

# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

February 1, 2008

Wayne Nastri  
Regional Administrator  
ORA-1, USEPA Region 9  
75 Hawthorne Street  
San Francisco CA 94105

Dear Mr. Nastri:

On behalf of Governor Gibbons, as his appointed designee, I am submitting five copies of the Nevada Division of Environmental Protection's (NDEP) 8-hour ozone infrastructure State implementation plan (SIP): *CAA 110(a)(2)(A)-(M) Requirements in the Current Nevada State Implementation Plan for 8-Hour Ozone* (Enclosure 1). This SIP is submitted pursuant to the U.S. Environmental Protection Agency's (EPA) October 2, 2007 "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards" (NAAQS). Enclosure 1 addresses the infrastructure elements in the Nevada SIP for the 1997 8-hour ozone NAAQS for all areas within NDEP's jurisdiction.

Attachment A to EPA's October 2, 2007 guidance lists the "Required Section 110 SIP Elements." NDEP has followed EPA's list in its compilation of the State's 8-hour ozone infrastructure SIP, reproducing EPA's description of the required element in Enclosure 1 accompanied by a description of where in the SIP or other State authority the element is addressed. Copies of the regulatory and statutory elements of the current applicable Nevada SIP are enclosed for easy reference (Enclosures 2 and 3).

NDEP notes that many of Nevada's current SIP regulatory provisions are seriously outdated and do not correspond to current State regulations, creating what EPA has referred to as the "SIP gap" (72 FR 71097). In February 2005, NDEP submitted a major SIP update with a revision in January 2006 and several supplemental submissions thereafter. EPA has acted on a portion of these submittals, but has proposed to disapprove the majority of Nevada's permitting program regulations update (72 FR 19144, April 17, 2007). In the Technical Support Document (March 21, 2007) for the proposed disapproval, EPA notes that most of Nevada's updated regulations are approvable. However, based on their determination that the majority of the regulations comprising Nevada's permitting program are not separable, EPA concludes that the bulk of the permitting program update must be disapproved. Of 94 permitting regulations submitted, EPA found 87 to be nonseparable. Of these 87, EPA found that 71 were actually approvable as submitted (although EPA did make minor comments on 10 of these). For the remaining 16 regulations, Nevada submitted evidence (August 17, 2007) showing that EPA's issues had been or were being addressed for 9 of them. NDEP further argued that the last 7 provisions were approvable as submitted. As of this date, EPA has not made a final determination regarding the update of Nevada's SIP permitting provisions.



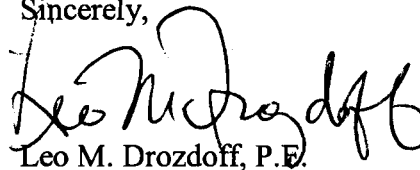
Guidance from EPA Headquarters, "Form 1 Confirmation letter template," suggests that States include pending SIP revision submittals in their 110(a)(2) infrastructure SIPs. However, since EPA has proposed to disapprove NDEP's permitting program update, we thought it was not appropriate to include the pending permitting provisions in today's submittal. Many of the existing SIP provisions that the enclosed SIP relies on are 20 to 30 years old; if these outdated provisions were replaced with current regulations, Nevada's ozone SIP would better address the 110(a)(2) required elements. To make this infrastructure SIP more approvable, NDEP once again requests that EPA act to approve Nevada's permitting provisions update.

Finally, 40 CFR § 52.1479 states that the source surveillance requirements in § 51.211 (emission reports and recordkeeping) and § 51.214 (continuous emission monitoring) are not met. NDEP holds that these requirements are currently met by SIP provisions NAC 445B.256 to 445B.267, inclusive (approved at 71 FR 71486; see Enclosure 2). NDEP, therefore, requests that EPA revise 52.1479 to reflect that the source surveillance requirements are met by the State.

