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**The Nevada Division of Environmental
Protection Portion of the Nevada Plan
to Meet the Infrastructure SIP Requirements
of the Clean Air Act
for the 2008 Lead NAAQS**

October 15, 2011

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Acronyms and Abbreviations

ASIP	Applicable State Implementation Plan
CAA	Clean Air Act
CFR	Code of Federal Regulations
FR	Federal Register
NAAQS	National Ambient Air Quality Standard
NDEP	Nevada Division of Environmental Protection
NRS	Nevada Revised Statute
NSR	New Source Review
Pb	Lead
PM _{2.5}	Particulate Matter less than or equal to a nominal 2.5 microns in aerodynamic diameter
PM ₁₀	Particulate Matter less than or equal to a nominal 10 microns in aerodynamic diameter
PSD	Prevention of Significant Deterioration
SIP	State Implementation Plan
US EPA	U.S. Environmental Protection Agency

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Introduction and Background

Sections 110(a)(1) and 110(a)(2), which are generally called the “infrastructure” state implementation plan (SIP) requirements, of the Clean Air Act (CAA) require states to submit a plan to the U.S. Environmental Protection Agency (US EPA) demonstrating their ability and authority to implement, maintain, and enforce each newly promulgated or revised National Ambient Air Quality Standard (NAAQS). Section 110(a)(1) addresses the timing requirement for the submission of infrastructure SIPs. States are required to submit a statewide infrastructure SIP to the US EPA not later than 3 years after promulgation of a new or revised NAAQS.

Section 110(a)(2) lists the elements, (A) through (M), that must be addressed in an infrastructure SIP. Many of the section 110(a)(2) elements relate to the general information and authorities that constitute the infrastructure of a state’s air quality management program. The required elements include: enforceable emission limitations, an ambient air monitoring program, an enforcement program, air quality modeling capabilities, and confirmation of adequate personnel, resources and legal authority.

The federally enforceable applicable SIP for Nevada is compiled in 40 CFR Part 52 Subpart DD. This submittal addresses the Nevada Division of Environmental Protection’s (NDEP) authority to implement, maintain and enforce the 2008 lead (Pb) NAAQS for the NDEP’s jurisdiction. Many of the requirements of CAA section 110(a)(2) relevant to the 2008 Pb NAAQS are addressed by provisions already in the existing applicable SIP; other authorities cited in this submittal, which are not in the applicable SIP, are provided in Appendix F. The following table summarizes where in the existing applicable SIP the required elements are addressed. Per US EPA Region IX direction, Nevada has developed the following table in accordance with US EPA’s June 17, 2011 draft guidance (US EPA, Memorandum to Regional Air Division Directors, Draft as of 6/17/11. *Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)*. S. Mathias). The description of each required element is taken from the draft guidance. The statutory and regulatory provisions of the applicable SIP referenced in the table may be viewed in Appendices A and B, respectively.

The following support documents are appended:

APPENDIX A:	State of Nevada Applicable SIP: Statutory Elements
APPENDIX B:	State of Nevada Applicable SIP: Regulatory Elements
APPENDIX C:	Ambient Air Monitoring Network Plan 2011
APPENDIX D:	May 30, 2007 letter to the US EPA Region 9 Administrator
APPENDIX E:	Nevada ASIP Update: Permitting Provisions, January 24, 2011 Submittal
APPENDIX F:	Non-SIP provisions cited in Elements J and M
APPENDIX G:	Evidence of Public Participation

Nevada Applicable State Implementation Plan¹ Provisions Meeting the CAA 110(a)(2)(A)-(M) Requirements for the 2008 Lead NAAQS: Nevada Division of Environmental Protection Jurisdiction

