PROPOSED REGULATION OF THE STATE ENVIRONMENTAL COMMISSION

P2025-05

June 24, 2026

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

AUTHORITY: §1, NRS 445B.210.

A PERMANENT REGULATION relating to air pollution and providing other matters properly relating thereto.

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

"Minor revision of a mercury operating permit to construct" defined. (NRS 445B.210) ***"Minor revision of a mercury operating permit to construct" means any minor revision to a mercury operating permit to construct as set out in Section 2.***

Sec. 2. Chapter 445B of NAC is hereby amended by adding thereto a new section to read as follows:

Minor revision of a mercury operating permit to construct. (NRS 445B.210, 445B.300)

1. A minor revision may be made to a mercury operating permit to construct if the revision:

(a) Makes changes to existing work practice operating parameters for existing air pollution controls, adds additional air pollution control devices, gas conditioning devices, or throughput of an existing, or modified thermal unit with the potential to emit mercury.

(b) Does not violate any applicable requirements;

(c) Does not involve changes to the existing monitoring, reporting or recordkeeping;

(d) Does not require or change the determination of a mercury emission limitation;

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

(a) Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and the owner's agent, and the name and telephone number of the manager of the plant or another appropriate person to contact;

(b) A description of the revision;

(c) Documentation showing how the change will not increase mercury emissions and that the efficiency of the air pollution controls as determined by NvMACT will not decrease.

(d) An identification of any new applicable requirements that will apply because of the revision;

(e) Suggested conditions of the mercury operating permit to construct;

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

(g) Certification by a responsible official of the stationary source that the proposed revision complies with the criteria for a minor revision set forth in subsection 1; and

3. The Director shall:

(a) Within 10 days after the date of receipt of an application for a minor revision, the Director shall determine whether the application is complete.

(b) Within 30 days after the official date of submittal of the application:

(1) Determine whether the proposed minor revision meets the criteria for a minor revision set forth in this section;

(2) Determine whether the proposed conditions of the mercury operating permit to construct are adequate; and

4. If the Director determines that the proposed revision does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant.

5. If the Director determines that the proposed revision does meet the criteria for a minor revision, take final action concerning the proposed conditions of the mercury operating permit to construct within 60 days after the official date of the submittal of the application.

6. The fee for minor revision of a mercury operating permit to construct is specified in NAC 445B.3689.

Sec. 3. Chapter 445B of NAC is hereby amended by adding thereto a new section to read as follows:

Certain changes authorized without revision of mercury operating permit to construct, notification of authorized changes. (NRS 445B.210, 445B.300)

1. The owner or operator of a stationary source operating in compliance with a mercury operating permit to construct may make changes, described in subsection 2. of this regulation, which contravene an express term of the mercury operating permit to construct without a revision of the mercury operating permit to construct if the changes do not:

(a) Violate any provision of NAC 445B.001 to 445B.3689, inclusive, or any other applicable requirement; or

(b) Exceed the allowable emissions set forth in the mercury operating permit to construct for any thermal unit with the potential to emit mercury.

2. The allowable conditions that may be changed with a notice of authorized change include changes to stack parameters, increases in size of carbon control configurations

intended to capture mercury or a change in description, or designation of thermal units with the potential to emit mercury.

3. For each change made pursuant to this section, the holder of the mercury operating permit to construct shall provide written notification to the Director 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 condition of the mercury operating permit to construct which will no longer apply because of the change.

4. The holder of the mercury operating permit to construct and the Director shall attach a copy of the written notification to their respective copy of the mercury operating permit to construct.

5. The fee for certain changes authorized without modification of mercury operating permit to construct, notification of authorized changes is specified in NAC 445B.3689.

Sec. 4. NAC 445B.3615 is hereby amended to read as follows:

NAC 445B.3615 "Existing thermal unit that emits mercury" means a thermal unit that emits mercury ***that is permitted under a valid Mercury Operating Permit to Construct*** [~~which was constructed before March 8, 2006~~].