In summary, NDEP certifies that the current Nevada applicable SIP satisfies all of the basic SIP requirements contained in section 110(a)(2)(A)–(M) of the Clean Air Act for the 1997 8-hour ozone NAAQS. Nevertheless, approval of Nevada's permitting program update to eliminate the "SIP gap" would strengthen Nevada's basic section 110(a) SIP. Therefore, we also request that EPA approve Nevada's permitting program update.

If you should have any questions about this submittal or require additional clarification, you may contact Michael Elges, Chief, Bureau of Air Quality Planning at (775) 687-9329.

Sincerely,



Leo M. Drozdoff, P.E.  
Administrator

Enclosures

cc: Michael Dayton, Chief of Staff, Office of the Governor  
Jodi Stephens, Legislative Assistant, Office of the Governor  
Allen Biaggi, Director, DCNR  
Colleen Cripps, Deputy Administrator, NDEP  
Dennis Ransel, Planning Manager, Clark County DAQEM  
Andrew Goodrich, Director, Air Quality Management Division, Washoe County DHD  
David Jesson, Air Division, EPA Region IX (AIR-2)

## ENCLOSURE 1

### CAA 110(a)(2)(A)-(M) Requirements in the Current Nevada State Implementation Plan (SIP) for 8-Hour Ozone

The federally enforceable applicable state implementation plan (SIP) for Nevada is compiled in 40 CFR Part 52 Subpart DD. Many of the miscellaneous requirements of Section 110(a)(2)(A)-(M) of the Clean Air Act (CAA) relevant to the eight-hour ozone National Ambient Air Quality Standards (NAAQS) are already contained in the current SIP<sup>1</sup>. The following table summarizes where these requirements of Section 110(a)(2)(A)-(M) are addressed. Provisions of the current SIP referenced below, and where they are codified, may be viewed in the attached copies of the regulatory and statutory elements of Nevada’s SIP (Enclosures 2 and 3).

Section 110(a) element	Summary of element from EPA’s October 2, 2007 guidance	Provisions in the current SIP
<b>§110(a)(2)(A)</b>	<i>Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters. EPA notes that the specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirement of section 172, not the timing requirement of section 110(a)(1), and also that SIPs to meet this section are not covered by the Consent Decree.</i>	The SIP includes enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters in NAC 445B.22017, 445B.2202, 445B.22027, 445.729, 445.730, 445B.2203, 445B.22033, 445B.22037, Article 7.2.5.1, 445B.22043, 445B.22047, 445B.22043, 445B.22047, 445B.2205, 445B.22067, 445B. 2207, Article 16.3.3.2, Article 16.3.3.3, 445B.808, 445B.816 445B.22097, 445B.2209, 445B.22093 and the Article 13 “General Provisions for the Review of New Sources.”
<b>§110(a)(2)(B)</b>	<i>Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and</i>	NDEP operates an air quality monitoring network that collects ambient air quality data that are compiled, analyzed and reported to EPA. The network comprises federally-approved

<sup>1</sup> NDEP notes that many of the current SIP regulatory provisions 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 EPA comments. EPA has acted on a portion of these submittals, but has proposed to disapprove the majority of Nevada’s permitting program regulations update (72 FR 19144, April 17, 2007). In the Technical Support Document for their proposed disapproval, EPA notes that most of Nevada’s updated regulations are approvable, but based on their decision that the majority of the regulations comprising Nevada’s permitting program are not separable, EPA is proposing to disapprove almost the entire permitting program update. Of 94 permitting regulations submitted, EPA found 87 to be nonseparable. Of these 87, EPA found that 71 were actually approvable as submitted (although EPA did make minor comments on 10 of these). For the remaining 16 regulations, Nevada submitted evidence (August 17, 2007) showing that EPA’s issues had been or were being addressed for 9 of them. NDEP further argued that the last 7 provisions were approvable as submitted. As of the date of this ozone infrastructure SIP submittal, EPA has not made a final determination regarding the update of Nevada’s SIP permitting provisions. NDEP contends that Nevada’s 8-hour ozone SIP would better address the required section 110(a)(2) elements if NDEP’s permitting program update was approved, and once again requests that EPA act to approve Nevada’s permitting provisions update.