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA ASIP
(A)	<p><u>Emission limits and other control measures:</u> Each such plan shall [. . .] include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter.</p> <p><i>As noted in US EPA's June 17, 2011 draft guidance (US EPA, Memorandum to Regional Air Division Directors, Draft as of 6/17/11. Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS), page 15. S. Mathias), Pb comprises a small fraction of coarse and fine particles. Hence, the Nevada Division of Environmental Protection (NDEP) has included provisions regulating particulate matter including those related to opacity in this submittal. The Nevada applicable SIP includes enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters in Nevada Administrative Code (NAC):</i></p> <ul style="list-style-type: none"> • <i>445B.22017 Visible Emissions: Maximum opacity; determination and monitoring of opacity.</i> • <i>445B.2202 Visible Emissions: Exceptions for stationary sources.</i> • <i>445B.22027 Emissions of particulate matter: Maximum allowable throughput for calculating emission rates.</i> • <i>445B.2203 Emissions of particulate matter: Fuel-burning equipment.</i> • <i>445B.22033 Emissions of particulate matter: Sources not otherwise limited.</i> • <i>445B.22037 Emissions of particulate matter: Fugitive dust.</i> • <i>445B.22067 Open burning.</i>

¹ The Nevada Division of Environmental Protection (NDEP) recognizes that many of the current regulatory provisions in Nevada's applicable SIP are seriously outdated and do not correspond to current state regulations. In February 2005, NDEP submitted a major SIP update with a revision in January 2006 and several supplemental submissions thereafter in response to US EPA comments. The US EPA disapproved the bulk of Nevada's permitting program regulations update (73 FR 20536, April 17, 2007), and the NDEP filed a petition for judicial review. Court directed mediation ensued. On January 24, 2011, the NDEP resubmitted a package of its permitting regulations revised according to the mediation agreement. US EPA committed to act on the resubmittal in the coming months after receiving it. The NDEP contends that although the current Nevada applicable SIP satisfies all of the basic/infrastructure requirements of CAA 110(a)(2), Nevada's Pb infrastructure SIP would better address the CAA requirements if NDEP's permitting program update were approved. The NDEP requests that as provisions in Nevada's current applicable SIP are replaced or removed through subsequent approvals by US EPA of updated provisions submitted by the NDEP, US EPA also replace or remove those provisions in this Pb infrastructure SIP.

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA ASIP
	<ul style="list-style-type: none"> • 445B.2207 Incinerator burning. • 445.808 Particulate matter from barite operations. • 445.816 Particulate matter from precious metals operations. • 445B.22097 Standards of quality for ambient air. <p>Article 13 of the applicable SIP, General Provisions for the Review of New Sources, also supports this element. The following NAC provisions have been submitted to US EPA as a SIP revision², but are pending action by US EPA (see Appendix E). If approved, they would replace Article 13:</p> <ul style="list-style-type: none"> • 445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan. • 445B.310 Environmental evaluation: Applicable sources and other subjects; exemption. • 445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height.
(B)	<p><u>Ambient air quality monitoring/data system:</u> Each such plan shall [. . .] provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.</p>
	<p><i>The NDEP operates an air quality monitoring network that collects ambient air quality data that are compiled, analyzed, and reported to US EPA in accordance with 40 CFR 58. The network is comprised of federally-approved monitors that measure ozone, carbon monoxide, PM₁₀, and PM_{2.5}. US EPA has indicated (in an undated letter received by the NDEP on November 4, 2010) that the details of NDEP's monitoring network as presented in "Ambient Air Monitoring Network Plan 2010" meet the requirements set forth under 40 CFR Part 58.10. The NDEP submitted the 2011 Annual Monitoring Network Plan (Appendix C) to US EPA July 1, 2011. US EPA's new monitoring requirements for Pb (75 FR 81126, December 27, 2010) under 40 CFR 58 do not require monitoring for Pb within the NDEP's jurisdiction as no sources emit more than 0.5 tons of Pb per year.</i></p>
(C)	<p><u>Programs for enforcement, PSD, and NSR:</u> Each such plan shall [. . .] include a program to provide for the enforcement of the measures described in subparagraph [element] (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as</p>

² See footnote 1.