Sec. 5. NAC 445B.3619 is hereby amended to read as follows:

NAC 445B.3619 "Mercury co-product" means any mercury ***or calomel*** which is collected from the site of a stationary source that conducts precious metals mining for shipment to another location to be sold***,*** [~~or~~] recycled***, stored, or disposed of at either the stationary source or another facility***.

Sec. 6. NAC 445B.3627 is hereby amended to read as follows:

NAC 445B.3627 "Modified thermal unit that emits mercury" means a***n existing*** thermal unit that emits mercury for which an application is submitted [~~on or after May 4, 2006,~~] to change the method of operation of or to physically change the ***existing*** thermal unit that emits mercury in a manner which results in an increase in the amount of mercury that will be or has the potential to be emitted into the atmosphere.

Sec. 7. NAC 445B.3631 is hereby amended to read as follows:

NAC 445B.3631 "New thermal unit that emits mercury" means a thermal unit that emits mercury ***for which the owner or operator is applying for*** [~~which has obtained, on or after May 4, 2006,~~] an operating permit pursuant to NAC 445B.001 to 445B.390, inclusive, that authorizes the construction of the thermal unit that emits mercury.

Sec. 8. NAC 445B.3643 is hereby amended to read as follows:

NAC 445B.3643 "Thermal unit that emits mercury" means an emission unit which:

1. Is located at a stationary source that conducts precious metals mining; and
2. Emits or has the potential to emit mercury that:

(a) Does not constitute a fugitive emission; and

(b) ***Emits mercury at a level that is greater than de minimis mercury emissions; and***

(c) Is generated by direct or indirect sources of heat energy.

Sec. 9. NAC 445B.3657 is hereby amended to read as follows:

NAC 445B.3657 1. [~~The Director shall make an initial determination of the de minimis mercury emissions for thermal units that emit mercury not later than July 3, 2006.~~]

[~~2.~~] The Director may, upon written request and satisfactory demonstration by the owner or operator of a thermal unit that emits mercury, determine that the mercury emissions from the

thermal unit that emits mercury are de minimis mercury emissions. Within 60 days after receiving a written request pursuant to this subsection, the Director shall make an initial determination of the mercury emissions from the thermal unit that emits mercury to determine whether the mercury emissions are de minimis mercury emissions.

[~~3~~] ***2***. In making a determination pursuant to subsection 1 [~~or 2~~]**,** if a stationary source has more than one thermal unit that emits mercury, the Director may, after considering the impact of the combined mercury emissions from the thermal units that emit mercury at the stationary source, make an initial determination concerning whether the mercury emissions from one or more of the thermal units that emit mercury are de minimis mercury emissions.

[4] ***3***. An initial evaluation of de minimis mercury emissions determined pursuant to subsection 1[~~,~~] ***or*** 2 [~~or 3~~] 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, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

[~~5~~] ***4***. The Director shall:

(a) Publish notice of the Director's initial evaluation 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 comment from the public.

[~~6~~] ***5***. The Director shall make a final determination of de minimis mercury emissions within 90 days after the date of the notice of the initial evaluation provided pursuant to subsection ***4*** [~~5~~]. The final notification must be made public and maintained on file with the Director in accordance with subsection ***3*** [~~4~~] and noticed to the public in accordance with paragraphs (a), (b) and (c) of subsection ***4*** [~~5~~].

6. De Minimis Mercury Emissions are capped at 5.0 pounds of mercury per year, per facility, for laboratory style thermal units.

Sec. 10. NAC 445B.3659 is hereby amended to read as follows:

NAC 445B.3659 No owner or operator of [~~tier 2~~] a***n existing*** thermal unit that emits mercury, new thermal unit that emits mercury***,*** or modified thermal unit that emits mercury may cause or permit the discharge of mercury into the atmosphere without applying NvMACT for the control of mercury emissions pursuant to the provisions of NAC 445B.3611 to 445B.3689, inclusive.

Sec. 11. NAC 445B.3661 is hereby amended to read as follows:

NAC 445B.3661 1. A mercury operating permit to construct is required for each:

[~~Existing thermal unit that emits mercury, [other than a tier-3 thermal unit,] pursuant to the schedules and requirements set forth in NAC 445B.3667 to 445B.3679, inclusive; and~~]

[~~(a)~~] ***Existing thermal unit that emits mercury,*** new thermal unit that emits mercury***,*** or modified thermal unit that emits mercury***,*** pursuant to the schedules and requirements set forth in NAC 445B.3681 to 445B.3687, inclusive.