<b>Section 110(a) element</b>	<b>Summary of element from EPA's October 2, 2007 guidance</b>	<b>Provisions in the current SIP</b>
	<i>operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request.</i>	monitors that measure ozone, carbon monoxide and PM <sub>10</sub> . NDEP commits to an ambient air quality monitoring program in its CAA section 105 grant work plan.
<b>§110(a)(2)(C)</b>	<i>Section 110(a)(2)(C) requires States to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet prevention of significant deterioration (PSD) and nonattainment new source review (NSR) requirements.</i>	Compliance and enforcement measures are contained in NAC 445.663, 445.664, 445.665, 445.667, 445.682, 445.694, 445.696, 445.697, Article 2.5.4, Article 2.16.1, Article 2.16.1-4 and Article 2.16.2.5. NDEP was given full delegation of the federal PSD program at 40 CFR 52.21 on October 19, 2004 (see also § 110(a)(2)(J) – PSD/Visibility, below). Nonattainment NSR provisions are found in Article 13 “General Provisions for the Review of New Sources” in the current SIP.
<b>§110(a)(2)(D)</b>	<i>Section 110(a)(2)(D) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one State from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another State, or from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another State.</i>	On July 31, 2007, EPA's approval of Nevada's interstate transport SIP (CAA 110(a)(2)(D)(i)) for the 8-hour ozone and PM <sub>2.5</sub> NAAQS promulgated in July 1997 was published in the Federal Register (72 FR 41629). Article 13 of the SIP, “General Provisions for the Review of New Sources,” requires an environmental evaluation (EE) before a registration certificate may be issued (see Enclosure 2). Finally, NDEP has full delegation of the federal PSD program, including NSR reform provisions.
<b>§110(a)(2)(E)</b>	<i>Section 110(a)(2)(E) requires States to provide for adequate personnel, funding, and legal authority under State law to carry out its SIP, and related issues.</i>	The legal authority for carrying out the Nevada SIP is contained in the Nevada Revised Statutes (NRS) that have been approved into the SIP; the specific statutes that deal with funding to support SIP requirements include NRS 445B.230, 445B.235 and 445B.300. The Nevada Legislature approves BAQP/BAPC's funding and personnel resources every two years. BAQP/BAPC receives funding from fees paid by regulated businesses, motor vehicle registration fees and federal grants. The State Fiscal Year 2008 budget totaled about \$6.59 million with about 50 approved full-time equivalent staff positions. The 2009 budget is about \$6.81 million.
<b>§110(a)(2)(F)</b>	<i>Section 110(a)(2)(F) requires States to establish a system to monitor emissions from stationary sources and to submit periodic emissions reports.</i>	Nevada's current SIP provides a system for monitoring emissions from stationary sources and the submittal of periodic emission reports in NAC 445B.256 to 445B.265 and 445B.267.
<b>§110(a)(2)(G)</b>	<i>Section 110(a)(2)(G) requires States to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs.</i>	Emergency powers are provided in Nevada's current SIP in NRS 445B.560, NAC 445.665 and NAC 445B.230.