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	required in parts C and D of this subchapter.
	<p><i>The Nevada applicable SIP contains compliance and enforcement measures in NAC:</i></p> <ul style="list-style-type: none"> • <i>445B.225 Prohibited conduct: Concealment of emissions.</i> • <i>445B.227 Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of required procedure.</i> • <i>445B.229 Hazardous emissions: Order for reduction of emissions.</i> • <i>445B.667 Excess emissions: Scheduled maintenance; testing; malfunctions.</i> • <i>Article 2.5.4 Breakdown or upset.</i> • <i>445B.250 Notification of planned construction or reconstruction.</i> • <i>445B.252 Testing and sampling.</i> • <i>445.694 Emission discharge information.</i> • <i>445B.275 Violations: Acts constituting; notice.</i> • <i>445B.277 Stop orders.</i> <p><i>Additionally, the NDEP has requested full delegation of the federal Prevention of Significant Deterioration (PSD) program at 40 CFR 52.21 from the US EPA (August 25, 2011), including the provisions effective August 2, 2010 that increase the PSD permitting threshold for greenhouse gases. 40 CFR 52.1485(b) incorporates the provisions of § 52.21 into the Nevada applicable SIP.</i></p> <p><i>New Source Review (NSR) provisions are found in Article 13, General Provisions for the Review of New Sources, of the applicable SIP. The following NAC provisions have been submitted to US EPA as a SIP revision³, but are pending action by US EPA (see Appendix E). If approved, they would replace Article 13:</i></p> <ul style="list-style-type: none"> • <i>445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.</i> • <i>445B.310 Environmental evaluation: Applicable sources and other subjects; exemption.</i> • <i>445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height.</i>
(D)(i)	<p><u>Interstate transport provisions:</u> Each such plan shall [...] contain adequate provisions: (i) prohibiting, consistent with the provisions of this subchapter,</p>

³ See footnote 1.

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	<p>any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will, (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other state under part C of this subchapter to prevent significant deterioration of air quality to protect visibility.</p>
	<p><i>The NDEP has evaluated all sources of Pb emissions within its jurisdiction and has concluded that no Pb sources that emit greater than 0.5 tons per year are located within 2 miles of Nevada's border. This satisfies the requirements of subsection (2)(D)(i)(I). New major sources and major modifications in Nevada are subject to PSD, meeting the requirements of 110(a)(2)(D)(i)(II). The NDEP has requested full delegation of the federal PSD program (August 25, 2011), including NSR reform provisions. 40 CFR 52.1485(b) incorporates the federal PSD provisions (§ 52.21) into Nevada's applicable SIP. The NDEP does not address the visibility requirements of subsection (2)(D)(i)(II) in this SIP, since Nevada is subject to the federal regional haze program which addresses visibility-impairing pollutants. US EPA proposed full approval of the "Nevada Regional Haze State Implementation Plan" on June 22, 2011 (76 FR 36450).</i></p>
(D)(ii)	<p><u>Interstate and international transport provisions:</u> Each such plan shall [. . .] contain adequate provisions insuring compliance with the applicable requirements of sections 115 or 126 that involve Pb emissions (relating to interstate and international pollution abatement). ➤ EPA notes it has no reason to approve or disapprove any existing state rules with regard to these provisions.</p>
	<p><i>The NDEP has requested full delegation of the federal PSD program (August 25, 2011), including NSR reforms through August 2, 2010. The federal PSD program is incorporated into Nevada's applicable SIP at 40 CFR 52.1485. In addition, Article 13 of the Nevada applicable SIP, General Provisions for the Review of New Sources, requires an environmental evaluation before a registration certificate may be issued. The following NAC provisions have been submitted to US EPA as a SIP revision⁴, but are pending action by US EPA (see Appendix E). If approved, they would replace Article 13:</i></p> <ul style="list-style-type: none"> • <i>445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.</i> • <i>445B.310 Environmental evaluation: Applicable sources and other subjects; exemption.</i> • <i>445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height.</i>

⁴ See footnote 1.