2. The owner or operator of a new thermal unit that emits mercury or a modified thermal unit that emits mercury must apply for and obtain a new or revised mercury operating permit to

construct before the construction of or modification to the thermal unit that emits mercury may commence.

3. A mercury operating permit to construct may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment which reflects a change of ownership or the name of the stationary source for the original mercury operating permit to construct in accordance with the procedures set forth in NAC 445B.319.

Sec. 12. NAC 445B.3663 is hereby amended to read as follows:

NAC 445B.3663 1. An owner or operator of a stationary source which conducts precious metals mining shall obtain a mercury operating permit to construct for:

(a) ~~[A tier 2 thermal unit that emits mercury;]~~ A new thermal unit that emits mercury; and

(b) A modified thermal unit that emits mercury.

2. Any application for a mercury operating permit to construct which is submitted to the Director pursuant to the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive, must be submitted on a form provided by the Director.

Sec. 13. NAC 445B.3665 is hereby amended to read as follows:

NAC 445B.3665 Duties of owner or operator of [~~tier 3~~] ***de minimis*** thermal unit.

1. An owner or operator of a [~~tier 3~~] ***de minimis*** thermal unit:

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

(b) Shall submit documentation to the Director on an annual basis which certifies that the thermal unit satisfies the criteria to be a [~~tier 3~~] ***de minimis*** thermal unit; and

(c) ***For those facilities that operate laboratory style thermal units with the potential to emit mercury, shall submit documentation to the Director on an annually basis that supports the de minimis designation. The documentation shall include :***

(1) Complete and detailed calculations on forms provided by the Director;

(2) Documentation proving mercury concentration in material;

(3) Documentation supporting a different Volatilization Rate if 100% is not used; and

(4) Appropriate fees in accordance with NAC 445B.3689.

~~[Is not required to submit an application for or obtain a mercury operating permit to construct.~~

~~2. Within 90 days after the date of final notification of the determination of de minimis mercury emissions by the Director pursuant to NAC 445B.3657, an owner or operator of a tier-3 thermal unit shall submit an application to revise the conditions of the operating permit of the stationary source that was issued pursuant to NAC 445B.001 to 445B.390, inclusive, to limit the potential to emit mercury, without any controls for mercury emissions, to an amount not to exceed de minimis mercury emissions.]~~

Sec. 14. NAC 445B.3681 is hereby amended to read as follows:

NAC 445B.3681 New***, existing*** or modified thermal unit that emits mercury: Contents of required application.

An application for a mercury operating permit to construct or an application for a revision of a mercury operating permit to construct for a new thermal unit that emits mercury or a modified thermal unit that emits mercury must include, without limitation:

1. Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of

the company and the owner's agent, and the name and telephone number of the manager of the plant or another appropriate person to contact;

2. An identification of each thermal unit that emits mercury;

3. A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each thermal unit that emits mercury which is a part of the stationary source;

4. Limitations on the operation of the stationary source or any standards for work practices which affect emissions of mercury at the stationary source;

5. The location of any records that the applicant must keep pursuant to the requirements of the mercury operating permit to construct, if the records are kept at a location other than the emitting stationary source;

6. An analysis conducted by the applicant which:

(a) Determines the standards, methods of control or other limitations to be applied to the thermal unit for the reduction of mercury emissions that the applicant deems sufficient for the Director to determine to be NvMACT for the thermal unit that emits mercury; and

(b) Sets forth a list of similar thermal units that emit mercury which are used for precious metal mining that includes, without limitation:

(1) Any methods or technologies to control mercury emissions which are associated with the thermal units that emit mercury;

(2) The level of mercury emissions associated with each method or technology to control mercury emissions from the thermal units that emit mercury;

(3) The design for each method or technology to control mercury emissions from the thermal units that emit mercury;

(4) Costs associated with reductions of mercury emissions as a result of each method or technology to control mercury emissions from the thermal units that emit mercury;

(5) Costs associated with energy for each method or technology to control mercury emissions from the thermal units that emit mercury; and

(6) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury; and

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

Sec. 15. NAC 445B.3683 is hereby amended to read as follows:

NAC 445B.3683 For each new***, existing*** or modified thermal unit that emits mercury:

1. Within 30 days after the date of receipt of an application for a mercury operating permit to construct or for the revision of a mercury 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 of the most recently submitted application, whichever is earlier.

