

APPENDIX E

**NEVADA ADMINISTRATIVE CODE (NAC) ASIP UPDATE:
PERMITTING PROVISIONS ONLY
Submitted January 24, 2011**

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EXPLANATION:

1. This document is based on the November 2010 Legislative Council Bureau codification of NAC Chapter 445B and incorporates amendments adopted after the November 2010 codification: R126-10, effective 12-16-2010 and T011-10, effective 1-11-2011.
2. The following sections are submitted in part: NAC 445B.287, 297, 308, 319, 325, 3361, 3375, 3395, 340, 342, 3453 and 346.

NAC Chapter 445B.001-.3689 - Air Controls: Air Pollution

Definitions

445B.003	“Adjacent properties” defined.
445B.0035	“Administrative revision to a Class I operating permit” defined.
445B.007	“Affected state” defined.
445B.013	“Allowable emissions” defined.
445B.014	“Alteration” defined.
445B.016	“Alternative operating scenarios” defined.
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445B.094	“Major source” defined.
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445B.099	“Modification” defined.
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445B.123	“Operating permit” defined.
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445B.142	“Prevention of significant deterioration of air quality” defined.
445B.147	“Program” defined.
445B.154	“Renewal of an operating permit” defined.
445B.156	“Responsible official” defined.
445B.157	“Revision of an operating permit” defined.
445B.179	“Special mobile equipment” defined.
445B.187	“Stationary source” defined.
445B.194	“Temporary source” defined.

¹ This is a resubmittal of those permitting provisions that were categorized as “non-separable” rules in EPA’s April 16, 2008 Federal Register action (73 FR 20536) with the exception of NAC 445B. 179 and 445B.326.

Operating Permits Generally

445B.287	Operating permits: General requirements; exception; restrictions on transfers.
445B.288	Operating permits: Exemptions from requirements; insignificant activities.
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445B.311	Environmental evaluation: Contents; consideration of good engineering practice stack height.
445B.313	Method for determining heat input: Class I sources.
445B.3135	Method for determining heat input: Class II sources.
445B.314	Method for determining heat input: Class III sources.
445B.315	Contents of operating permits: Exception for operating permits to construct; required conditions.
445B.318	Operating permits: Requirement for each source; form of application; issuance or denial; posting.
445B.319	Operating permits: Administrative amendment.
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445B.331	Request for change of location of emission unit.

Class I Operating Permits

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445B.3363	Operating permit to construct: Application.
445B.33637	Operating permit to construct for approval of plantwide applicability limitation: Application.
445B.3364	Operating permit to construct: Action by Director on application; notice; public comment and hearing.
445B.3365	Operating permit to construct: Contents; noncompliance with conditions.
445B.33656	Operating permit to construct for approval of plantwide applicability limitation: Contents; noncompliance with conditions.
445B.3366	Expiration and extension of operating permit to construct; expiration and renewal of plantwide applicability limitation.
445B.3368	Additional requirements for application; exception.
445B.3375	Class I-B application: Filing requirement.
445B.3395	Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit.
445B.340	Prerequisites to issuance, revision or renewal of permit.
445B.342	Certain changes authorized without revision of permit; notification of authorized changes.
445B.3425	Minor revision of permit.
445B.344	Significant revision of permit.
445B.3441	Administrative revision of permit to incorporate conditions of certain permits to construct.
445B.3443	Renewal of permit.

Class II Operating Permits

445B.3453	Application: General requirements.
445B.3457	Action by Director on application; notice; public comment and hearing; expiration of permit.
445B.346	Required contents of permit.
445B.3465	Application for revision.
445B.3473	Renewal of permit.
445B.3477	Class II general permit.

Class III Operating Permits

445B.3485	Application: General requirements.
445B.3487	Action by Director on application; expiration of permit.
445B.3489	Required contents of permit.
445B.3493	Application for revision.

AIR POLLUTION

Definitions

NAC 445B.003 “Adjacent properties” defined. ([NRS 445B.210](#)) “Adjacent properties” means parcels of land that lie near each other or in close proximity.

(Added to NAC by Environmental Comm’n, eff. 12-13-93)—(Substituted in revision for NAC 445.4325)

NAC 445B.0035 “Administrative revision to a Class I operating permit” defined. ([NRS 445B.210](#)) “Administrative revision to a Class I operating permit” means a revision of an existing Class I operating permit that incorporates the relevant conditions of an operating permit to construct.

(Added to NAC by Environmental Comm’n by R125-04, eff. 9-24-2004)

NAC 445B.007 “Affected state” defined. ([NRS 445B.210](#)) “Affected state” means a state that is within 50 miles of a Class I source located in this State, or a state that is contiguous to this State whose air quality may be affected by emissions from a Class I source located in this State.

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.4346)

NAC 445B.013 “Allowable emissions” defined. ([NRS 445B.210](#)) “Allowable emissions” means the emissions from a stationary source at its designed maximum capacity or at its actual maximum capacity, whichever is greater, except as reduced by any federally enforceable limitations on its emissions which are established:

1. By Nevada laws or regulations;
2. By any applicable requirement; or
3. By conditions of the stationary source’s operating permit, imposed on the emission rate, the type or amount of materials combusted or processed, the operating rates, the hours of operation, or any other factor limiting production or emission, whichever is most stringent.

[Environmental Comm’n, Air Quality Reg. § 1.6.5, eff. 10-16-80]—(NAC A 10-22-87; 12-13-93; 10-30-95; R096-05, 10-31-2005)

NAC 445B.014 “Alteration” defined. ([NRS 445B.210](#)) “Alteration” means any addition to, or enlargement, replacement, modification or change of the design, capacity, process, arrangement, operating hours or control apparatus that will affect the kind or amount of regulated air pollutants emitted.

(Added to NAC by Environmental Comm’n, eff. 12-8-89; A 10-30-95)

NAC 445B.016 “Alternative operating scenarios” defined. ([NRS 445B.210](#)) “Alternative operating scenarios” means two or more modes or types of operation specifically identified by a stationary source in its application and approved by the Director as a condition or as conditions of the source’s operating permit.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94; A 10-30-95)

NAC 445B.019 “Applicable requirement” defined. ([NRS 445B.210](#)) “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.3689](#), inclusive, except for the standards for ambient air established in [NAC 445B.22097](#);
 - (b) Provided in the applicable implementation plan approved or adopted by the EPA pursuant to 42 U.S.C. §§ 7401 to 7515, inclusive;
 - (c) For a hazardous air pollutant adopted pursuant to 42 U.S.C. § 7412, including any requirement regarding the prevention of accidental releases;
 - (d) For a program to control acid rain adopted pursuant to 42 U.S.C. §§ 7651 to 7651o, inclusive;
 - (e) For enhanced monitoring or for compliance certification adopted pursuant to 42 U.S.C. § 7413(a)(3) or 7661c(b);
 - (f) For solid waste incineration units adopted pursuant to 42 U.S.C. § 7429;
 - (g) For consumer and commercial products or tank vessels adopted pursuant to 42 U.S.C. § 7511b; and
 - (h) For the protection of stratospheric ozone adopted pursuant to 42 U.S.C. §§ 7671 to 7671q, inclusive, unless the Administrator determines that such provisions are not required in an operating permit;
2. A new source performance standard adopted pursuant to 42 U.S.C. § 7411;
3. Any term or condition of any permit issued pursuant to the requirements of 42 U.S.C. §§ 7401 to 7515, inclusive, including provisions regarding the prevention of significant deterioration of air quality and new source review; and
4. Any national ambient air quality standard or requirement regarding increments or visibility adopted pursuant to 42 U.S.C. §§ 7470 to 7492, inclusive, as the standard applies to a temporary source for which the owner or operator has applied for and obtained an operating permit pursuant to [NAC 445B.287](#) to [445B.3497](#), inclusive.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96; R105-97, 3-5-98; R040-10, eff. 7-22-2010)

NAC 445B.035 “Class I-B application” defined. ([NRS 445B.210](#)) “Class I-B application” means an application for a Class I operating permit that is required for any new stationary source or significant modification to an existing stationary source which is subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96)

NAC 445B.036 “Class I source” defined. ([NRS 445B.210](#)) “Class I source” means any stationary source:

1. Which is subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive;
2. For which the owner or operator has proposed the construction of a major modification; or
3. Which is a major stationary source.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96; R125-04, 9-24-2004)

NAC 445B.037 “Class II source” defined. ([NRS 445B.210](#)) “Class II source” means any stationary source which is not subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive, but which is otherwise subject to the requirements of [NAC 445B.001](#) to [445B.3689](#), inclusive. The term does not include a stationary source that is operating under a Class III operating permit issued pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive.

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96; R040-01, 10-25-2001; R040-1-, eff. 7-22-2010)

NAC 445B.038 “Class III source” defined. ([NRS 445B.210](#)) “Class III source” means a stationary source which is subject to the requirements set forth in [NAC 445B.001](#) to [445B.3689](#), inclusive, and:

1. Which emits or has the potential to emit, individually or in combination, a total of not more than 5 tons per year of PM₁₀, NO_x, SO₂, VOC and H₂S;
2. Which emits less than 1,000 pounds of lead per year;
3. Which is not subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive;
4. Which does not exceed 750 horsepower and is not subject to the requirements of 40 C.F.R. Part 60 except for:

- (a) A stationary compression ignition internal combustion engine subject to Subpart IIII; or
 - (b) A stationary spark ignition internal combustion engine subject to Subpart JJJJ;
 5. Which is not subject to the requirements of 40 C.F.R. Part 61;
 6. Which is not subject to the requirements of 40 C.F.R. Part 63, except for a stationary reciprocating internal combustion engine subject to Subpart ZZZZ and which does not exceed 750 horsepower;
 7. Which is not a temporary source;
 8. Which is not located at or a part of another stationary source;
 9. Which does not operate a thermal unit that emits mercury, as defined in NAC 445B.3643;
- and

10. Whose owner or operator:
 - (a) Is not seeking a limitation on emissions to avoid the requirements of 40 C.F.R. Part 63; or
 - (b) Is not required to obtain an operating permit to operate the stationary source solely to comply with NAC 445B.22037 relating to surface area disturbances.

(Added to NAC by Environmental Comm’n by R040-01, eff. 10-25-2001; A by R189-05, 5-4-2006; R142-07, 4-17-2008; R076-08, 8-26-2008; R040-10, 7-22-2010)

NAC 445B.044 “Construction” defined. ([NRS 445B.210](#)) “Construction” means any physical change or change in the method of operation of an emission unit, including, without limitation, the fabrication, erection, installation or modification of an emission unit.

[Environmental Comm’n, Air Quality Reg. § 1.42, eff. 12-4-76]—(NAC A by R105-97, 3-5-98; R096-05, 10-31-2005)

NAC 445B.046 “Contiguous property” defined. ([NRS 445B.210](#)) “Contiguous property” means any property under single or joint ownership or operatorship which is in physical contact, touching, near or adjoining. Public property or a public right-of-way shall not be deemed as a break in any otherwise contiguous property.

