in 40 C.F.R. Part 60, 61 or 63. To be approved as an insignificant activity, an emission unit must meet the following criteria:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. NAC 445B.2915 is hereby amended to read as follows:

445B.2915 1. An owner or operator of a proposed new major source or an existing major source for which the owner or operator proposes a modification may, before the owner or operator submits an application for an operating permit or an operating permit to construct for the proposed new major source or for the modification of the existing major source, submit a written request to the Director for an informal review of the proposed new major source or modification of the existing major source. In conducting the informal review, the Director may provide advice or other assistance to the owner or operator concerning the preparation of a draft application for the operating permit or operating permit to construct.

2. A written request for an informal review submitted pursuant to subsection 1 must include:

(a) A draft application for an operating permit or operating permit to construct for the proposed major source or modification of the existing major source; *and*

(b) ~~The fee for conducting the informal review specified in NAC 445B.327; and~~

~~(c)~~ Any other information concerning the proposed new major source or modification of the existing major source required by the Director.

Sec. 7. NAC 445B.315 is hereby amended to read as follows:

445B.315 1. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to operating permits to construct.

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

3. An operating permit must contain the following conditions:

(a) The term of the operating permit is 5 years.

(b) The holder of the operating permit shall retain records of all required monitoring data and supporting information for 5 years after the date of the sample collection, measurement, report or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.

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

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

(1) An action for noncompliance;

(2) Revising, revoking, reopening and revising, or terminating the operating permit by the Director; or

(3) Denial of an application for a renewal of the operating permit by the Director.

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

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

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

(h) The holder of the operating permit shall provide the Director, in writing and within a reasonable time, with any information that the Director requests to determine whether cause

exists for revising, revoking and reissuing, reopening and revising, or terminating the operating permit, or to determine compliance with the conditions of the operating permit.

(i) The holder of the operating permit shall pay fees to the Director in accordance with the provisions set forth in NAC 445B.327 and 445B.331 ~~§~~, *if applicable*.

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

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

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

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

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

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

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

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

Sec. 8. NAC 445B.319 is hereby amended to read as follows:

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

- (a) Correct typographical errors;
- (b) Identify a change in the name, address or telephone number of any person identified in the operating permit, or provide a similar minor administrative change at the stationary source;
- (c) Require more frequent monitoring or reporting by the holder of the operating permit;
- (d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or revision of the operating permit; or
- (e) Allow for a change in ownership or operational control of a stationary source if the Director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the Director a written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

2. A holder of an operating permit must request an administrative amendment on an application provided by the Director. The application must be accompanied by a fee ~~in the amount specified in NAC 445B.327.]~~ of \$1,000.

3. The Director shall:

- (a) Issue or deny an application for an administrative amendment within 30 days after receipt of the application.
- (b) If the administrative amendment is for a Class I operating permit, send a copy of the administrative amendment to the Administrator.

Sec. 9. NAC 445B.327 is hereby amended to read as follows:

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

(a) Class I operating permit to construct [~~.....\$20,000~~]:

<i>The number of emission units, including, without limitation, emission units considered to be or approved as insignificant activities pursuant to NAC 445B.288</i>	<i>New Class I operating permit to construct</i>	<i>Revision to a Class I operating permit to construct</i>
<i>Less than or equal to 10</i>	<i>\$40,000</i>	<i>\$10,000</i>
<i>11-20</i>	<i>\$45,000</i>	<i>\$15,000</i>
<i>21-50</i>	<i>\$50,000</i>	<i>\$20,000</i>
<i>51-100</i>	<i>\$55,000</i>	<i>\$25,000</i>
<i>Greater than 100</i>	<i>\$60,000</i>	<i>\$30,000</i>

(b) Conversion of ~~[an]~~ *a Class I* operating permit to construct into a Class I operating permit [~~involving only one phase~~]5,000

(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)	5,000
(d) Modification to an operating permit to construct	5,000
(e) Revision of an operating permit to construct	5,000
(f) Class I operating permit [.....	30,000] :