2. Within 180 days after the official date of submittal, the Director shall:

(a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury.

(b) Make a determination of NvMACT for the thermal unit that emits mercury in which the Director shall consider the following for each thermal unit that emits mercury:

(1) The maximum degree of reduction of mercury emissions that is achievable for the thermal unit after considering:

(I) The cost of achieving such a reduction; and

(II) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal unit that emits mercury to implement the NvMACT.

(2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.

(3) The enclosure of systems or processes to eliminate mercury emissions.

(4) The collection, capture or treatment of mercury emissions.

(5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.

(6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.

(7) Any combination of subparagraphs (1) to (6), inclusive.

(c) Make a preliminary determination to issue or deny a mercury operating permit to construct or a revision of a mercury operating permit to construct which includes any proposed conditions for the mercury operating permit to construct.

3. 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 construction or operation will comply with all of the requirements set forth in NAC 445B.3611 to 445B.3689, 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.

4. The Director's review, the proposed conditions for the mercury operating permit to construct and the preliminary intent to issue or deny a mercury operating permit to construct or a revision of a mercury 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, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

5. The Director shall:

(a) Publish notice of the Director's review, the proposed conditions for a mercury operating permit to construct, the preliminary intent to issue or deny a mercury operating permit to construct or a revision of a mercury operating permit to construct and a copy of the proposed mercury 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; and

(d) Establish a 30-day period for comment from the public.

6. In addition to the requirements set forth in subsection 5, the notice required for a mercury operating permit to construct or for a revision of a mercury operating permit to construct must identify:

(a) The stationary source and the name and address of the applicant;

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

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

(d) The determination of NvMACT;

(e) 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 mercury operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the mercury operating permit to construct and which are relevant to the determination of the issuance of the mercury operating permit to construct; and

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

7. All comments concerning the Director's review, the proposed conditions for the mercury operating permit to construct and the preliminary intent for the issuance or denial of a mercury operating permit to construct or of a revision of a mercury operating permit to construct must be submitted in writing to the Director within 30 days after the public notice required to be provided pursuant to subsection 5. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

8. Within 60 days after the close of the period for public participation, or 60 days after the hearing if a hearing is scheduled pursuant to this section, whichever is later, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct and whether to issue or deny a mercury operating permit to construct or the revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and

(c) Information submitted by proponents of the project.

Sec. 16. NAC 445B.3685 is hereby amended to read as follows:

NAC 445B.3685 For each new thermal unit that emits mercury***, existing thermal unit that emits mercury,*** or modified thermal unit that emits mercury:

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

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

(a) The circumstances under which the mercury operating permit to construct may expire as set forth in NAC 445B.3687.

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

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

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

(1) An action for noncompliance;

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

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

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

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

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

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

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

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

(I) The thermal unit that emits mercury is located;

(II) Activity related to emissions is conducted; or

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

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

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

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

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

3. A mercury operating permit to construct must contain:

(a) All applicable requirements concerning controls for mercury emissions, emission limits and standards, including, without limitation, the NvMACT for the thermal unit that emits mercury;

(b) Monitoring methods adequate to show compliance;

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

(d) Any requirement to report any mercury co-product on an annual basis***, per system***; and

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

Sec. 17. NAC 445B.3687 is hereby amended to read as follows:

NAC 445B.3687 Mercury operating permit to construct for new or modified thermal unit that emits mercury: Expiration and extension. For a new thermal unit that emits mercury or a modified thermal unit that emits mercury:

1. If construction will occur in one phase, a mercury operating permit to construct for a new, or modified thermal unit that emits mercury expires if construction is not commenced within 18 months after the date of issuance thereof or construction of the thermal unit that emits mercury is delayed for 18 months after initiated. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

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

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

3. Extensions for construction for a new or modified thermal unit that emits mercury shall be limited to 2 requests, not to exceed 36 months after the date of issuance of a mercury operating permit to construct.