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	<p><i>The following NAC provisions have been submitted to US EPA as a SIP revision⁵, but are pending action by US EPA (see Appendix E). These provisions address the CAA §126 requirement to notify neighboring states of impacts from a source [see also elements (J) and (M)]:</i></p> <ul style="list-style-type: none"> • <i>445B.325 Operating permits: Termination, reopening and revision, revision, or revocation and reissuance.</i> • <i>445B.3364 Operating permit to construct: Action by Director on application; notice; public comment and hearing.</i> • <i>445B.3395 Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit.</i> • <i>445B.3425 Minor revision of permit.</i> • <i>445B.344 Significant revision of permit.</i> • <i>445B.3441 Administrative revision of permit to incorporate conditions of certain permits to construct.</i> • <i>445B.3457 Action by Director on application; notice; public comment and hearing; expiration of permit.</i> • <i>445B.3477 Class II general permit.</i>
(E)	<p><u>Adequate personnel, funding and authority:</u> Each such plan shall [. . .] provide:</p> <p>(i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof),</p> <p>(ii) requirements that the state comply with the requirements respecting state boards under section 128, (See section 40 CFR 52.1182, http://edocket.access.gpo.gov/cfr_2004/julqtr/pdf/40cfr52.1180.pdf)</p> <p>(iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.</p>
	<p><i>Nevada Revised Statutes (NRS) 445B.205, Department designated as State Air Pollution Control Agency, designates the Department of Conservation and Natural Resources as the air pollution control agency for the State of Nevada for the purposes of</i></p>

⁵ See footnote 1.

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	<p><i>the CAA insofar as it pertains to state programs. Within the Department, pursuant to NAC 445B.053 (“Director” defined), the Director has assigned the NDEP responsibility to manage air quality planning and air pollution control programs for the State and to act on his behalf for the purposes of adoption, revision and submittal of state plans (see Appendix D).</i></p> <p><i>The specific statutes in the Nevada applicable SIP that deal with personnel, funding, authority to support SIP requirements and CAA section 128 requirements include NRS:</i></p> <ul style="list-style-type: none"> • <i>445B.200 Creation and composition; Chairman; quorum; compensation of members and employees; disqualification; technical support.</i> • <i>445B.210 Powers of Commission.</i> • <i>445B.220 Additional powers of Commission.</i> • <i>445B.230 Powers and duties of Department.</i> • <i>445B.235 Additional powers of Department.</i> • <i>445B.300 Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act.</i> • <i>445B.500 Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.</i> • <i>445B.510 Commission may require program for designated area.</i> • <i>445B.520 Commission may establish or supersede county program.</i> • <i>445B.530 Commission may assume jurisdiction over specific classes of air contaminants.</i> • <i>445B.540 Restoration of superseded local program; continuation of existing local program.</i> <p><i>The Nevada Legislature approves the NDEP air programs’ funding and personnel resources requests every two years. The air programs receive funding from fees paid by regulated businesses, motor vehicle registration fees, and federal grants. The NDEP’s State Fiscal Year 2011 budget is in excess of \$6 million with 54 approved full-time equivalent staff positions in the air programs.</i></p>
(F)	<p><u>Stationary source monitoring and reporting:</u> Each such plan shall [. . .] require, as may be prescribed by the Administrator: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by</p>

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	owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection.
	<p><i>Nevada's applicable SIP provides a system for monitoring emissions from stationary sources and the submittal of periodic emission reports in NAC:</i></p> <ul style="list-style-type: none"> • <i>445B.256 Monitoring systems: Calibration, operation, and maintenance of equipment.</i> • <i>445B.257 Monitoring systems: Location.</i> • <i>445B.258 Monitoring systems: Verification of operational status.</i> • <i>445B.259 Monitoring systems: Performance evaluations.</i> • <i>445B.260 Monitoring systems: Components contracted for before September 11, 1974.</i> • <i>445B.261 Monitoring systems: Adjustments.</i> • <i>445B.262 Monitoring systems: Measurement of opacity.</i> • <i>445B.263 Monitoring systems: Frequency of operation.</i> • <i>445B.264 Monitoring systems: Recordation of data.</i> • <i>445B.265 Monitoring systems: Records; reports.</i> • <i>445B.267 Alternative monitoring procedures or requirements.</i> • <i>445B.275 Violations: Acts constituting; notice.</i> • <i>Article 13.1.4 of the General Provisions for the Review of New Sources.</i> <p><i>Ambient air quality monitoring data and trends are reported annually in the Nevada Air Quality Trend Report. This report indirectly correlates stationary source emissions with the NAAQS. It is available for public inspection on the NDEP's web site at http://ndep.nv.gov/baqp/monitoring/docs/trend.pdf. Additionally, the state submits stationary source emissions data to US EPA for publication in the annual National Emission Inventory, which is also available for public inspection.</i></p>