[Environmental Comm’n, Air Quality Reg. § 1.16, eff. 11-7-75; renumbered as § 1.43, 12-4-

76]—(Substituted in revision for NAC 445.479)

NAC 445B.054 “Dispersion technique” defined. (NRS 445B.210)

1. “Dispersion technique” means any technique that attempts to affect the concentration of a pollutant in the ambient air by:

- (a) Using that portion of a stack which exceeds good engineering practice stack height;
- (b) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
- (c) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters or stack parameters, combining exhaust gases from several existing stacks into one stack or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

2. The term does not include:

(a) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(b) The merging of exhaust gas streams where:

(1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of “dispersion techniques” applies only to the emission limitation for the pollutant affected by such a change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence before the merging, an increase in the quantity of pollutants actually emitted before the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such an intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source.

(c) Smoke management in agricultural or silvicultural prescribed burning programs.

(d) Episodic restrictions on residential woodburning and open burning.

(e) Techniques under paragraph (c) of subsection 1 which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

(Added to NAC by Environmental Comm’n by R096-05, eff. 10-31-2005)

NAC 445B.064 “Excessive concentration” defined. (NRS 445B.210) “Excessive concentration” means, for the purpose of determining good engineering practice stack height:

1. For sources seeking credit for stack height exceeding that established under paragraph (b) of subsection 1 of [NAC 445B.083](#), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects

and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to 40 C.F.R. § 52.21, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive, must be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate must be established in consultation with the source owner or operator.

2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under paragraph (b) of subsection 1 of [NAC 445B.083](#), either:

(a) A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection 1, except that the emission rate specified by any applicable state limit or, in the absence of such a limit, the actual emission rate, must be used; or

(b) The actual presence of a local nuisance caused by the existing stack, as determined by the Director.

3. For sources seeking credit after January 12, 1979, for a stack height determined under paragraph (b) of subsection 1 of [NAC 445B.083](#), where the Director requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in paragraph (b) of subsection 1 of [NAC 445B.083](#), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

(Added to NAC by Environmental Comm'n by R096-05, eff. 10-31-2005)

NAC 445B.066 “Existing stationary source” defined. ([NRS 445B.210](#)) “Existing stationary source” means:

1. For stationary sources subject to 42 U.S.C. § 7412, any stationary source other than a new stationary source.

2. For all other stationary sources, a stationary source which was constructed, or for which the owner or operator submitted a complete application for an operating permit, before the effective date of the program.

[Environmental Comm'n, Air Quality Reg. § 1.26, eff. 11-7-75; renumbered as § 1.73, 12-4-76]—(NAC A 12-13-93; 10-30-95)

NAC 445B.068 “Facility” defined. ([NRS 445B.210](#)) “Facility” includes any groups of activities which emit regulated air pollutants, are located on one or more contiguous properties, and are owned, operated or controlled by the same person.

[Environmental Comm'n, Air Quality Reg. § 1.64, eff. 5-7-80]—(NAC A 10-30-95)

NAC 445B.069 “Federally enforceable” defined. ([NRS 445B.210](#)) “Federally

enforceable” means all limitations and conditions which are enforceable by the Administrator pursuant to any provision of the Act, 40 C.F.R. §§ 52.21, any requirements developed pursuant to the applicable state implementation plan and 40 C.F.R. §§ 51.160 to 51.166, inclusive, 40 C.F.R. Parts 60, 61 and 63, or 40 C.F.R. Part 70, or by other persons pursuant to 42 U.S.C. § 7604.

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 11-15-94; A 3-29-94, eff. 11-15-94; R142-07, 4-17-2008)—(Substituted in revision for NAC 445.5095)

NAC 445B.070 “Federally enforceable emissions cap” defined. ([NRS 445B.210](#))
“Federally enforceable emissions cap” means a condition of an operating permit containing an emission limitation that the holder of the operating permit requested and the Director approved and which is independent of any applicable requirement or requirements.

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.5105)

NAC 445B.082 “General permit” defined. ([NRS 445B.210](#)) “General permit” means an operating permit issued by the Director to cover numerous similar stationary sources.

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 11-15-94; A 10-30-95)

NAC 445B.083 “Good engineering practice stack height” defined. ([NRS 445B.210](#))

1. “Good engineering practice stack height” means the stack height that is the greater of:

(a) Two hundred thirteen feet, measured from the ground-level elevation at the base of the stack;

(b) A height determined as follows:

(1) For stacks that commenced construction on or before January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required pursuant to 40 C.F.R. Parts 51 and 52 and [NAC 445B.001](#) to [445B.3689](#), inclusive, the height determined by use of the equation $H_g = 2.5H$, so long as the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation; and

(2) For all other stacks, the height determined by use of the equation $H_g = H + 1.5L$,
↪ except that the Director may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

(c) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes or eddy effects created by the source itself, nearby structures or nearby terrain features.

2. For the purposes of this section:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = height of nearby structures measured from the ground-level elevation at the base of the stack; and

L = lesser dimension, height or projected width, of nearby structures.

(Added to NAC by Environmental Comm’n by R096-05, eff. 10-31-2005)

NAC 445B.087 “Increment” defined. ([NRS 445B.210](#)) “Increment” has the meaning ascribed to it in 40 C.F.R. § 52.21, as adopted in [NAC 445B.221](#).

(Added to NAC by Environmental Comm’n, eff. 12-13-93)—(Substituted in revision for NAC 445.5335)

NAC 445B.093 “Major modification” defined. ([NRS 445B.210](#)) “Major modification” has the meaning ascribed to it in 40 C.F.R. § 52.21.

(Added to NAC by Environmental Comm’n by R125-04, eff. 9-24-2004)

NAC 445B.094 “Major source” defined. ([NRS 445B.210](#))

1. Except as otherwise provided in subsection 3, “major source” means any stationary source that:

- (a) Is located on one or more contiguous or adjacent properties;
- (b) Is under the common control of the same person or persons;
- (c) Belongs to a single major industrial grouping as described in the *Standard Industrial Classification Manual*, as incorporated by reference in [NAC 445B.221](#); and
- (d) Meets one of the following conditions:
 - (1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501 to 7515, inclusive;
 - (2) Directly emits or has the potential to emit:
 - (I) One hundred tons per year or more of any regulated air pollutant, excluding particulate matter more than 10 microns in diameter; or
 - (II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the Commission; or
 - (3) Is located in a particulate matter (PM₁₀) “serious” nonattainment area and directly emits or has the potential to emit 70 tons per year or more of PM₁₀.

↳ The Director shall consider fugitive emissions in determining whether a stationary source is major for any source category listed in 40 C.F.R. § 52.21(b)(1)(iii), as adopted by reference pursuant to [NAC 445B.221](#), or whether a stationary source of a hazardous air pollutant is a major source. To determine whether a stationary source is a major source of hazardous air pollutants under 42 U.S.C. § 7412, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control.

2. In determining whether a stationary source is a major source, the Director shall not consider the emissions from mobile sources subject to regulation under Title II of the federal Clean Air Act, 42 U.S.C. §§ 7521 to 7590, inclusive, or from nonroad engines.

3. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), the term “major source” is synonymous with the term “major stationary source” as that term is defined in 40 C.F.R. § 52.21(b)(1), as adopted by reference in [NAC 445B.221](#).

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 11-15-94; A 3-29-94, eff. 11-15-94; 10-30-95; 5-3-96; R105-97, 3-5-98; R117-00, 6-1-2001)

NAC 445B.0945 “Major stationary source” defined. ([NRS 445B.210](#)) “Major stationary source” has the meaning ascribed to it in 40 C.F.R. § 52.21(b)(1).

(Added to NAC by Environmental Comm'n by R125-04, eff. 9-24-2004)

NAC 445B.099 “Modification” defined. ([NRS 445B.210](#)) “Modification” means any physical change in, or change in the method of operation of a stationary source which:

1. Increases the amount of any regulated air pollutant, to which a standard applies, emitted into the atmosphere by that stationary source; or
2. Results in the emission of any regulated air pollutants, to which a standard applies, into the atmosphere if the regulated air pollutants were not previously emitted.

[Environmental Comm'n, Air Quality Reg. § 1.109, eff. 12-4-76; A and renumbered as § 1.95, 5-7-80]—(NAC A 10-30-95)

NAC 445B.104 “Motor vehicle” defined. ([NRS 445B.210](#)) “Motor vehicle” has the meaning ascribed to it in [NRS 485.050](#).

(Added to NAC by Environmental Comm'n by R117-00, eff. 6-1-2001)

NAC 445B.107 “Nearby” defined. ([NRS 445B.210](#)) “Nearby” means, as used in [NAC 445B.064](#) and [445B.083](#), with respect to a specific structure or terrain feature:

1. For the purpose of using the equations set forth in paragraph (b) of subsection 1 of [NAC 445B.083](#), that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than one-half mile; and

2. For the purpose of conducting demonstrations under paragraph (c) of subsection 1 of [NAC 445B.083](#), not greater than one-half mile, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if the feature achieves a height one-half mile from the stack that is at least 40 percent of the good engineering practice stack height determined by using the equation set forth in subparagraph (2) of paragraph (b) of subsection 1 of [NAC 445B.083](#) or 85 feet, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(Added to NAC by Environmental Comm'n by R096-05, eff. 10-31-2005)

NAC 445B.108 “New stationary source” defined. ([NRS 445B.210](#)) “New stationary source” means:

1. For stationary sources subject to the requirements of 42 U.S.C. § 7412, a stationary source for which the owner or operator commenced construction or reconstruction after the Administrator proposed regulations pursuant to 42 U.S.C. § 7412 which established an emission standard applicable to the stationary source.

2. For all other stationary sources, a stationary source or modification for which an owner or operator has not submitted a complete application for an operating permit before the effective date of the program.

[Environmental Comm'n, Air Quality Reg. § 1.41, eff. 11-7-75; renumbered as § 1.114, 12-4-76; A and renumbered as § 1.100, 5-7-80]—(NAC A 12-13-93; 10-30-95)

NAC 445B.117 “Offset” defined. ([NRS 445B.210](#)) “Offset” means a reduction in emissions at an existing stationary source which is greater than a corresponding increase in emissions of the same regulated air pollutant at a new stationary source or a modification of a stationary source in the same nonattainment area.

(Added to NAC by Environmental Comm'n, eff. 3-29-94; A 10-30-95)

NAC 445B.123 “Operating permit” defined. ([NRS 445B.210](#)) “Operating permit” has the meaning ascribed to it in [NRS 445B.145](#). Unless otherwise specifically stated, the term includes:

1. A Class I, a Class II and a Class III operating permit;
2. An operating permit to construct; and
3. A mercury operating permit to construct, as defined in [NAC 445B.3625](#).