Sec. 18. NAC 445B.3689 is hereby amended to read as follows:

NAC 445B.3689 1. The fee for a mercury operating permit to construct as required pursuant to NAC 445B.3611 to 445B.3689, inclusive, must be determined as follows:

(a) [~~For a mercury operating permit to construct pursuant to a phase 1 application, the fee must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 50,000 by the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury which submit a phase 1 application. The Director shall determine the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury to be charged pursuant to this paragraph on or before August 16, 2006. Upon the determination of the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury, the Director shall notify the applicant of the amount of the application fee. An applicant must pay the entire fee when the applicant submits the application to the Director or within 30 days after receipt of the notification by the Director of the amount of the application fee, whichever occurs later.~~]

For a mercury operating permit to construct for a new or modified thermal unit that emits mercury or for a revision of a mercury operating permit to construct, the fee is $5,000 for each application. An applicant must pay the entire fee upon submission of the application to the Director.

(b) Minor Revision of a Mercury Operating Permit to Construct: $2,500

(c) De Minimis Applications and Revisions: $1,000

(d) Notification of authorized change: $1,000

2. For a ***permitted*** thermal unit that emits mercury ***that is not a de minimis thermal unit,*** [~~which is a roaster, autoclave, carbon reactivation kiln, mercury retort or induction furnace, including a refining furnace or mill furnace and excluding an analytical laboratory furnace, or that uses the process of electrowinning, which mercury is recovered from a solution involving cathodes, anodes and direct currents,~~] the owner or operator of a stationary source that conducts precious metals mining and [~~operates~~] ***has*** one or more of such ***permitted*** thermal units that emit mercury must submit an annual maintenance fee for each ***permitted*** thermal unit that emits mercury. The annual maintenance fee must be determined as follows:

(a) [~~For the fiscal year ending on June 30, 2008, the fee for each thermal unit that emits mercury must be determined in an amount, in dollars, that is equal to the amount calculated by:~~

~~(1) Dividing 250,000 by the total number of thermal units that emit mercury, as described in this subsection; and~~

~~(2) Pursuant to NRS 445B.305, dividing 157,500 by the total number of thermal units that emit mercury, as described in this subsection~~

~~→ The Director shall determine the total number of thermal units that emit mercury to be charged pursuant to this paragraph on or before May 1, 2007.~~]

For each fiscal year [~~after the fiscal year ending on June 30, 2008~~], the fee for each ***permitted*** thermal unit that emits mercury must be determined in an amount, in dollars, that is equal to the amount calculated by:

(1) Dividing 500,000 by the total number of ***permitted*** thermal units that emit mercury, as described in this subsection, which have previously obtained a mercury operating permit to construct; and

(2) Except as otherwise provided in this subsection, increasing the amount determined pursuant to subparagraph (1) by 2 percent compounded annually.

→ The Director shall determine the total number of thermal units that emit mercury to be charged pursuant to this paragraph each year on or before May 1 of the immediately preceding fiscal year. The Director may suspend imposition of the increase required pursuant to subparagraph (2) for any fiscal year.

3. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to this section not later than July 1 of each year [~~except the fees required pursuant to subparagraph (2) of paragraph (a) of subsection 2, which must be collected not later than January 1, 2008~~].

4. 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 penalty 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.

Sec. 19. NAC 445B.3633, NAC 445B.3635, NAC 445B.3645, NAC 445B.3647, NAC 445B.3649, NAC 445B.3667, NAC 445B.3671, NAC 445B.3675, NAC 445B.3677 and NAC 445B.3679 are hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 445B.3633 "Phase-1 application" defined. (NRS 445B.210, 445B.300) "Phase-1 application" means an application for a mercury operating permit to construct for an existing thermal unit that emits mercury.

NAC 445B.3635 "Phase-2 application" defined. (NRS 445B.210, 445B.300) "Phase-2 application" means an application which is submitted in accordance with NAC 445B.3675 to revise a mercury operating permit to construct which was issued pursuant to a phase-1 application for an existing thermal unit that emits mercury.