<i>The number of emission units, including, without limitation, emission units considered to be or approved as insignificant activities pursuant to NAC 445B.288</i>	<i>New Class I operating permit</i>	<i>Minor revision to a Class I operating permit</i>	<i>Significant revision to a Class I operating permit</i>	<i>Renewal of a Class I operating permit not pursuant to section 1 of this regulation</i>	<i>Renewal of a Class I operating permit pursuant to section 1 of this regulation</i>
<i>Less than or equal to 10</i>	<i>\$35,000</i>	<i>\$10,000</i>	<i>\$35,000</i>	<i>\$30,000</i>	<i>\$5,000</i>
<i>11-20</i>	<i>\$40,000</i>	<i>\$15,000</i>		<i>\$35,000</i>	
<i>21-50</i>	<i>\$45,000</i>	<i>\$20,000</i>		<i>\$40,000</i>	
<i>51-100</i>	<i>\$50,000</i>	<i>\$25,000</i>		<i>\$45,000</i>	
<i>Greater than 100</i>	<i>\$55,000</i>	<i>\$30,000</i>		<i>\$50,000</i>	

<i>(d) Administrative revision to a Class I operating permit</i>	<i>.....1,000</i>
<i>[(g) Significant revision of a Class I operating permit</i>	<i>.....20,000</i>
<i>(h) Minor revision of a Class I operating permit</i>	<i>.....5,000</i>
<i>(i) Renewal of a Class I operating permit</i>	<i>.....5,000</i>

~~(j)~~ (e) Class II operating permit [..... 3,000] :

<i>The number of emission units, including, without limitation, emission units considered to be or approved as insignificant activities pursuant to NAC 445B.288</i>	<i>New Class II operating permit</i>	<i>Revision to a Class II operating permit</i>	<i>Renewal of a Class II operating permit not pursuant to section 1 of this regulation</i>	<i>Renewal of a Class II operating permit pursuant to section 1 of this regulation</i>
<i>Less than or equal to 10</i>	<i>\$5,000</i>	<i>\$2,500</i>	<i>\$2,500</i>	<i>\$2,000</i>
<i>11-20</i>	<i>\$10,000</i>	<i>\$5,000</i>	<i>\$5,000</i>	
<i>21-50</i>	<i>\$15,000</i>	<i>\$7,500</i>	<i>\$7,500</i>	
<i>51-100</i>	<i>\$20,000</i>	<i>\$10,000</i>	<i>\$10,000</i>	
<i>Greater than 100</i>	<i>\$30,000</i>	<i>\$15,000</i>	<i>\$15,000</i>	

~~(k)~~ Revision of a Class II operating permit 2,000

~~(l)~~ Renewal of a Class II operating permit 2,000

~~(m)~~ (f) Class II general permit [..... 500] :

<i>Permit Type</i>	<i>New Class II general permit</i>	<i>Revision to a Class II general permit</i>
<i>For a temporary source that is also a stationary source</i>	<i>\$1,500</i>	<i>Not applicable</i>
<i>For a stationary source</i>	<i>\$500</i>	<i>\$250</i>

~~[(n)]~~ (g) Surface area disturbance permit ~~[.....]~~ ~~.....500]~~:

<i>Total surface area disturbance</i>	<i>New surface area disturbance permit</i>	<i>Renewal of a surface area disturbance permit</i>	<i>Revision to a surface area disturbance permit</i>
<i>5 or more acres but less than 20 acres</i>	<i>\$1,000</i>	<i>\$1,000</i>	<i>\$500</i>
<i>20 or more acres but less than 100 acres</i>	<i>\$2,000</i>	<i>\$2,000</i>	
<i>100 or more acres but less than 500 acres</i>	<i>\$3,000</i>	<i>\$3,000</i>	
<i>500 or more acres</i>	<i>\$5,000</i>	<i>\$5,000</i>	

~~[(o)]~~ Revision of a surface area disturbance permit ~~.....~~ ~~.....200~~

~~[(p)]~~ Administrative amendment of an operating permit ~~.....~~ ~~.....200~~

—(q) Replacement of a lost or damaged operating permit to construct or an operating permit .....	.....200
—(r) Request for change of location of an emission unit.....	.....100
—(s) Administrative revision to a Class I operating permit.....	.....500
—(t)] (h) Class I operating permit to construct for the approval of a plantwide applicability limitation .....	.....20,000

↳ An applicant must pay the entire fee when the applicant submits the application to the Director.