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	<p><i>NAC445B.308, Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan, has been submitted to US EPA as a SIP revision⁶, but is pending action by US EPA (see Appendix E). If approved, NAC 445B.308(7)(a) would replace Article 13.1.4.</i></p>
(G)	<p><u>Emergency episodes:</u> Each such plan shall provide for authority comparable to that in section 303 of this title and adequate contingency plans to implement such authority.</p>
	<p><i>Emergency powers are provided in Nevada’s current SIP in:</i></p> <ul style="list-style-type: none"> • <i>NRS 445B.560 Plan or procedure for emergency.</i> • <i>NAC 445B.230 Plan for reduction of emissions.</i> <p><i>While there are currently no significant sources of Pb in the NDEP’s jurisdiction, the provisions cited above are adequate to constrain any sources of Pb emissions, as necessary, in an emergency situation</i></p>
(H)	<p><u>Future SIP revisions:</u> Each such plan shall [. . .] provide for revision of such plan—</p> <p>(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and</p> <p>(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter (CAA).</p>
	<p><i>NRS 445B.205, Department designated as State Air Pollution Control Agency, designates the Department of Conservation and Natural Resources as the air pollution control agency for the State of Nevada for the purposes of the CAA insofar as it pertains to state programs. Within the Department, pursuant to NAC 445B.053 (“Director” defined), the Director has assigned the NDEP responsibility to manage air quality planning and air pollution control programs for the State and to act on his behalf for the purposes of adoption, revision and submittal of state plan (see Appendix D). The NDEP commits to submit appropriate SIP revisions in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to a US EPA finding that the SIP is substantially inadequate.</i></p>
(I)	<p><u>Nonattainment area plan or plan revision under Part D:</u> Each such plan shall [. . .] in the case of a plan or plan revision for an area designated as a nonattainment area, meet the</p>

⁶ See footnote 1.

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	applicable requirements of part D of this subchapter (relating to nonattainment areas).
	<i>US EPA does not expect infrastructure SIP submissions to address this element (US EPA, Memorandum to Regional Air Division Directors, Draft as of 6/17/11. Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS). S. Mathias).</i>
(J)	<p><u>Consultation with government officials, public notification, PSD and visibility protection:</u> Each such plan shall [. . .] meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection).</p>
	<p><u>Section 121</u> <i>The following SIP provisions provide a process of consultation with general purpose local governments, designated organizations of elected officials of local governments, and any federal land manager having authority over federal land to which the plan applies. NRS Chapter 445B, Air Pollution:</i></p> <ul style="list-style-type: none"> • <i>445B.220 Additional powers of Commission.</i> • <i>445B.235 Additional powers of Department.</i> • <i>445B.500 Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and small counties; regulation of certain electric plants provided.</i> • <i>445B.510 Commission may require program for designated areas.</i> <p><i>Additionally, NAC 445.707(Registration certificates: Prerequisite; application; fee; issuance, denial; expiration.) requires public participation in the state program before a registration certificate may be issued.</i></p> <p><i>The following NAC provisions have been submitted to US EPA as a SIP revision⁷, but are pending action by US EPA (see Appendix E). These provisions further support this element requirement:</i></p> <ul style="list-style-type: none"> • <i>445B.325 Operating permits: Termination, reopening and revision, revision, or revocation and reissuance.</i> • <i>445B.3364 Operating permit to construct: Action by Director on application; notice; public comment and hearing.</i> • <i>445B.3395 Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration</i>

⁷ See footnote 1.

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of permit.

- *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.3457 Action by Director on application; notice; public comment and hearing; expiration of permit.*
- *445B.3447 Class I general permit.*

The following provisions have not been submitted as part of Nevada's SIP, but are in state law or regulation and further support this element requirement (see Appendix F).