[Environmental Comm'n, Air Quality Reg. § 1.46, eff. 11-7-75; renumbered as § 1.122, 12-4-76]—(NAC A 12-13-93; R040-01, 10-25-2001; R103-02, 12-17-2002; R189-05, 5-4-2006; R162-06, 9-18-2006; R040-10, eff. 7-22-2010)

NAC 445B.124 “Operating permit to construct” defined. ([NRS 445B.210](#)) “Operating permit to construct” means an operating permit signed and issued by the Director which:

1. Authorizes the construction and an initial period of operation of a proposed new Class I stationary source or modification to an existing Class I stationary source;
2. Includes the conditions which apply to the construction and the initial period of operation of the Class I stationary source or modification to an existing Class I stationary source; and
3. Includes the requirement that the holder of the operating permit to construct submit a complete application for a Class I operating permit or for a modification of an existing Class I operating permit within 12 months after the date of the initial start-up of the new or modified Class I stationary source.

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002)

NAC 445B.1345 “Plantwide applicability limitation” defined. ([NRS 445B.210](#)) “Plantwide applicability limitation” means a plantwide applicability limitation as defined in 40 C.F.R. § 52.21(aa)(2)(v) that has been approved by the Director and authorized in an operating permit to construct pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive.

(Added to NAC by Environmental Comm'n by R125-04, eff. 9-24-2004; R040-10, eff. 7-22-2010)

NAC 445B.138 “Potential to emit” defined. ([NRS 445B.210](#)) “Potential to emit” means the maximum capacity of a stationary source to emit a regulated air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a stationary source to emit a regulated air pollutant, including equipment for the control of air pollution and any restrictions on the hours of operation of the stationary source or on the type or amount of material combusted, stored or processed, may be treated as part of its design for the purposes of determining its potential to emit if the limitation is *federally* enforceable ~~[by the Director]~~.

[Environmental Comm'n, Air Quality Reg. part § 1.115.5, eff. 10-16-80]—(NAC A 12-13-93; 10-30-95; 5-3-96; [R126-10, eff. 12-16-2010](#))

NAC 445B.142 “Prevention of significant deterioration of air quality” defined. ([NRS 445B.210](#)) “Prevention of significant deterioration of air quality” has the meaning ascribed to it in 40 C.F.R. § 52.21.

(Added to NAC by Environmental Comm'n, eff. 12-13-93)—(Substituted in revision for NAC 445.5795)

NAC 445B.147 “Program” defined. ([NRS 445B.210](#)) “Program” means the program for

issuing operating permits to Class I sources which the Administrator has approved as complying with the requirements of 40 C.F.R. Part 70.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.5855)

NAC 445B.154 “Renewal of an operating permit” defined. (NRS 445B.210) “Renewal of an operating permit” means the process by which a holder of an operating permit applies for and the Director reissues the operating permit at the end of its term.

(Added to NAC by Environmental Comm'n, eff. 12-13-93)—(Substituted in revision for NAC 445.5915)

NAC 445B.156 “Responsible official” defined. (NRS 445B.210) “Responsible official” means:

1. For a corporation:
 - (a) A president;
 - (b) A vice president in charge of a principal business function;
 - (c) A secretary;
 - (d) A treasurer; or
 - (e) An authorized representative of such a person who is responsible for the overall operation of the facility and who is designated in writing by an officer of the corporation and approved in advance by the Director.
2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively.
3. For a municipality or a state, federal or other public agency, a ranking elected official or a principal executive officer, including, for a federal agency, a chief executive officer who has responsibility for the overall operations of a principal geographic unit of the agency.
4. For an affected source, the designated representative or his alternate, as defined in 42 U.S.C. § 7651a (26).

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94; A by R162-06, 9-18-2006; R040-10, eff. 7-22-2010)

NAC 445B.157 “Revision of an operating permit” defined. (NRS 445B.210) “Revision of an operating permit” means any modification of, or any administrative amendment or administrative revision to, an operating permit.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94; A by R125-04, 9-24-2004)

~~—NAC 445B.179 “Special mobile equipment” defined. (NRS 445B.210) “Special mobile equipment” has the meaning ascribed to it in NRS 482.123.~~

~~—(Added to NAC by Environmental Comm'n by R117-00, eff. 6-1-2001)
[Deleted by R126-10, eff. 12-16-2010]~~

NAC 445B.187 “Stationary source” defined. (NRS 445B.210)

1. “Stationary source” means all buildings, structures, facilities and installations, including temporary sources, which:

- (a) Belong to the same major industrial groupings described in the *Standard Industrial Classification Manual*, as incorporated by reference in [NAC 445B.221](#);
- (b) Are located on one or more contiguous or adjacent properties;

(c) Are owned or operated by the same person or by persons under common control; and
(d) Emit or may emit any regulated air pollutant that is regulated under 42 U.S.C. §§ 7401 to 7671q, inclusive, or [NAC 445B.001](#) to [445B.3689](#), inclusive.

2. Contracted operations that support the primary operations of the stationary source are part of the stationary source, except that temporary construction activities, including, without limitation, the construction of emission units, are not part of the stationary source.

3. The term does not include motor vehicles, [~~special mobile equipment,~~] nonroad engines and nonroad vehicles.

[Environmental Comm'n, Air Quality Reg. § 1.182, eff. 12-4-76]—(NAC A 3-29-94, eff. 1-11-96; 10-30-95; R105-97, 3-5-98; R117-00, 6-1-2001; R040-10, eff. 7-22-2010; ***R126-10, eff. 12-16-2010***)

NAC 445B.194 “Temporary source” defined. ([NRS 445B.210](#)) “Temporary source” means any building, structure, facility or installation which:

1. Emits or may emit any regulated air pollutant;
2. May be moved from one location to another;
3. Is located or operated in a location for a period of less than 12 months; and
4. Is not an affected source.

(Added to NAC by Environmental Comm'n, eff. 10-30-95; A by R117-00, 6-1-2001)

Operating Permits Generally

NAC 445B.287 Operating permits: General requirements; exception; restrictions on transfers. ([NRS 445B.210](#), [445B.300](#))

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

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

(1) A revision of the operating permit or the permit to construct is required pursuant to the requirements of [NAC 445B.3425](#), [445B.344](#) or [445B.3441](#) before the stationary source may be modified; or

(2) A revision of the operating permit to construct is required pursuant to the requirements of paragraph (a) of subsection 1 of [NAC 445B.3361](#) before the stationary source may be modified,

↪ as appropriate.

(b) If a stationary source is a Class II source, a revision of the operating permit or the permit to construct is required pursuant to the requirements of [NAC 445B.3465](#) before the stationary source may be modified.

(c) If a stationary source is a Class III source, a revision of the operating permit is required pursuant to the requirements of [NAC 445B.3493](#) before the stationary source may be modified.

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

4. As used in this section:

(a) “Permit to construct” means a document issued and signed by the Director before November 1, 1995, certifying that:

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

(2) All portions of [NAC 445B.305](#) to [445B.314](#), inclusive, and [445B.3395](#), and any other provisions of [NAC 445B.001](#) to [445B.3689](#), inclusive, have been complied with and constitute approval of location and for construction.

[Environmental Comm'n, Air Quality Reg. §§ 3.1.1-3.1.3, eff. 11-7-75; A 12-15-77; § 3.1.9, eff. 11-7-75; A 12-4-76]—(NAC A 7-29-82; 10-22-87; 12-15-88; 12-13-93; 10-30-95; R105-97, 3-5-98; R117-00, 6-1-2001; R040-01, 10-25-2001; R103-02, 12-17-2002; R125-04, 9-24-2004; R189-05, 5-4-2006; R162-06, 9-18-2006; R040-10, eff. 7-22-2010)

NAC 445B.288 Operating permits: Exemptions from requirements; insignificant activities. ([NRS 445B.210](#), [445B.300](#))

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 request. The owner or operator shall retain the operating log for not less than 5 years.

4. The Director may, upon written request 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.3689](#), inclusive, 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.3689](#), 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.3689](#), 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](#).

[Environmental Comm’n, Air Quality Reg. § 3.1.8, eff. 11-7-75]—(NAC A 10-22-87; 12-8-89; 9-19-90; 11-23-92; 12-13-93, eff. 11-15-94; 3-29-94, eff. 11-15-94; 10-30-95; R117-00, 6-1-2001; R189-05, 5-4-2006; R142-07, 4-17-2008)

NAC 445B.295 Application: General requirements. ([NRS 445B.210](#), [445B.300](#)) Except as otherwise provided in [NAC 445B.33637](#), an application for an operating permit must include:

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

2. A description of the stationary source’s processes and products by Standard Industrial Classification Code, including any processes and products associated with an alternative operating scenario identified by the owner or operator;

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

4. An identification and a description of any equipment for the control of air pollution and any devices or activities for monitoring compliance with emission limitations;

5. Limitations on the operation of the stationary source or any standards for work practices which affect emissions for all regulated air pollutants at the stationary source;

6. An explanation of any proposed exemption from any applicable requirement;

7. The location of any records that the applicant must keep pursuant to the requirements of the operating permit, if the records are kept at a location other than the emitting facility; and

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

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96; 5-3-96; A by R117-00, 6-1-2001; R103-02, 12-17-2002; R125-04, 9-24-2004; R139-06, 9-18-2006)

NAC 445B.297 Application: Submission; certification; additional information. ([NRS 445B.210](#), [445B.300](#))

1. An applicant for an operating permit must:

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

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

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

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 11-15-94; A 10-30-95; R125-04, 9-24-2004; R189-05, 5-4-2006; R139-06, 9-18-2006)

NAC 445B.298 Application: Official date of submittal. ([NRS 445B.210](#), [445B.300](#))

Except as otherwise provided in [NAC 445B.3364](#), [445B.3395](#), [445B.3457](#), [445B.3487](#), or [445B.3683](#), the official date of submittal of an application for:

1. An operating permit;
2. An operating permit to construct;
3. A revision of an existing operating permit; or
4. A revision of an existing operating permit to construct,

↪ is the date on which the Director determines that the application is complete.

[Environmental Comm'n, Air Quality Reg. §§ 3.1.4 & 3.1.7, eff. 11-7-75]—(NAC A 10-22-87; 9-19-90; 12-13-93; R105-97, 3-5-98; R198-03, 4-26-2004; R125-04, 9-24-2004; R162-06, 9-18-2006; R040-10, eff. 7-22-2010)

NAC 445B.305 Operating permits: Imposition of more stringent standards for emissions. ([NRS 445B.210](#), [445B.300](#)) The Director may impose standards for emissions on a proposed stationary source that are more stringent than those found in [NAC 445B.001](#) to [445B.3689](#), inclusive, as a condition of approving an operating permit for the proposed stationary source.

(Added to NAC by Environmental Comm'n, eff. 9-19-90; A 12-13-93, eff. 11-15-94; 10-30-95; R040-10, eff. 7-22-2010)

NAC 445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan. ([NRS 445B.210](#), [445B.300](#))

1. In any area designated as attainment or unclassifiable for a regulated air pollutant, before an operating permit or a revision of an operating permit may be issued:

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

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

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

(a) Will prevent the attainment and maintenance of the state or national ambient air quality standards. For the purposes of this paragraph, only those ambient air quality standards that have been established in [NAC 445B.22097](#) need to be considered in the environmental evaluation.