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

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

- (a) ~~[Operating]~~ **New operating** permit ~~[for a stationary source subject to the program for the prevention of significant deterioration of air quality]~~ ~~[\$50,000]~~ **\$80,000**
- (b) ~~[Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source]~~ **Major modification to an existing operating permit .** ~~[50,000]~~ **80,000**

(c) <i>New</i> Class I operating permit to construct	{50,000} 80,000
(d) Conversion of an operating permit to construct into a Class I operating permit {involving only one phase}	{5,000} 20,000
(e) {Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase)} .....	.....5,000
—{f} Revision of an operating permit to construct	{5,000} 20,000
{g} Administrative amendment of an operating permit or operating permit to construct .....	.....200
—{h} Replacement of a lost or damaged operating permit to construct or an operating permit .....	.....200
—{i} Request for the change of location of an emission unit .....	.....100
{j} f Administrative revision to a Class I operating permit.....	....{500} 1,000

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

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

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

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

~~—(a) Emissions must be calculated using:~~

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

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

~~— (3) Data from:~~

~~— (I) A test for emission compliance;~~

~~— (II) A continuous emission monitor;~~

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

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

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

~~—7.] 3. Ten percent of the fee charged pursuant to paragraph (a), (c) or (e) of subsection 1 or pursuant to paragraph (a), (b), (c) or (e) of subsection 2 is nonrefundable for the purpose of determining if the application is complete.~~

4. Except as otherwise provided in this section, the annual fee for maintenance of a stationary source *for the right to operate* is:

(a) For a Class I source qualifying as:

(1) A major stationary source that is issued *one or more Class I operating permits or one or more Class I operating permits to construct* ~~fa prevention of significant deterioration permit~~ ~~..... \$30,000~~ :

(I) For the fiscal year beginning on July 1, 2020	40,000
(II) For the fiscal year beginning on July 1, 2021.....	50,000
(III) For the fiscal year beginning on July 1, 2022, and each year thereafter	60,000
(2) [A major stationary source that is not issued a prevention of significant deterioration permit.....	25,000
—(3)] A major source or a Class II source that is not a major stationary source and which is issued [a] one or more Class I operating permits or one or more Class I operating permits to construct [permit.....	20,000] :
(I) For the fiscal year beginning on July 1, 2020	30,000
(II) For the fiscal year beginning on July 1, 2021.....	35,000
(III) For the fiscal year beginning on July 1, 2022, and each year thereafter	40,000
[(4)] (3) A major source that is not a major stationary source and which is issued [a] one or more Class I operating [permit] permits or one or more Class I operating permits to construct for a municipal solid waste landfill [.....	.....15,000] :
(I) For the fiscal year beginning on July 1, 2020	20,000
(II) For the fiscal year beginning on July 1, 2021.....	22,500
(III) For the fiscal year beginning on July 1, 2022, and each year thereafter	25,000

(b) For a Class II source ~~[that has the potential to emit:]~~, *the annual fee for maintenance is the sum of the annual fees for maintenance for the potential to emit, the surface area of disturbance and the number of emission units that the stationary source qualifies for:*

<i>Potential to emit of the highest single regulated air pollutant, except carbon monoxide and carbon dioxide</i>	<i>Annual Fee for Maintenance</i>
<i>Less than 25 tons per year</i>	<i>\$1,000</i>
<i>25 tons or more per year but less than 50 tons per year</i>	<i>\$2,000</i>
<i>50 tons or more per year but less than 80 tons per year</i>	<i>\$6,000</i>
<i>80 tons or more per year but less than 100 tons per year</i>	<i>\$10,000</i>

<i>Total surface area disturbance</i>	<i>Annual Fee for Maintenance</i>
<i>5 or more acres but less than 20 acres</i>	<i>\$1,000</i>
<i>20 or more acres but less than 100 acres</i>	<i>\$2,000</i>
<i>100 or more acres but less than 500 acres</i>	<i>\$3,000</i>
<i>500 or more acres</i>	<i>\$5,000</i>

<i>The number of emission units, not including emission units considered to be or approved as insignificant activities pursuant to NAC 445B.288</i>	<i>Annual Fee for Maintenance</i>
<i>Less than or equal to 10</i>	<i>\$500</i>
<i>11-20</i>	<i>\$1,000</i>
<i>21-50</i>	<i>\$2,000</i>
<i>51-100</i>	<i>\$5,000</i>
<i>Greater than 100</i>	<i>\$10,000</i>

(1) Eighty tons or more per year but less than 100 tons per year of any one regulated air pollutant except carbon monoxide.....	..... 5,000
(2) Eighty tons or more per year but less than 10 tons per year of any single hazardous air pollutant.....	..... 5,000
(3) Twenty tons or more per year but less than 25 tons per year of any combination of hazardous air pollutants.....	..... 5,000
(4) Fifty tons or more per year but less than 80 tons per year of any one regulated air pollutant except carbon monoxide.....	..... 3,000
(5) Twenty five tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide.....	..... 1,000

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

↪ If a stationary source holds a Class I operating permit or a Class I operating permit to construct and a Class II operating permit, the stationary source must only pay the annual fee for maintenance that applies to a Class I source.