NRS Chapter 445B, Air Pollution:

- *445B.100 Declaration of public policy.*
- *445B.503 Local air pollution control board in county whose population is 400,000 or more: Cooperation with regional planning coalition and regional transportation commission; prerequisites to adoption or amendment of plan, policy or program.*

NRS Chapter 233B, Nevada Administrative Procedure Act, requires notification and provision of comment opportunities to all parties affected by proposed regulations:

- *233B.060 Notice of adoption, amendment or repeal of permanent or temporary regulation; adoption of permanent regulation after adoption of temporary regulation.*
- *233B.0603 Contents and form of notice of intent to adopt, amend or repeal permanent or temporary regulation; solicitation of comments from public or affected businesses.*
- *233B.061 Proposed permanent or temporary regulation: Public comment; workshop; public hearing; applicability of Open Meeting Law.*

Additionally, NAC 445B.221, Adoption by reference and applicability of certain provisions of federal law and regulations, adopts the federal PSD requirements by reference and thereby includes requirements to consult with affected land managers on PSD-related actions.

The NDEP commits to maintaining a process of consultation with parties designated under CAA section 121.

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	<p><i>The only nonattainment areas in the state lie within Washoe and Clark Counties; the rest of the state (NDEP's jurisdiction) is attainment or unclassifiable for the NAAQS. The NDEP maintains a web site, http://ndep.nv.gov/, which describes the state's air quality planning and air pollution control programs and includes public information pages with public notices and news releases. Air quality monitoring data and trends are reported on the web site, including real-time monitoring for particulate matter (PM₁₀) in Pahrump, Nevada. The Nevada Air Quality Trend Report (http://ndep.nv.gov/baqp/monitoring/docs/trend.pdf) is published annually and includes a discussion of air quality trends with respect to the NAAQS.</i></p> <p><u>Part C</u></p> <p><i>The NDEP has requested full delegation of the federal PSD program from US EPA (August 25, 2011), including the provisions effective August 2, 2010 that increase the PSD permitting threshold for greenhouse gases. 40 CFR 52.1485(b) incorporates the federal PSD provisions (§ 52.21) into Nevada's applicable SIP. With respect to visibility protection, US EPA does not expect to treat this provision as applicable for purposes of the infrastructure SIP approval process (US EPA Memorandum 6/17/11, Draft Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS). S. Mathias). For informational purposes, the NDEP submitted a regional haze SIP to US EPA on November 18, 2009. US EPA proposed full approval of the Nevada regional haze SIP on June 22, 2011 (76 FR 36450).</i></p>
(K)	<p><u>Air quality modeling/data:</u> Each such plan shall [. . .] provide for—</p> <p>(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and</p> <p>(ii) the submission, upon request, of data related to such air quality modeling to the Administrator.</p>
	<p><i>This requirement is addressed by the environmental evaluation provisions in Article 13, General Provisions for the Review of New Sources, of the applicable SIP. The following NAC provisions have been submitted to US EPA as a SIP revision⁸, but are pending action by US EPA (see Appendix E). If approved, they would replace Article 13:</i></p> <ul style="list-style-type: none"> • <i>445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.</i> • <i>445B.310 Environmental evaluation: Applicable sources and other subjects; exemption.</i> • <i>445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height.</i>

⁸ See footnote 1.

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA ASIP
(L)	<p><u>Permitting fees:</u> Each such plan shall require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover—</p> <p>(i) the reasonable costs of reviewing and acting upon any application for such a permit, and</p> <p>(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator’s approval of a fee program under subchapter (title) V of this chapter.</p>
	<p><i>The provisions of the Nevada applicable SIP that apply to funding to support SIP requirements include the following NRS:</i></p> <ul style="list-style-type: none"> • 445B.230 Powers and duties of Department. • 445B.235 Additional powers of Department. • 445B.300 Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act. <p><i>The provisions of the Nevada applicable SIP that apply to permitting fees include the following NAC:</i></p> <ul style="list-style-type: none"> • 445.704 Registration certificates and operating permits required. • 445.706 Application data; payment of fees. • 445.707 Registration certificates: Prerequisite; application; fee; issuance, denial; expiration. • 445.712 Operating permits: Prerequisite; application; fee; issuance, denial; posting. • 445.716 Operating permits: Change of location. <p><i>The following NAC provisions have been submitted to US EPA as a SIP revision⁹, but are pending action by US EPA (see Appendix E). They further support this element requirement:</i></p> <ul style="list-style-type: none"> • 445B.319 Operating permits: Administrative amendment. • 445B.331 Request for change of location of emission unit. • 445B.344 Significant revision of permit. • 445B.3441 Administrative revision of permit to incorporate conditions of certain permits to construct.