(b) Will cause a violation of the applicable state implementation plan.

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

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

6. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification who proposes to construct in any

area designated as attainment or unclassifiable under 42 U.S.C. § 7407(d) must comply with the provisions of 40 C.F.R. § 52.21, as adopted by reference in [NAC 445B.221](#).

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

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

(b) Meet standards for emissions that are more stringent than those found in [NAC 445B.001](#) to [445B.3689](#), inclusive.

8. If a proposed stationary source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in [NAC 445B.308](#) to [445B.314](#), inclusive, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

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

[Environmental Comm'n, Air Quality Reg. § 13.1.1, eff. 11-7-75; A 8-28-79; § 13.1.3, eff. 11-7-75; A 8-28-79; 2-28-80; §§ 13.1.4-13.1.7, eff. 11-7-75]—(NAC A 10-22-87; 9-19-90; 11-23-92; 12-13-93, eff. 11-15-94; 3-29-94, eff. 11-15-94; 10-30-95; R105-97, 3-5-98; R103-02, 12-17-2002; R125-04, 9-24-2004; R096-05, 10-31-2005; R139-06 & R151-06, 9-18-2006; R142-07, 4-17-2008)

NAC 445B.310 Environmental evaluation: Applicable sources and other subjects; exemption. ([NRS 445B.210](#), [445B.300](#))

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

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

(b) A modification to an existing stationary source that meets the following criteria:

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

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

(c) The approval of a plantwide applicability limitation or the approval to allow a plantwide applicability limitation to expire and not be renewed; or

(d) Upon written notice from the Director, any other source or combination of sources.

2. An owner or operator of a Class II source may request an exemption from the requirement to submit an environmental evaluation with the application. Within 30 days after receipt of a written request for an exemption, the Director shall grant or deny the request and notify the owner or operator in writing of his determination. If such an exemption is granted, the Director shall perform the environmental evaluation.

[Environmental Comm'n, Air Quality Reg. § 13.3, eff. 11-7-75; A 12-15-77; renumbered as § 13.2, 8-28-79; § 13.3.1, eff. 11-7-75; A 12-15-77; renumbered as § 3.2.1, 8-28-79; § 13.3.2, eff. 11-7-75; A 12-15-77; renumbered as § 13.2.2, 8-28-79; § 13.3.3, eff. 11-7-75; renumbered as § 13.2.3, 8-28-79]—(NAC A 9-19-90; R 12-13-93, eff. 11-15-94; A 10-30-95; R105-97, 3-5-98;

NAC 445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height. ([NRS 445B.210](#), [445B.300](#))

1. An environmental evaluation which is required for a new or modified stationary source pursuant to [NAC 445B.308](#) to [445B.314](#), inclusive, or as required by the Director must contain a careful and detailed assessment of the environmental aspects of the proposed stationary source and must also contain:

- (a) The name and address of the applicant;
- (b) The name, address and location of the stationary source;
- (c) A description of the proposed stationary source, including the normal hours of operation of the facility and the general types of activities to be performed;
- (d) A map showing the location of the stationary source and the topography of the area, including existing principal streets, roads and highways within 3 miles of the stationary source;
- (e) A site plan showing the location and height of buildings on the site;
- (f) Any additional information or documentation which the Director deems necessary to determine the effect of the stationary source on the quality of the ambient air, including measured data on the quality of the ambient air and meteorological conditions at the proposed site before construction or modification; and
- (g) A dispersion analysis of each regulated air pollutant.

2. Where approval is sought for stationary sources to be constructed in phases, the information required by subsection 1 must be submitted for each phase of the construction project.

3. An environmental evaluation must also consider good engineering practice stack height. If the Director considers an analysis of a source based on a good engineering practice stack height that exceeds the height specified in paragraph (a) or (b) of subsection 1 of [NAC 445B.083](#), the Director shall:

- (a) Notify the public of the availability of the demonstration study performed pursuant to paragraph (c) of subsection 1 of [NAC 445B.083](#); and
- (b) Provide an opportunity for a public hearing on the demonstration study in accordance with the requirements for a Class I operating permit set forth in subsections 7, 9 and 10 of [NAC 445B.3395](#).

4. A dispersion analysis used to determine the location and estimated value of the highest concentration of each regulated air pollutant must include:

- (a) A dispersion model based on the applicable models, bases and other requirements specified in the "Guideline on Air Quality Models," which is Appendix W of 40 C.F.R. Part 51, as adopted by reference in [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]** :
 - (1) Determines that the modification or use is appropriate;*
 - (2) Obtains written approval of the modification or use from the Administrator; and*
 - (3) Provides notice of and establishes a 30-day period for comment in accordance with the applicable provisions of NAC 445B.3364, 445B.3395, 445B.3447, 445B.3457 or 445B.3477;*
- (b) A narrative report describing:
 - (1) If applicable, assumptions and premises used in the analysis, including, without limitation:

- (I) Model options chosen;
 - (II) Urban versus rural selection;
 - (III) Background concentrations;
 - (IV) Characterization of emission sources as point, area or volume;
 - (V) Emission discharge points; and
 - (VI) Rate of emission from each emission unit; and
- (2) The geographic area considered in the analysis, including, without limitation, information concerning:
- (I) The nearest significant terrain features;
 - (II) The receptor grid or grids; and
 - (III) Restrictions on public access to the stationary source; and
- (c) Valid meteorological information pursuant to the provisions of Appendix W of 40 C.F.R. Part 51, as adopted by reference in [NAC 445B.221](#), which:
- (1) For sources that are not subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in [NAC 445B.221](#):
- (I) Is site specific, if the information exists pursuant to subsection 1 of this section or subsection 7 of [NAC 445B.308](#), and which covers a period of not less than 1 year;
 - (II) Has been obtained from an off-site location representative of the proposed site and which covers a period of not less than 1 year;
 - (III) Represents the worst-case meteorological conditions, as approved by the Director for synthetic data; or
 - (IV) Has been obtained over the last 5 years at the nearest National Weather Service site; or
- (2) For sources that are subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in [NAC 445B.221](#), is representative of the source site location and source emissions and which covers a period of not less than 1 year.

[Environmental Comm'n, Air Quality Reg. § 13.4.1, eff. 11-7-75; A 12-15-77; renumbered as § 13.3.1, 8-28-79; § 13.4.1.1, eff. 11-7-75; A 12-15-77; renumbered as § 13.3.1.1, 8-28-79; § 13.4.1.4, eff. 11-7-75; renumbered as § 13.3.1.2, 8-28-79]—(NAC A 10-30-95; R103-02, 12-17-2002; R096-05, 10-31-2005; R151-06, 9-18-2006; *R126-10, eff. 12-16-2010*)

NAC 445B.313 Method for determining heat input: Class I sources. ([NRS 445B.210, 445B.300](#)) For the purposes of determining the effects of Class I sources on the quality of ambient air and determining the applicability of a federally enforceable standard or requirement to an emission unit, the maximum heat input will be determined by :

- 1. Multiplying the maximum fuel rate as determined by the manufacturer by the total calorific value of the fuel as determined by using the appropriate method of ASTM International [-]; or*
- 2. An alternative method specified by the Director as a condition contained in the operating permit of the Class I source.*

[Environmental Comm'n, Air Quality Reg. § 13.3.4, eff. 12-15-77; renumbered as § 13.2.4, 8-28-79]—(NAC A 9-19-90; 3-29-94, eff. 1-11-96; 10-30-95; R040-01, 10-25-2001; R103-02, 12-17-2002; R142-07, 4-17-2008; *R126-10, eff. 12-16-2010*)

NAC 445B.3135 Method for determining heat input: Class II sources. ([NRS 445B.210, 445B.300](#)) For the purposes of determining the effects of a Class II source on the quality of ambient air pursuant to [NAC 445B.308, 445B.310](#) and [445B.311](#), the heat input is the aggregate

heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002)

NAC 445B.314 Method for determining heat input: Class III sources. ([NRS 445B.210](#), [445B.300](#)) For the purposes of determining the effects of a Class III source on the quality of ambient air pursuant to [NAC 445B.308](#), [445B.310](#) and [445B.311](#), the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002)

NAC 445B.315 Contents of operating permits: Exception for operating permits to construct; required conditions. ([NRS 445B.210](#), [445B.300](#))

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](#).

(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.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96; R105-97, 3-5-98; R103-02, 12-17-2002; R189-05, 5-4-2006)

NAC 445B.318 Operating permits: Requirement for each source; form of application; issuance or denial; posting. ([NRS 445B.210](#), [445B.300](#))

1. An operating permit is required for each new or existing stationary source.

2. Application for the issuance of an operating permit or a replacement for a lost or damaged operating permit must be submitted in writing to the Director on the exact form provided by him.

3. An operating permit must be granted if the Director finds from a stack emission test or other appropriate test and other relevant information that use of the stationary source will not result in any violation of the air quality regulations or the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Parts 60, 61 and 63, adopted by reference in [NAC 445B.221](#).

4. A denial of an application for an operating permit must be accompanied by a statement of the reasons for the denial, and, if the Director has relied in his decision upon information not contained in the application, the statement of reasons must identify and state the substance of such information.

5. Operating permits must be posted conspicuously at or near the stationary source.

[Environmental Comm'n, Air Quality Reg. part § 3.4.1 & §§ 3.4.2, 3.4.3, 3.4.5 & 3.4.6, eff. 11-7-75; § 3.4.7, eff. 11-7-75; A 8-28-79]—(NAC A 10-22-87; 12-15-88; 9-19-90; R 12-13-93, eff. 11-15-94; A 10-30-95; R189-05, 5-4-2006; R151-06, 9-18-2006)

NAC 445B.319 Operating permits: Administrative amendment. ([NRS 445B.210](#), [445B.300](#))

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

(a) Correct typographical errors;

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

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

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

(e) Allow for a change in ownership or operational control of a stationary source if the Director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the Director a written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

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

3. The Director shall:

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

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94; A 3-29-94, eff. 11-15-94; 10-30-95; R105-97, 3-5-98; R019-99, 9-27-99; R125-04, 9-24-2004)

NAC 445B.325 Operating permits: Termination, reopening and revision, revision, or revocation and reissuance. ([NRS 445B.210](#), [445B.300](#))

2. An operating permit may be terminated, reopened and revised, revised, or revoked and reissued if:

(a) The Director or the Administrator determines that the operating permit contains a material mistake or is based on inaccurate statements;

(b) The Director or the Administrator determines that the operating permit, as written, does not ensure compliance with all applicable requirements; or

(c) The Director determines that there has been a violation of any of the provisions of [NAC 445B.001](#) to [445B.3689](#), inclusive, any applicable requirement, or any condition contained in the operating permit.

5. If the Director reopens an operating permit, he shall revise only those portions of the operating permit for which cause exists.