Section 110(a) element	Summary of element from EPA's October 2, 2007 guidance	Provisions in the current SIP
§110(a)(2)(H)	<i>Section 110(a)(2)(H) requires States to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate.</i>	NRS 445B.205 designates the Department of Conservation and Natural Resources (Department) as the air pollution control agency for the State of Nevada for the purposes of the Clean Air Act insofar as it pertains to State programs. Within the Department, NDEP has responsibility to manage the air quality planning and air pollution control programs for the State. NDEP commits to submit appropriate SIP revisions whenever revised air quality standards are promulgated by EPA.
§110(a)(2)(I)	<i>Section 110(a)(2)(I) requires, in the case of a SIP or SIP revision for a nonattainment area, the SIP must meet applicable requirements of part D relating to nonattainment areas.</i>	NDEP commits to submit timely SIP revisions whenever areas of the State are newly designated nonattainment for any federal ambient air quality standard.
§110(a)(2)(J); CAA § 121	<i>Section 110(a)(2)(J) requires States to provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121 relating to consultation.</i>	The Nevada Administrative Procedure Act, NRS Chapter 233B, requires notification and provision of comment opportunities to all parties affected by proposed regulations. Additionally, NAC 445.707 requires public participation in the State program to issue air quality operating permits (registration certificates). NDEP commits to maintaining a process of consultation with parties designated under section 121 (i.e., general purpose local governments, designated organizations of elected officials of local governments and affected Federal land managers).
§110(a)(2)(J); CAA § 127	<i>Section 110(a)(2)(J) further requires States to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances.</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. NDEP maintains a web site, <a href="http://ndep.nv.gov">http://ndep.nv.gov</a> , 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 (PM <sub>10</sub> ) in Pahrump, Nevada.
§110(a)(2)(J); PSD/Visibility	<i>Section 110(a)(2)(J) also requires States to meet applicable requirements of part C related to prevention of significant deterioration and visibility protection.</i>	NDEP was given partial delegation of the federal PSD program (40 CFR 52.21) on May 20, 1983; full delegation effective October 10, 1988; revoked for a 3 month period from March 3 to June 3, 2003; partial delegation June 3, 2003. NDEP was again given full delegation of the federal PSD program on October 19, 2004, including NSR reform provisions.
§110(a)(2)(K)	<i>Section 110(a)(2)(K) requires that SIPs provide for performing air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.</i>	This requirement is addressed by the environmental evaluation provisions in the "General Provisions for the Review of New Sources" in Article 13 of the SIP.
§110(a)(2)(L)	<i>Section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.</i>	The Nevada Revised Statutes (NRS) that deal with funding to support SIP requirements include NRS 445B.230, 445B.235 and 445B.300. Permitting fees are required by NAC 445.704, 445.706, 445.707 and 445.712 to 445.716.
§110(a)(2)(M)	<i>Section 110(a)(2)(M) requires States to</i>	The Nevada Administrative Procedure Act, NRS Chapter 233B, requires notification and

<b>Section 110(a) element</b>	<b>Summary of element from EPA's October 2, 2007 guidance</b>	<b>Provisions in the current SIP</b>
	<i>provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.</i>	provision of comment opportunities to all parties affected by proposed regulations. NAC 445B.707 requires public participation in the State program to issue air quality operating permits (registration certificates).