NAC 445B.3645 "Tier-1 thermal unit that emits mercury" defined. (NRS 445B.210, 445B.300) "Tier-1 thermal unit that emits mercury" means any existing thermal unit that emits mercury which:

1. Emits mercury at a level that is greater than de minimis mercury emissions; and
2. Is located at any of the mining locations and includes the associated system or process units described and set forth in NAC 445B.3653.

NAC 445B.3647 "Tier-2 thermal unit that emits mercury" defined. (NRS 445B.210, 445B.300) "Tier-2 thermal unit that emits mercury" means an existing thermal unit that emits mercury which emits or has the potential to emit mercury at a level that is greater than de minimis mercury emissions.

NAC 445B.3649 "Tier-3 thermal unit" defined. (NRS 445B.210, 445B.300) "Tier-3 thermal unit" means a thermal unit which:

1. Without any controls for mercury emissions, is not capable of and does not have the potential to emit mercury into the atmosphere;

2. Obtains an operating permit pursuant to NAC 445B.001 to 445B.390, inclusive, that includes the appropriate conditions to limit the potential to emit mercury, without any controls for mercury emissions, to an amount not to exceed de minimis mercury emissions; or

3. Has de minimis mercury emissions.

NAC 445B.3667 Existing thermal unit that emits mercury: Deadlines for submission of phase-1 and phase-2 applications. (NRS 445B.210, 445B.300)

1. An owner or operator of a tier-2 thermal unit that emits mercury shall submit a phase-1 application to the Director not later than October 31, 2006.

2. An owner or operator of a tier-2 thermal unit that emits mercury shall submit a phase-2 application to the Director not later than February 4, 2008.

NAC 445B.3671 Existing, thermal unit that emits mercury: Contents of required applications. (NRS 445B.210, 445B.300) A phase-1 application, a phase-2 application and An

application for a revision of a mercury operating permit to construct for an existing thermal unit that emits mercury must include:

1. Information to identify the applicant, including the name and address of the company or the name and address of the plant if different from that of the company, the name of the owner of the company and the owner's agent, and the name and telephone number of the manager of the plant or another appropriate person to contact;

2. An identification of each thermal unit that emits mercury;

3. A description of the fuels, fuel use and raw materials to be used and the rates of production and operating schedules for each thermal unit that emits mercury which is a part of the stationary source;

4. Limitations on the operation of the stationary source or any standards for work practices which affect mercury emissions at the stationary source;

5. The location of any records that the applicant must keep pursuant to the requirements of the mercury operating permit to construct if the records are kept at a location other than the emitting stationary source;

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

NAC 445B.3675 Existing thermal unit that emits mercury: Contents of phase-2 application. (NRS 445B.210, 445B.300) A phase-2 application for a a tier-2 thermal unit that emits mercury, or an application for a revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application for a tier-2 thermal unit that emits mercury must include:

1. An analysis conducted by the applicant which:

(a) Determines the standards, methods of control or other limitations to be applied to the thermal unit for the reduction of mercury emissions that the applicant deems sufficient for the Director to determine to be NvMACT for the thermal unit that emits mercury; and

(b) Sets forth a list of similar thermal units that emit mercury which are used for precious metal mining that includes, without limitation:

(1) Any methods or technologies to control mercury emissions which are associated with the thermal units that emit mercury;

(2) The level of mercury emissions associated with each method or technology to control mercury emissions from the thermal units that emit mercury;

(3) The design for each method or technology to control mercury emissions from the thermal units that emit mercury;

(4) Costs associated with reductions of mercury emissions as a result of each method or technology to control mercury emissions from the thermal units that emit mercury;

(5) Costs associated with energy for each method or technology to control mercury emissions from the thermal units that emit mercury; and

(6) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury.

2. A proposed monitoring plan which includes, without limitation:

(a) Procedures for the operation and maintenance of the thermal unit.

(b) Methods of the monitoring of and recordkeeping for any controls for mercury processes and emissions.