6. The reopening of an operating permit pursuant to this section must comply with all of the relevant requirements for the issuance or revision of a permit, including the requirements related to the content of the permit and the requirements for notice, public participation and comment, and a review by any affected states.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R105-97, 3-5-98; R162-06, 9-18-2006; R040-10, eff. 7-22-2010)

NAC 445B.326 Operating permits: Assertion of emergency as affirmative defense to action for noncompliance. ([NRS 445B.210](#), [445B.300](#))

1. A holder of an operating permit may assert an affirmative defense to an action brought for noncompliance with a technology-based emission limitation contained in the operating permit if the holder of the operating permit demonstrates through signed, contemporaneous operating logs or other relevant evidence, that:

(a) An emergency occurred and the holder of the operating permit can identify the cause of the emergency;

(b) The facility was being properly operated at the time of the emergency;

(c) During the emergency, the holder of the operating permit took all reasonable steps to minimize excess emissions; and

(d) The holder of the operating permit submitted notice of the emergency to the Director within 2 working days after the emergency. The notice must contain a description of the emergency, any steps taken to mitigate emissions, and any corrective actions taken to restore the normal operation of the facility.

2. In any action for noncompliance, the holder of an operating permit who asserts the affirmative defense of an emergency has the burden of proof.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96)—(Substituted in revision for NAC 445.7133)

NAC 445B.331 Request for change of location of emission unit. ([NRS 445B.210](#), [445B.300](#)) 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 for each operating permit 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.

(Added to NAC by Environmental Comm'n, eff. 12-15-88; A 9-13-91; 11-23-92; 12-13-93; 12-13-93, eff. 7-1-94; 10-30-95; 5-3-96; R019-99, 9-27-99; R117-00, 6-1-2001; R103-02, 12-17-2002; R151-06, 9-18-2006)

Class I Operating Permits

NAC 445B.3361 General requirements. ([NRS 445B.210](#), [445B.300](#))

1. To establish a new Class I stationary source or modify an existing Class I stationary source, the owner or operator of a proposed new Class I stationary source or the existing Class I stationary source must:

(a) Apply for and obtain a new or revised:

(1) Operating permit to construct pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive; or

(2) Class I operating permit pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive;

2. To establish a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the approval of the plantwide applicability limitation pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive. To revise or renew a Class I operating permit to construct for the approval of a plantwide applicability limitation, the owner or operator of a Class I stationary source must apply for and obtain a revised or renewed Class I operating permit to construct for the approval of a plantwide applicability limitation pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive.

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

4. Except as otherwise provided in this subsection and subsections 5 and 6, if an owner or operator has a valid operating permit to construct, the owner or operator may continue to operate a new Class I stationary source or modifications to an existing Class I stationary source under that operating permit to construct if the owner or operator submits a complete application for a Class I operating permit within 12 months after the date of initial start-up of the new Class I stationary source or modifications to the existing Class I stationary source. The provisions of this subsection do not apply to a Class I operating permit to construct for the approval of a plantwide

applicability limitation.

5. If the conditions of an existing Class I operating permit would prohibit the construction or change in operation of the existing Class I stationary source and the owner or operator is not seeking to revise the Class I operating permit at the Class I stationary source pursuant to subparagraph (2) of paragraph (a) of subsection 1, the owner or operator must concurrently:

(a) For the construction or change in operation of the existing Class I stationary source:

(1) Obtain a Class I operating permit to construct; or

(2) If the construction or change in operation involves mercury emissions from a thermal unit that emits mercury, obtain a mercury operating permit to construct pursuant to [NAC 445B.3611](#) to [445B.3689](#), inclusive; and

(b) Obtain an administrative revision to an operating permit to incorporate the conditions of the Class I operating permit to construct into the existing Class I operating permit pursuant to [NAC 445B.3441](#) before commencing with the construction or change in operation of the existing Class I stationary source.

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R125-04, 9-24-2004; R189-05, 5-4-2006; R139-06 & R162-06, 9-18-2006; R040-10, eff. 7-22-2010)

NAC 445B.3363 Operating permit to construct: Application. ([NRS 445B.210](#), [445B.300](#))

1. Except as otherwise provided in [NAC 445B.33637](#), in addition to the information required pursuant to [NAC 445B.295](#), an application for a Class I operating permit to construct or for a revision of a Class I operating permit to construct must include:

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

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

(c) An identification and a description of all points of emissions and all activities which may generate emissions of the regulated air pollutants described pursuant to paragraph (a) in sufficient detail to establish the basis for the applicability of standards and fees.

(d) The emission rates of all regulated air pollutants that are subject to an emissions limitation pursuant to an applicable requirement. The emission rates must be described in tons per year and in such terms as are necessary to establish compliance using the applicable standard reference test method.

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

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

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

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

2. Except as otherwise provided in [NAC 445B.33637](#), in addition to the information required pursuant to subsection 1, an application for a Class I operating permit to construct must contain:

(a) For a proposed new major stationary source, a proposed major modification to an existing stationary source or a major modification at an existing major stationary source:

(1) All information required pursuant to 40 C.F.R. § 52.21;

(2) A description of all emissions of each regulated pollutant:

(I) For which the source is a major stationary source; or

(II) That will, because of the major modification, result in a significant emissions increase or a significant net emissions increase in accordance with 40 C.F.R. § 52.21(a)(2);

(3) A description of all emissions of each regulated pollutant associated with the major

modification;

(4) A description of each hydrographic area that may be triggered for increment consumption; and

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

(b) For a proposed new major source or a proposed modification which is not a major modification:

(1) All information required by [NAC 445B.308](#) to [445B.311](#), inclusive;

(2) Any other information that the Director determines is necessary to process the application; and

(3) For stationary sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501 to 7515, inclusive, all information required by 42 U.S.C. § 7503.

(c) For a source, or proposed source, subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive:

(1) All information required by 40 C.F.R. § 63.43(e); and

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

(d) For a source, or proposed source, subject to the requirements of 40 C.F.R. §§ 63.50 to 63.56, inclusive:

(1) All information required by 40 C.F.R. § 63.53; and

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

3. Except as otherwise provided in [NAC 445B.33637](#), in addition to the information required pursuant to subsections 1 and 2, an application for a Class I operating permit to construct for a modification at an existing major stationary source that is not a major modification must contain:

(a) All applicable information required to determine whether the project or modification will result in a significant emissions increase or a significant net emissions increase in accordance with 40 C.F.R. § 52.21(a)(2);

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

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

(d) All calculations associated with the procedures required to make the determinations pursuant to 40 C.F.R. § 52.21(a)(2), including detailed information for expected and highest projections of any business activities in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(a);

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

(f) Detailed information used to demonstrate that emissions increases associated with any increased utilization that an emission unit could have accommodated during the baseline emission period is unrelated to the proposed project or modification, including any increased utilization due to product demand growth, in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(c).

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

4. Except for a source, or proposed source, subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, in addition to the information required pursuant to subsections 1, 2 and 3, an application for an operating permit to construct must include an environmental evaluation pursuant to [NAC 445B.308](#), [445B.310](#) and [445B.311](#).

5. As used in this section, “project” has the meaning established in 40 C.F.R. § 52.21, as

adopted by reference in [NAC 445B.221](#).

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R125-04, 9-24-2004; R139-06 & R151-06, 9-18-2006; A by R147-09, eff. 1-28-2010)

NAC 445B.33637 Operating permit to construct for approval of plantwide applicability limitation: Application. ([NRS 445B.210](#), [445B.300](#))

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

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

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

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

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

(1) The monitoring approach proposed for each emission unit;

(2) The minimum performance requirements of each such approach;

(3) The basis for any emissions factors proposed; and

(4) Any emission unit for which the owner or operator cannot demonstrate a correlation between the monitored parameters and the plantwide applicability limitation at all operating points;

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

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

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

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

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

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

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

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

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

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

(Added to NAC by Environmental Comm'n by R125-04, eff. 9-24-2004)

NAC 445B.3364 Operating permit to construct: Action by Director on application; notice; public comment and hearing. ([NRS 445B.210](#), [445B.300](#))

1. Except for sources that are subject to the permitting requirements set forth in 40 C.F.R. § 52.21 or sources subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, within 45 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a Class I operating permit to construct, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 45 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 46th day after the date of receipt, whichever is earlier. Within 90 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny a Class I operating permit to construct or a revision of a Class I operating permit to construct.

2. For sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 30 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a Class I operating permit to construct, the Director shall determine whether the application contains adequate information to process the application. The official date of submittal of the application shall be deemed to be 31 days after the date of receipt, unless the Director determines before that date that substantial additional information is required. If the Director determines that substantial additional information is required, the Director shall return the application to the applicant. The Director shall require the applicant to submit a new application, or the applicant may formally withdraw the application. Within 180 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny an operating permit to construct or a revision of an operating permit to construct. For the purposes of 40 C.F.R. § 52.21, the application shall be deemed to be complete on the date that the Director makes the preliminary determination to issue or deny a Class I operating permit to construct or a revision of an operating permit to construct.

3. For sources subject to the requirements of 40 C.F.R. §§ 63.40 to 63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, within 30 days after the date of receipt of an application for a Class I operating permit to construct or for the revision of a Class I operating permit to construct, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that

the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt, whichever is earlier. Within 180 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct or the revision of the Class I operating permit to construct.

4. For the submittal of an application for a Class I operating permit to construct for the approval of a plantwide applicability limitation, within 30 days after the date of receipt of such an application, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt, whichever is earlier. Within 120 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct for the approval of a plantwide applicability limitation.

5. If, after the official date of submittal, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in [NAC 445B.001](#) to [445B.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.

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

7. The Director shall:

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

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

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

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

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

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

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

8. In addition to the requirements set forth in subsection 7, the notice required for a Class I operating permit to construct or for a revision of a Class I operating permit to construct must:

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

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

10. Except as otherwise provided in subsections 11 to 14, inclusive, within 180 days after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct. The Director shall make his decision by taking into account:

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

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

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

13. For a source, or proposed source, subject to the requirements of 40 C.F.R. §§ 63.40 to

63.44, inclusive, or 40 C.F.R. §§ 63.50 to 63.56, inclusive, within 12 months after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct.

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

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

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

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R198-03, 4-26-2004; R125-04, 9-24-2004; R139-06 & R151-06, 9-18-2006; R142-07, 4-17-08; R147-09, 1-28-2010)

NAC 445B.3365 Operating permit to construct: Contents; noncompliance with conditions. ([NRS 445B.210](#), [445B.300](#)) Except as otherwise provided in [NAC 445B.33656](#):

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

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

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

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

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

(1) An action for noncompliance;

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

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

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

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

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

privilege.