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

~~—9.]~~ *5. For the fees set forth in paragraph (b) of subsection 4 of NAC 445B.327, if the annual fee for maintenance exceeds \$15,000:*

(a) The annual fee for maintenance issued for the fiscal year beginning on July 1, 2020, is 33 percent of the fee for which the stationary source qualifies for.

(b) The annual fee for maintenance issued for the fiscal year beginning on July 1, 2021, is 66 percent of the fee for which the stationary source qualifies for.

(c) The annual fee for maintenance issued for the fiscal year beginning on July 1, 2022, and each fiscal year thereafter is 100 percent of the fee for which the stationary source qualifies for.

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

~~10.~~ 7. Except as otherwise provided in this section, the fees relating to emission reduction credits are as follows:

(a) Determination of an application for an emission reduction credit	\$10,000
(b) Request for the transfer of an emission reduction credit	2,000
(c) Request for the redemption of an emission reduction credit	2,000
(d) Administration of a reciprocity request for an emission reduction credit	1,000
(e) Determination review of a reciprocity request for an emission reduction credit	9,000

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

~~11.~~ 8. *Except as otherwise provided in this section, the fee for the technical review of the emission units for a stationary source to determine if the stationary source is a Class II source for which an application must be submitted is \$1,000.*

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

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

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

~~[(e)]~~ (b) Increase each fee required by subsection ~~[[4]]~~ 7 by an amount that is equal to 2 percent of the fee for the immediately preceding fiscal year.

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

~~[[2]]~~ 10. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to ~~[[subsections 5 and 7]]~~ **subsection 4** not later than July 1 of each year.

~~[[3]]~~ 11. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his or her annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late fee must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his or her annual fees.

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

Sec. 10. NAC 445B.331 is hereby amended to read as follows:

445B.331 A request for a change of the location of an emission unit must be made in writing to the Director and submitted with the fee *of \$200* for each ~~operating permit~~ *emission unit* at least 10 days before each change of location. An owner or operator must not operate the emission unit at the new location until the Director approves the location.

Sec. 11. NAC 445B.342 is hereby amended to read as follows:

445B.342 1. The owner or operator of a stationary source operating in compliance with an operating permit may make changes which contravene an express term of the operating permit without a revision of the operating permit if the changes do not:

(a) Constitute modifications pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive, or constitute a modification as that term is defined in NAC 445B.099;

(b) Violate any provision of NAC 445B.001 to 445B.390, inclusive, or any other applicable requirement; or

(c) Exceed the allowable emissions set forth in the operating permit for any emissions unit.

2. Any conditions of an operating permit that are requirements for monitoring, methods of testing, recordkeeping, reporting or compliance certification may not be changed pursuant to this section.

3. For each change made pursuant to this section, the holder of the operating permit shall provide a written notification to the Director and the Administrator at least 7 days before making the change. This notification must include:

(a) A detailed description of the change;

(b) The date on which the change will occur;

(c) Any change in emissions, as determined in accordance with NAC 445B.001 to 445B.390, inclusive;

(d) Any condition of the operating permit which will no longer apply because of the change;

~~and~~

(e) For a change that includes the trading of emissions made pursuant to paragraph (h) of subsection 1 of NAC 445B.3405, a detailed description of how the increase or decrease in emissions, or both, resulting from the change complies with the terms and conditions of the operating permit ~~and~~; *and*

(f) The fee of \$1,000.

4. The holder of the operating permit, the Director and the Administrator, as appropriate, shall attach a copy of the written notification to his or her respective copy of the permit.

Sec. 12. 1. This regulation becomes effective on:

1. January 1, 2020; or

2. The date on which this regulation is filed with the Secretary of State,

↳ whichever occurs later.