(c) A proposed schedule for sampling and testing of mercury emissions and tests of performance for the thermal unit that emits mercury which must be conducted on an annual basis in accordance with NAC 445B.252.

(d) A requirement to report the level of mercury emissions on an annual basis which must be based on mercury emissions test data.

(e) A requirement to report any mercury co-product on an annual basis, per system.]

NAC 445B.3677 Review of and action on application for tier-1 or tier-2 thermal unit that emits mercury. (NRS 445B.210, 445B.300) For each tier-2 thermal unit that emits mercury:

1. For phase-1 application, phase-2 application or an application for the revision of a mercury operating permit to construct for a tier-2 thermal unit that emits mercury, within 30 days after the date of receipt of the application, 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 an incomplete application is returned to the applicant, the applicant must resubmit a complete application within 15 days after the applicant receives the returned incomplete application. If substantial additional information is not required, the Director shall determine the application to be complete. 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 of the most recently submitted application, whichever is earlier.

2. For a phase-1 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application for a tier-2 thermal unit that emits mercury, within 180 days after the official date of submittal, the Director shall propose the

conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury.

3. For a phase-2 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application for a tier-2 thermal unit that emits mercury, within 9 months after the official date of submittal, the Director shall:

(a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury; and

(b) Make a determination of NvMACT for the thermal unit that emits mercury in which the Director shall consider the following for each thermal unit that emits mercury:

(1) The maximum degree of reduction of mercury emissions that is achievable for the thermal unit after considering:

(I) The cost of achieving such a reduction; and

(II) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury to implement NvMACT.

(2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.

(3) The enclosure of systems or processes to eliminate mercury emissions.

(4) The collection, capture or treatment of mercury emissions.

(5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.

(6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.

(7) Any combination of subparagraphs (1) to (6), inclusive.

4. If, after the official date of submittal of an application pursuant to subsection 1, 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 construction or operation will comply with all of the requirements set forth in NAC 445B.3611 to 445B.3689, 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.

5. The Director's review and the proposed conditions for a mercury operating permit to construct or a revision of a mercury 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, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

6. The Director shall:

(a) Publish notice of the Director's review, the proposed conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct and a copy of the proposed mercury 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; and

(d) Establish a 30-day period for comment from the public.

7. In addition to the requirements set forth in subsections 5 and 6, the notice required for a mercury operating permit to construct or for a revision of a mercury operating permit to construct must identify:

(a) The stationary source and the name and address of the applicant;

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

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

(d) The determination of NvMACT;

(e) 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 mercury operating permit to construct, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the mercury operating permit to

construct and which are relevant to the proposed conditions for the mercury operating permit to construct; and

(f) 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.

8. All comments concerning the Director's review and the conditions proposed by the Director concerning the phase-1 application or phase-2 application for a mercury operating permit to construct or of a revision of a mercury operating permit to construct must be submitted in writing to the Director within 30 days after the public notice required to be provided pursuant to subsection 6. 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.

9. Within 12 months after the official date of submittal of a phase-1 application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct or the proposed revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and

(c) Information submitted by proponents of the project.

10. Within 16 months after the official date of submittal of a phase-2 application for a mercury operating permit to construct or for the revision of a mercury operating permit to

construct which was issued pursuant to a phase-2 application, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct or the proposed revision of a mercury operating permit to construct. The Director shall make his or her decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and

(c) Information submitted by proponents of the project.

NAC 445B.3679 Mercury operating permit to construct for tier-1 or tier-2 thermal unit that emits mercury: Required conditions and information. (NRS 445B.210, 445B.300) For each tier-2 thermal unit that emits mercury:

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

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

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

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

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

(1) An action for noncompliance;

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

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

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

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

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

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

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

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

(I) The thermal unit that emits mercury is located;

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

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

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

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

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

(i) 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 mercury operating permit to construct are true, accurate and complete.

3. The mercury operating permit to construct must contain:

all applicable requirements concerning controls for mercury emissions and emission limits and standards, including, without limitation, the NvMACT for the thermal unit that emits mercury which must be implemented not later than 24 months after the date the mercury operating permit to construct is issued pursuant to the phase-2 application.