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

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

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

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

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

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

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

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

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

3. An operating permit to construct must contain:

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

(b) Monitoring methods adequate to show compliance;

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

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

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R125-04, 9-24-2004; R189-05, 5-4-2006; R139-06, 9-18-2006)

NAC 445B.33656 Operating permit to construct for approval of plantwide applicability limitation: Contents; noncompliance with conditions. ([NRS 445B.210](#), [445B.300](#))

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

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

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

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

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

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

(1) An action for noncompliance;

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

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

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

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

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

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

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

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

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

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

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

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

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

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

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

(Added to NAC by Environmental Comm'n by R125-04, eff. 9-24-2004; A by R189-05, 5-4-2006; R139-06, 9-18-2006)

NAC 445B.3366 Expiration and extension of operating permit to construct; expiration and renewal of plantwide applicability limitation. ([NRS 445B.210](#), [445B.300](#))

1. If construction will occur in one phase, an operating permit to construct for a new or modified stationary source expires if construction is not commenced within 18 months after the

date of issuance thereof or construction of the facility is delayed for 18 months after initiated. The Director may extend the date on which the construction may be commenced upon a showing that the extension is justified.

2. If construction will occur in more than one phase, the projected date of the commencement of construction of each phase of construction must be approved by the Director. An operating permit to construct expires if the initial phase of construction is not commenced within 18 months after the projected date of the commencement of construction approved by the Director. The Director may extend only the date on which the initial phase of construction may be commenced upon a showing that the extension is justified.

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

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

5. A plantwide applicability limitation expires at the end of the plantwide applicability limitation effective period in accordance with 40 C.F.R. § 52.21(aa)(9), unless the plantwide applicability limitation is renewed pursuant to subsection 3 of [NAC 445B.33637](#). If the owner or operator is not going to renew the plantwide applicability limitation, the operating permit for the Class I stationary source must be revised to incorporate the redistribution of the emissions allowed by the plantwide applicability limitation that is expiring in accordance with subsection 2 of [NAC 445B.33637](#). For the purposes of this subsection, “plantwide applicability limitation effective period” means the “PAL effective period” as that term is defined in 40 C.F.R. § 52.21(aa)(2)(vii).

(Added to NAC by Environmental Comm’n by R103-02, eff. 12-17-2002; A by R125-04, 9-24-2004; R139-06, 9-18-2006)

NAC 445B.3368 Additional requirements for application; exception. ([NRS 445B.210, 445B.300](#))

1. The information otherwise required by this section is not required if the owner or operator applied for an operating permit to construct and no changes have been made to the facility. The information provided in the application for the operating permit to construct must be resubmitted as part of the Class I operating permit application.

2. In addition to the information required pursuant to [NAC 445B.295](#), an application for a Class I operating permit must include:

(a) Descriptions of all emissions of any pollutants for which the source is major and all emissions of regulated air pollutants from all emission units.

(b) An identification and a description of all points of emissions and all activities which may generate emissions of the regulated air pollutants described pursuant to paragraph (a) in sufficient detail to establish the basis for the applicability of standards and fees.

(c) The emission rates of all regulated air pollutants that are subject to an emissions limitation pursuant to an applicable requirement. The emission rates must be described in tons per year and in such terms as are necessary to establish compliance using the applicable standard reference

test method.

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

(e) The calculations on which the information in this subsection and subsection 1 are based.

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

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

(h) A compliance plan that contains the following:

(1) A description of the compliance status of the stationary source with respect to all applicable requirements.

(2) A description that includes the following:

(I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.

(II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis.

(III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a narrative description of how the stationary source will achieve compliance with each such requirement.

(3) Schedules of compliance as follows:

(I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.

(II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis, unless the applicable requirement expressly requires a more detailed schedule for compliance.

(III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a schedule of compliance for each applicable requirement. Such a schedule must include a schedule of remedial measures, including, without limitation, an enforceable sequence of actions with milestones, leading to compliance with the applicable requirements with which the stationary source is not in compliance. If the stationary source is subject to a judicial consent decree or an administrative order regarding its noncompliance, the schedule must resemble and be at least as stringent as any schedule contained in the decree or order. Such a schedule of compliance must be supplemental to, and must not sanction noncompliance with, the applicable requirements on which it is based.

(4) A schedule for the submission of certified progress reports at least once every 6 months for a schedule of compliance to remedy a violation. Such progress reports must contain the following:

(I) Dates for performing activities or achieving milestones or compliance required in the schedule of compliance, and the dates when the activities, milestones or compliance occurred or were achieved; and

(II) An explanation as to why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measures adopted.

↪ The content requirements of the compliance plan specified in this paragraph apply and must be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations adopted pursuant to Title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the emissions limitations

relating to acid rain.

(i) Requirements for compliance certification, including:

(1) A certification of compliance with all applicable requirements by a responsible official, consistent with this section and 42 U.S.C. § 7414(a)(3);

(2) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping and reporting requirements, and methods of testing;

(3) A schedule for submission of certifications of compliance during the term of the permit to be submitted not less frequently than annually, or more frequently if so specified by the underlying applicable requirement or the permitting authority; and

(4) A statement indicating the status of compliance by the stationary source with any applicable enhanced monitoring and compliance certification requirements of the Act.

3. In addition to the information required pursuant to subsections 1 and 2, a Class I-B application for a Class I operating permit must contain:

(a) For a proposed new major stationary source or a proposed major modification to an existing stationary source:

(1) All information required pursuant to 40 C.F.R. § 52.21;

(2) A description of all emissions of each regulated pollutant for which the source is a major stationary source or that will increase by a significant amount as a result of the major modification;

(3) A description of all emissions of each regulated pollutant associated with the major modification;

(4) A description of each hydrographic area that may be triggered for increment consumption; and

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

(b) For a proposed new major source or a proposed significant revision to an existing stationary source:

(1) All information required by [NAC 445B.308](#) to [445B.313](#), inclusive;

(2) Any other information that the Director determines is necessary to process the application; and

(3) For stationary sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501 to 7515, inclusive, all information required by 42 U.S.C. § 7503.

(c) For a proposed new major source or a proposed significant revision to an existing stationary source which is subject to the requirements of 42 U.S.C. § 7412 regarding hazardous air pollutants:

(1) All information required by [NAC 445B.308](#) to [445B.313](#), inclusive;

(2) For a source subject to the requirements of 42 U.S.C. § 7412(g), all information required by 40 C.F.R. § 63.43(e);

(3) For a source subject to the requirements of 42 U.S.C. § 7412(j), all information required by 40 C.F.R. § 63.53; and

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

(d) For a revision to a Class I operating permit for a modification at an existing major stationary source that is not a major modification:

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

- (2) A description of the project or modification, including all emission units;
 - (3) A description of the applicable procedures used to determine that the project or modification is not a major modification pursuant to the provisions of 40 C.F.R. § 52.21(a)(2);
 - (4) All calculations associated with the procedures required to make the determinations pursuant to 40 C.F.R. § 52.21(a)(2), including detailed information for expected and highest projections of any business activities in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(a);
 - (5) Calculations of emissions in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(b); and
 - (6) Detailed information used to demonstrate that emissions increases associated with any increased utilization that an emission unit could have accommodated during the baseline emission period is unrelated to the proposed project or modification, including any increased utilization due to product demand growth, in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(c).
- ↪ In lieu of subparagraphs (4), (5) and (6), the application must contain information on the potential of the unit to emit in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(d).

4. As used in this section, “project” has the meaning established in 40 C.F.R. § 52.21 as adopted by reference in [NAC 445B.221](#).

(Added to NAC by Environmental Comm’n by R103-02, eff. 12-17-2002; A by R125-04, 9-24-2004; R147-09, eff. 1-28-2010)

NAC 445B.3375 Class I-B application: Filing requirement. ([NRS 445B.210](#), [445B.300](#))

1. Except as otherwise provided in subsections 5 and 6 of [NAC 445B.3361](#), an owner or operator of a stationary source must file a Class I-B application, on a form provided by the Director, and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

- (a) A Class I existing stationary source;
- (b) A proposed modification for which a revision of an operating permit is requested pursuant to [NAC 445B.3425](#) or [445B.344](#) to a Class I stationary source;
- (c) A modification to a Class II source that results in total emissions of any regulated air pollutant above the thresholds defined in [NAC 445B.094](#) for a major source;
- (d) A proposed new Class I stationary source;
- (e) A proposed new Class I stationary source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the Class I stationary source is subject only to the requirements of 42 U.S.C. § 7412(r); or
- (f) A proposed new stationary source which is included in a category of sources designated by the Administrator pursuant to 42 U.S.C. § 7661a(a).

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R105-97, 3-5-98; R117-00, 6-1-2001; R125-04, 9-24-2004; R139-06 & R162-06, 9-18-2006)

NDEP NOTE: Subsection 1 refers to subsection 6 of NAC 445B.3361 which is not being submitted as part of the ASIP. This is because NAC 445B.3361(6) deals with a state only program to control mercury emissions from mines.

NAC 445B.3395 Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit. ([NRS 445B.210](#), [445B.300](#))

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

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

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

3. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request such additional information that is necessary to determine whether the proposed operation will comply with all the requirements set forth in [NAC 445B.001](#) to [445B.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 pursuant to subsection 1 or 2.

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

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

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

7. The Director shall:

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

general public notice;

(b) Provide written notice to:

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

(2) Any affected state; and

(3) Any affected local air pollution control agency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Except as otherwise provided in subsection 12 and [NAC 445B.319](#), [445B.342](#) and [445B.3425](#), within 12 months after the official date of submittal of a Class I-B application for an operating permit or revision of an operating permit, the Director shall issue or deny the operating permit or revision of the operating permit. The Director shall make his decision by taking into account:

- (a) Written comments from the public, affected states and the Administrator;
 - (b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;
 - (c) Information submitted by proponents of the project; and
 - (d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in [NAC 445B.22097](#) and the applicable state implementation plan.
- ↳ The Director shall send to the Administrator a copy of the final operating permit issued by the Director after approving the Class I-B application.