⁹ See footnote 1.

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA ASIP
	<ul style="list-style-type: none"> • 445B.3443 <i>Renewal of permit.</i> • 445B.3457 <i>Action by Director on application; notice; public comment and hearing; expiration of permit.</i> • 445B.3473 <i>Renewal of permit.</i> • 445B.3485 <i>Application: General requirements.</i> • 445B.3497 <i>Renewal of permit.</i>
(M)	<p><u>Consultation/participation by affected local entities:</u> Each such plan shall [. . .] provide for consultation and participation by local political subdivisions affected by the plan.</p>
	<p><i>There are no organizations beyond the NDEP that will participate in developing, implementing, and enforcing the NDEP portion of this infrastructure SIP. As provided for in NRS 445B.500 (below), the Clark County Department of Air Quality and Environmental Management is responsible for developing, implementing, and enforcing air pollution control programs in Clark County, and the Washoe County Division of Air Quality Management is responsible in Washoe County. The NDEP will coordinate SIP submittals from these counties on behalf of the Governor. Provisions to supersede a county program, if such program is found inadequate by the State Environmental Commission, are provided in NRS 445B.520 (Commission may establish or supersede county program).</i></p> <p><i>The following applicable SIP provisions provide a process for public participation in the development of SIPs or SIP revisions.</i></p> <p><i>NRS Chapter 445B, Air Pollution:</i></p> <ul style="list-style-type: none"> • 445B.220 <i>Additional powers of Commission.</i> • 445B.235 <i>Additional powers of Department; deposit of money collected from sale of emission credits or allocations; Department to develop regulations concerning public participation in determination of amount of emission credits or allocations available for sale.</i> • 445B.320 <i>Approval of plans and specifications required before construction or alteration of structure.</i> • 445B.500 <i>Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.</i> • 445B.510 <i>Commission may require program for designated area.</i> <p><i>Additionally, NAC 445.707(Registration certificates: Prerequisite; application; fee; issuance, denial; expiration.) requires public participation in the state program before a registration certificate may be issued.</i></p>

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The following NAC provisions have been submitted to US EPA as a SIP revision¹⁰, but are pending action by US EPA (see Appendix E). These provisions further support this element requirement, including the requirement to notify:

- *445B.325 Operating permits: Termination, reopening and revision, revision, or revocation and reissuance.*
- *445B.3364 Operating permit to construct: Action by Director on application; notice; public comment and hearing.*
- *445B.3395 Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit.*
- *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.3457 Action by Director on application; notice; public comment and hearing; expiration of permit.*
- *445B.3447 Class I general permit.*

The following provisions have not been submitted as part of Nevada's SIP, but are in state law or regulation and further support this element requirement (see Appendix F):

NRS Chapter 445B, Air Pollution,

- *445B.100 Declaration of public policy.*
- *445B.503 Local air pollution control board in county whose population is 400,000 or more: Cooperation with regional planning coalition and regional transportation commission; prerequisites to adoption or amendment of plan, policy or program.*

NRS Chapter 233B, Nevada Administrative Procedure Act, requires notification and provision of comment opportunities to all parties affected by proposed regulations,

- *233B.060 Notice of adoption, amendment or repeal of permanent or temporary regulation; adoption of permanent regulation after adoption of temporary regulation.*
- *233B.0603 Contents and form of notice of intent to adopt, amend or repeal permanent or temporary regulation; solicitation of comments from public or affected businesses.*
- *233B.061 Proposed permanent or temporary regulation: Public comment; workshop; public hearing; applicability of Open Meeting Law.*

¹⁰ See footnote 1.

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Additionally, NAC 445B.221 (Adoption by reference and applicability of certain provisions of federal law and regulations) adopts the federal PSD requirements by reference and thereby includes requirements to consult with affected land managers.

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