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

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

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

[Environmental Comm'n, Air Quality Reg. § 3.2.1, eff. 11-7-75; A 12-4-76; § 3.2.2, eff. 11-7-75; A 12-15-77; 8-28-79; §§ 3.2.3 & 3.2.4, eff. 11-7-75; § 3.2.5, eff. 11-7-75; A 12-4-76; § 3.2.6, eff. 11-7-75; + § 13.1.2, eff. 11-7-75; A 12-4-76; 8-28-79]—(NAC A 10-22-87; 12-15-88; 12-8-89; 9-19-90; 9-13-91; 11-23-92; 12-13-93, eff. 1-11-96; 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R105-97, 3-5-98; R022-99, 9-27-99; R040-01, 10-25-2001; R103-02, 12-17-2002; R198-03, 4-26-2004; R125-04, 9-24-2004; R151-06, 9-18-2006; R142-07, 4-17-2008)

NAC 445B.340 Prerequisites to issuance, revision or renewal of permit. ([NRS 445B.210](#), [445B.300](#)) The Director may issue a Class I operating permit, or a revision of or a renewal of a Class I operating permit, if:

- 1. The Director has:
 - (a) Received a complete application for a Class I operating permit or for a revision of or a renewal of a Class I operating permit;
 - (b) Completed all requirements regarding public participation and comment pursuant to [NAC 445B.3395](#); and

(c) Notified and responded to all comments from affected states;

2. The conditions of the operating permit provide for compliance with the requirements of [NAC 445B.001](#) to [445B.3689](#), inclusive, and any other applicable requirements;

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96; R105-97, 3-5-98; A by R142-07, 4-17-2008)—(Substituted in revision for NAC 445B.306)

NAC 445B.342 Certain changes authorized without revision of permit; notification of authorized changes. ([NRS 445B.210](#), [445B.300](#))

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.3689](#), 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.3689](#), inclusive;

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

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

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R105-97, 3-5-98; R040-01, 10-25-2001; R096-05, 10-31-2005)

NAC 445B.3425 Minor revision of permit. ([NRS 445B.210](#), [445B.300](#))

1. A minor revision may be made to a Class I operating permit if the revision:

(a) Does not violate any applicable requirement;

(b) Does not involve significant changes to the existing requirements for monitoring, reporting or recordkeeping;

(c) Does not require or change:

(1) A determination of an emission limitation or other standard on a case-by-case basis;

(2) A determination of the ambient impact for any temporary source; or

(3) A visibility or increment analysis;

(d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:

(1) A federally enforceable emissions cap; or

(2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5);

- (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive;
 - (f) Does not result in an increase in allowable emissions that exceeds any of the following specified thresholds:
 - (1) Carbon monoxide, 100 tons per year;
 - (2) Nitrogen oxides, 40 tons per year;
 - (3) Sulfur dioxide, 40 tons per year;
 - (4) PM₁₀, 15 tons per year;
 - (5) Ozone, 40 tons per year of volatile organic compounds;
 - (6) Sulfuric acid mist, 7 tons per year; and
 - (7) Hydrogen sulfide (H₂S), 10 tons per year; and
 - (g) Is not a major modification at an existing major stationary source.
2. An owner or operator must request a minor revision on an application form provided by the Director. The application must include:
- (a) A description of the modification;
 - (b) A description of the emissions resulting from the modification;
 - (c) An identification of any new applicable requirements that will apply because of the modification;
 - (d) Suggested conditions of the operating permit;
 - (e) Certification by a responsible official of the stationary source that the proposed modification complies with the criteria for a minor revision set forth in subsection 1; and
 - (f) Any relevant information concerning the proposed change which is required by [NAC 445B.295](#) and [445B.3368](#).
3. The Director shall:
- (a) Determine, in accordance with subsection 5 of [NAC 445B.3395](#), whether the application for a minor revision is complete.
 - (b) Transmit the application to the Administrator within 10 working days after the official date of submittal of the application.
 - (c) Provide notice to any affected state within 10 working days after the official date of submittal of the application for a minor revision.
 - (d) Unless the application is for a minor revision described in subsection 8 of [NAC 445B.3395](#), enable public participation and comment and provide notice to the public concerning the application for a minor revision in the manner set forth in subsections 6 and 7 of [NAC 445B.3395](#).
 - (e) Provide a 30-day period for comment by any affected state and the public, if applicable, concerning the application.
 - (f) Within 45 days after the official date of submittal of the application:
 - (1) Determine whether the proposed minor revision meets the criteria for a minor revision set forth in this section;
 - (2) Determine whether the proposed conditions of the operating permit are adequate; and
 - (3) If the Director determines that the proposed modification does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant and the Administrator.
 - (g) If the Director determines that the applicant's proposed conditions of the operating permit are not adequate, draft appropriate conditions for the operating permit. Proposed conditions drafted by the Director must be submitted to the Administrator for review.
 - (h) Notify the Administrator of any recommendations from an affected state which the Director does not accept.

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

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

- (a) Deny the application for the minor revision;
- (b) Determine whether the minor revision should be reviewed under the procedures for a significant revision; or
- (c) Revise the proposed revision of the operating permit and forward it to the Administrator for review.

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

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; 5-3-96; R105-97, 3-5-98; R036-98, 4-17-98; R103-02, 12-17-2002; R198-03, 4-26-2004; R125-04, 9-24-2004)

NAC 445B.344 Significant revision of permit. ([NRS 445B.210](#), [445B.300](#))

1. The holder of an operating permit may request a significant revision of a Class I operating permit if it does not qualify as a change that may be made pursuant to [NAC 445B.342](#), or as an administrative amendment or a minor revision. A significant revision includes, but is not limited to, a revision:

- (a) Of an existing condition of the operating permit relating to monitoring or making the requirements for reporting or recordkeeping less stringent;
 - (b) Which requires or changes:
 - (1) A determination of an emission limitation on a case-by-case basis;
 - (2) A determination of ambient impact for any temporary source; or
 - (3) A visibility or increment analysis;
 - (c) Which would establish or change a condition of the operating permit and which is requested or assumed by the owner or operator of the stationary source in order to avoid any applicable requirement;
 - (d) Subject to 40 C.F.R. § 52.21 or 40 C.F.R. Part 60, as adopted pursuant to [NAC 445B.221](#);
- or
- (e) Subject to 42 U.S.C. § 7412.

2. An application for a significant revision must comply with the requirements for an application for a Class I operating permit set forth in [NAC 445B.295](#), [445B.297](#) and [445B.3368](#), including public participation and comment and a review by any affected states and the Administrator pursuant to [NAC 445B.3395](#).

3. An application for a significant revision must be accompanied by the fee set forth in [NAC 445B.327](#).

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R105-97, 3-5-98; R103-02, 12-17-2002)

NAC 445B.3441 Administrative revision of permit to incorporate conditions of certain

permits to construct. ([NRS 445B.210](#), [445B.300](#))

1. To modify a Class I stationary source in accordance with subsection 5 of [NAC 445B.3361](#), the owner or operator of the Class I stationary source must submit an application for an administrative revision to a Class I operating permit to incorporate the conditions of a Class I operating permit to construct into the existing Class I operating permit for the Class I stationary source.

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

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

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

(Added to NAC by Environmental Comm'n by R125-04, eff. 9-24-2004; A by R139-06, 9-18-2006)

NAC 445B.3443 Renewal of permit. ([NRS 445B.210](#), [445B.300](#))

1. All Class I operating permits must be renewed 5 years after the date of issuance.

2. A complete application for the renewal of a Class I operating permit must be submitted to the Director on the form provided by the Director with the appropriate fee at least 240 days, but not earlier than 18 months, before the expiration date of the current Class I operating permit for stationary sources.

3. Applications for the renewal of a Class I operating permit must comply with all requirements for the issuance of an initial Class I operating permit as specified in [NAC 445B.3395](#).

4. If an application for the renewal of a Class I operating permit is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing Class I operating permit until the Class I operating permit is renewed or the application for renewal is denied.

5. If an application for the renewal of a Class I operating permit is not submitted in accordance with subsection 2:

(a) The stationary source may be required to cease operation when the Class I operating permit expires; and

(b) The owner or operator of the stationary source:

(1) Must apply for the issuance of a new Class I operating permit pursuant to [NAC 445B.3375](#); and

(2) May not recommence the operation until the new Class I operating permit is issued.

6. The fee for the issuance of a new Class I operating permit or the renewal of a Class I operating permit is specified in [NAC 445B.327](#).

[Environmental Comm'n, Air Quality Reg. part § 3.4.1 & §§ 3.4.4 & 3.4.8, eff. 11-7-75]—
(NAC A 12-15-88; 12-13-93, eff. 1-11-96; 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R040-01, 10-25-2001; R103-02, 12-17-2002; R198-03, 4-26-2004; R191-08, 12-17-2008)

Class II Operating Permits

NAC 445B.3453 Application: General requirements. ([NRS 445B.210](#), [445B.300](#))

1. Except as otherwise provided in subsection 3, an owner or operator of any stationary source that is not subject to the requirements of [NAC 445B.337](#) or [445B.3375](#) must submit an application for and obtain a Class II operating permit or, if applicable, a Class III operating permit pursuant to [NAC 445B.3485](#).

2. For a proposed stationary source or a proposed modification to a stationary source that is not subject to the requirements of [NAC 445B.337](#) or [445B.3375](#), an owner or operator must file an application and obtain a Class II operating permit or a revision to an existing Class II operating permit or, if applicable, a Class III operating permit or a revision to an existing Class III operating permit pursuant to [NAC 445B.3485](#), before commencing construction of the proposed stationary source or the proposed modification.

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R189-05, 5-4-2006)

NDEP NOTE: Subsection 1 refers to subsection 3 which is not being submitted as part of the ASIP. This is because subsection 3 deals with a state only program to control mercury emissions from mines.

NAC 445B.3457 Action by Director on application; notice; public comment and hearing; expiration of permit. ([NRS 445B.210](#), [445B.300](#))

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

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in [NAC 445B.001](#) to [445B.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.

3. ~~[If notice to the public is not required pursuant to subsection 5, the]~~ *The* Director shall issue or deny a Class II operating permit or the revision of a Class II operating permit within 60 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit.

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

(a) Make a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit within ~~[60]~~ *15* days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit;

(b) Take such action as is necessary to ensure compliance with the provisions of subsections

~~[5, 6, and 7,]~~ 6, 7, and 8, as applicable; and

(c) Issue or deny the Class II operating permit or the revision of the Class II operating permit ~~[within the period set forth in subsection 8.]~~ *taking into account:*

- (i) Written comments from the public;*
- (ii) Information submitted by proponents of the project; and*
- (iii) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.*

5. ~~[If, after review of an application for a Class II operating permit or for the revision of a Class II operating permit, the Director determines that the change to the stationary source results in a significant change in air quality at any location where the public is present on a regular basis:~~ *Public notice is required for an application for:*

~~(a) The Director's preliminary determination to issue or deny the Class II operating permit or the revision of the Class II operating permit, and the proposed conditions for the Class II operating permit or the proposed conditions for the revision of the Class II operating permit must, within 10 working days after the Director makes that preliminary determination, be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment; and A new Class II operating permit; or~~

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

<i>Pollutant</i>	<i>Threshold in tons per year</i>
<i>Carbon monoxide.....</i>	<i>40</i>
<i>Nitrogen oxides.....</i>	<i>40</i>
<i>Sulfur dioxide.....</i>	<i>40</i>
<i>PM₁₀.....</i>	<i>15</i>
<i>Ozone measured as VOC.....</i>	<i>40</i>
<i>Lead.....</i>	<i>0.6</i>

(c) As used in this subsection a new Class II operating permit means a permit issued to a stationary source which has not previously held a Class I or Class II operating permit.

6. *For a notice required pursuant to subsection 5 and at the time the Director makes a preliminary determination to issue or deny a Class II operating permit or a revision of a Class II operating permit pursuant to subsection 4, [The] the Director shall:*

~~[(1)]~~ *(a) Make the preliminary determination available to the public and maintain it on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, for 30 days to enable public participation and comment.*

~~(b) Cause to be published [a notice in a newspaper of general circulation in the area in which the Class II source is located]~~ *on a state website designed to give general public notice an electronic copy of the Director's notice of proposed action;*

~~[(2)]~~ *(c) Provide written [notice] notification of the Director's proposed action to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;*

~~[(3)]~~ *(d) Provide [notice by other means if necessary] the Director's notice of proposed*

action and a copy of the application at a local library in the area in which the Class II source is located to ensure that adequate notice is given to the public;

(e) Provide the Director's notice of proposed action and a copy of the application to the Administrator and to any local air pollution control agencies having jurisdiction within the area in which the Class II source is located; and

~~[(4)]~~ *(f)* Establish a 30-day period for public participation.

~~[6.]~~ *7.* The notice required pursuant to ~~[paragraph (b) of]~~ subsection 5 must include:

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

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

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

~~— (1) The application;~~

~~— (2) The proposed conditions for the Class II operating permit or the proposed conditions for the revision of the Class II operating permit;~~

~~(3) All relevant supporting materials; and~~

~~— (4) All other materials which are available to the state agency that is processing the Class II operating permit or the revision of the Class II operating permit and which are relevant to the determination of the issuance of the Class II operating permit or the revision of the Class II operating permit;]~~

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

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

(f) (e) A summary of ~~[the impact of]~~ *the agency's analysis of the effect of* the proposed new Class II source or the proposed modification to the existing Class II source on the quality of air;

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

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

~~[7.]~~ *8.* All comments concerning the applications for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. ~~[The Director shall give notice of any public hearing scheduled pursuant to this section at least 30 days before the 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: If an application for a Class II operating permit or for the revision of a Class II operating permit is submitted for a Class II source that is subject to the notice requirements set forth in subsection 5, the Director shall issue or deny the Class II operating permit or the revision of the Class II operating permit within 30 days after the close of the period for public participation or 30 days after the hearing if a hearing is scheduled pursuant to this section, whichever occurs later. The Director shall make the decision by taking into account:~~

~~— (a) Written comments from the public;~~

~~— (b) [The comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;~~

~~—(c)] Information submitted by proponents of the project; and
—(d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.]~~

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

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

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R198-03, 4-26-2004; R151-06, 9-18-2006; R142-07, 4-17-2008; *T011-10, 1-11-2011*)

NAC 445B.346 Required contents of permit. ([NRS 445B.210](#), [445B.300](#)) In addition to the conditions set forth in [NAC 445B.315](#), Class II operating permits must contain, as applicable:

1. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with the conditions of the operating permit.

2. All requirements for monitoring, testing and reporting that apply to the stationary source.

3. A requirement that the owner or operator of the stationary source promptly report any deviations from any requirements of the operating permit.

4. The terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the stationary source in his application and approved by the Director. Such terms and conditions must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.

5. A schedule of compliance for stationary sources that are not in compliance with any applicable requirement or [NAC 445B.001](#) to [445B.3689](#), inclusive, at the time the operating permit is issued, including:

(a) Semiannual progress reports and a schedule of dates for achieving milestones;

(b) Prior notice of and explanations for missed deadlines; and

(c) Any preventive or corrective measures taken.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96)—(Substituted in revision for NAC 445B.317)

NAC 445B.3465 Application for revision. ([NRS 445B.210](#), [445B.300](#))

1. The owner or operator of a stationary source with a Class II operating permit may request, on an application form provided by the Director, a revision of the operating permit to allow for a modification to the stationary source.

2. An application for a revision of a Class II operating permit must include:

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

(b) The location of the stationary source;

(c) A description of:

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

(2) The proposed modification to such emission units;

(d) The emission rates from the existing emission units of each regulated air pollutant to which a standard applies which exist at the time of the application before the modification and which would exist after the modification takes place;

(e) A description of any proposed new emission units and applicable control systems;

(f) The potential to emit of the proposed new emission units for each regulated air pollutant to which a standard applies;

(g) A description of the procedures and methods used to determine the emission rates;

(h) A discussion of all applicable requirements to which the new or modified operations will be subject;

(i) An explanation of any proposed exemption from any applicable requirement;

(j) An environmental evaluation conducted in accordance with [NAC 445B.308](#), [445B.310](#), [445B.311](#) and [445B.3135](#); and

(k) Any other information that the Director determines is necessary to process the application and issue a Class II operating permit pursuant to [NAC 445B.001](#) to [445B.3689](#), inclusive.

(Added to NAC by Environmental Comm'n by R105-97, eff. 3-5-98; A by R103-02, 12-17-2002; R096-05, 10-31-2005)

NAC 445B.3473 Renewal of permit. ([NRS 445B.210](#), [445B.300](#))

1. All Class II operating permits must be renewed 5 years after the date of issuance.

2. A complete application for renewal of a Class II operating permit must be submitted to the Director on the form provided by the Director with the appropriate fee at least 70 days before the expiration date of the current Class II operating permit.

3. An application for the renewal of a Class II operating permit must comply with all requirements for the issuance of an initial Class II operating permit as specified in [NAC 445B.3457](#).

4. If an application for the renewal of a Class II operating permit is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing Class II operating permit until the permit is renewed or the application for renewal is denied. If such an application is not submitted in accordance with subsection 2, the stationary source may be required to cease operation when the Class II operating permit expires and may not recommence the operation until the Class II operating permit is renewed.

5. If an application for the renewal of a Class II operating permit is not submitted in accordance with subsection 2:

(a) The stationary source may be required to cease operation when the Class II operating permit expires; and

(b) The owner or operator of the stationary source:

(1) Must apply for the issuance of a new Class II operating permit pursuant to [NAC 445B.3453](#); and

(2) May not recommence the operation until the new Class II operating permit is issued.

6. The fee for the issuance of a new Class II operating permit or the renewal of a Class II operating permit is specified in [NAC 445B.327](#).

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R198-03, 4-

NAC 445B.3477 Class II general permit. (NRS 445B.210, 445B.300)

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

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

(a) Cause to be published a notice in one or more newspapers of general circulation in the area in which the Class II general operating permit is applicable;

(b) Provide written notice to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

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

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

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

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

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

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

(2) All relevant supporting materials; and

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

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

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

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

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

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

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

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

(a) Written comments from the public;

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

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

(d) The effect of the Class II general permit on the maintenance of the state and national

ambient air quality standards contained in NAC 445B.22097 and the applicable state implementation plan.

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

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

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

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

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

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

12. The authority to operate under a Class II general permit expires after 5 years. An owner or operator of a stationary source operating under the authority of a Class II general permit shall apply to renew his authority to operate under the Class II general permit at least 30 days before his authorization expires.

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

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; R142-07, 4-17-2008)

Class III Operating Permits

NAC 445B.3485 Application: General requirements. ([NRS 445B.210](#), [445B.300](#))

1. If a stationary source operating under a Class II operating permit meets the requirements for a Class III source, the owner or operator of the stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the stationary source.

2. If a new stationary source meets the requirements for a Class III source, the owner or operator of the new stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the new stationary source. An operating permit must be obtained before commencing construction on a new stationary source.

3. An owner or operator of a proposed modification to a stationary source that meets the requirements for a Class III source may submit an application with the appropriate fee and obtain a revised Class III operating permit for the proposed modification to the stationary source. Such an owner or operator shall not commence construction of the proposed modification to the stationary source before filing an application for and obtaining a revised Class III operating permit.

(Added to NAC by Environmental Comm'n by R040-01, eff. 10-25-2001; A by R103-02, 12-

17-2002; R151-06, 9-18-2006)

NAC 445B.3487 Action by Director on application; expiration of permit. ([NRS 445B.210](#), [445B.300](#))

1. Except as otherwise provided in [NAC 445B.319](#) and [445B.342](#), within 10 working days after the date of receipt of an application for a Class III operating permit or for the revision of a Class III operating permit, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. The Director shall issue or deny a Class III operating permit or the revision of a Class III operating permit within 30 days after the official date of submittal of the application.

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in [NAC 445B.001](#) to [445B.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.

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

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

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R151-06, 9-18-2006)

NAC 445B.3489 Required contents of permit. ([NRS 445B.210](#), [445B.300](#)) In addition to the conditions set forth in [NAC 445B.315](#), Class III operating permits must contain, as applicable:

1. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with the conditions of the Class III operating permit.
2. All requirements for monitoring, testing and reporting that apply to the stationary source.
3. A requirement that the owner or operator of the stationary source promptly report any deviations from any requirements of the Class III operating permit.

4. The terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the stationary source in his application and approved by the Director. Such terms and conditions must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.

5. A schedule of compliance for stationary sources that are not in compliance with any applicable requirement or [NAC 445B.001](#) to [445B.3689](#), inclusive, at the time the Class III operating permit is issued, including:

- (a) Semiannual progress reports and a schedule of dates for achieving milestones;
- (b) Prior notice of and explanations for missed deadlines; and
- (c) Any preventive or corrective measures taken.

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R151-06, 9-18-2006)

NAC 445B.3493 Application for revision. ([NRS 445B.210](#), [445B.300](#))

1. The owner or operator of a stationary source with a Class III operating permit may apply, on a form provided by the Director, for a revision of the operating permit.

2. An application for a revision of a Class III operating permit for a stationary source must include:

- (a) The name and address of the owner or operator of the stationary source;
- (b) The location of the stationary source;
- (c) A description of:

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

(2) The proposed modifications to those emission units;

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

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

(f) Any other information that the Director determines is necessary to process the application and issue a revised Class III operating permit in accordance with [NAC 445B.001](#) to [445B.3689](#), inclusive.

(Added to NAC by Environmental Comm'n by R040-01, eff. 10-25-2001)—(Substituted in revision for NAC 445B.348)

NAC 445B.3497 Renewal of permit. ([NRS 445B.210](#), [445B.300](#))

1. All Class III operating permits must be renewed 5 years after the date of issuance.

2. A complete application for renewal of a Class III operating permit must be submitted to the Director on the form provided by the Director with the appropriate fee at least 40 days before the expiration date of the current permit for the Class III source.

3. An application for the renewal of a Class III operating permit must comply with all requirements for the issuance of an initial Class III operating permit as specified in [NAC 445B.3487](#).

4. If an application for the renewal of a Class III operating permit is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing Class III operating permit until the permit is renewed or the application for the renewal of the Class III operating permit is denied. If an application is not submitted in accordance with subsection 2, the stationary source may be required to cease operation when the Class III

operating permit expires and may not recommence the operation until the Class III operating permit is renewed.

5. If an application for the renewal of a Class III operating permit is not submitted in accordance with subsection 2:

(a) The stationary source may be required to cease operation when the Class III operating permit expires; and

(b) The owner or operator of the stationary source:

(1) Must apply for the issuance of a new Class III operating permit pursuant to NAC 445B.3485; and

(2) May not recommence the operation until the new Class III operating permit is issued.

6. The fee for the issuance of a new Class III operating permit or the renewal of a Class III operating permit is specified in [NAC 445B.327](#).

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R198-03, 4-26-2004; R191-08, 12-17-2008)