ENCLOSURE 2

**State of Nevada**  
**Applicable State Implementation Plan<sup>1</sup>**  
 January 16, 2008

Approved Reference:		State Implementation Plan Text of Regulations and Articles:	Cite: 40 CFR § 52.1470 Subpart DD
Article #	NAC #		
	445B.001 (Superseded 445.430)	<b>Definitions.</b> As used in NAC 445B.001 to 445B.3497, inclusive, <i>and sections 2 to 5, inclusive, of this regulation</i> unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, <i>and sections 2 to 5, inclusive, of this regulation*</i> have the meanings ascribed to them in those sections. (Supplied in codification; A by Environmental Comm’n, 12-5-84; 10-15-85; 8-22-86; 9-25-87; 10-22-87; 12-15-88; 12-8-89; 9-13-91; 12-26-91; 9-4-92; 10-29-93; 12-13-93; 3-29-94, eff. 11-15-94; R105-97, 3-5-98; R117-00, 6-1-2001; R040-01, 10-25-2001; R103-02, 12-17-2002) <i>*NOTE: Sections 2 to 5 were codified 01/2007 as NAC 445B.054, 445B.064, 445B.083 and 445B.107, respectively.</i>	71FR15040 3/27/2006
	445.431	"Acid mist" defined. "Acid mist" means sulfuric acid mist, as measured by Method 8 of 40 C.F.R. S 60, Appendix A, or an equivalent or alternative method. [Environmental Comm’n, Air Quality Reg. 1.1, eff. 12-4-76; A 8-28-79]	(c)(25)(i)(A)
	445B.002 (Superseded 445.432)	<b>“Act” defined.</b> “Act” means the Clean Air Act, 42 U.S.C. §§ 7401 et seq., as amended. [Environmental Comm’n, Air Quality Reg. § 1.2, eff. 12-4-76; A 8-28-79]—(Substituted in revision for NAC 445.432)	71FR15040 3/27/2006
	445B.004 (Superseded 445.433)	<b>“Administrator” defined.</b> “Administrator” means the Administrator of the United States Environmental Protection Agency or the Administrator’s representative or delegate. [Environmental Comm’n, Air Quality Reg. § 1.2.5, eff. 10-16-80]—(NAC A 10-14-82)—(Substituted in revision for NAC 445.433)	71FR15040 3/27/2006
	445B.005 (Superseded 445.434)	<b>“Affected facility” defined.</b> “Affected facility” means, with reference to a stationary or temporary source, any apparatus to which a standard is applicable. [Environmental Comm’n, Air Quality Reg. § 1.3, eff. 12-4-76; A 8-28-79]—(NAC A 10-22-87; 10-30-95)	71FR15040 3/27/2006
	445B.006	<b>“Affected source” defined.</b> “Affected source” means a stationary source subject to the requirements relating to acid	71FR15040

<sup>1</sup> This is the ASIP to the best of NDEP’s knowledge; it may vary somewhat from the U.S. EPA version. A proposed updated/replacement ASIP was submitted to EPA on February 16, 2005 with revisions on January 12, 2006, December 8, 2006, June 26, 2007 and August 20, 2007. This “current” ASIP incorporates all of EPA’s **final** actions on NDEP’s submittals through January 16, 2008: the 3/27/06, 12/11/06, 4/20/07 and 5/8/07 FR actions and the 1/3, 5/8, and 11/2/07 rescissions.

Approved Reference:		State Implementation Plan Text of Regulations and Articles:	Cite: 40 CFR § 52.1470 Subpart DD
Article #	NAC #		
		rain set forth in 42 U.S.C. §§ 7651 to 7651o, inclusive. (Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94; A 10-30-95; R040-01, 10-25-2001)	3/27/2006
	445B.009 (Superseded 445B.435)	<b>“Air-conditioning equipment” defined.</b> “Air-conditioning equipment” means equipment utilized to heat or cool the interior of a building or structure. [Environmental Comm’n, Air Quality Reg. § 1.1, eff. 11-7-75; renumbered as § 1.4, 12-4-76; A 8-28-79]— (Substituted in revision for NAC 445.435)	71FR15040 3/27/2006
	445.436	"Air contaminant" defined. "Air contaminant" means any substance discharged into the atmosphere except water vapor and water droplets. [Environmental Comm’n, Air Quality Reg. 1.2, eff. 11-7-75; renumbered as 1.5, 12-4-76; A 8-28-79]	(c)(25)(i)(A)
	445B.011 (Superseded 445.437)	<b>“Air pollution” defined.</b> “Air pollution” has the meaning ascribed to it in NRS 445B.115. [Environmental Comm’n, Air Quality Reg. §§ 1.3-1.3.3, eff. 11-7-75; renumbered as § 1.6, 12-4-76; A 8-28-79]— (NAC A by R105-97, 3-5-98)	71FR15040 3/27/2006
	445B.015 (Superseded 445.439)	<b>“Alternative method” defined.</b> “Alternative method” means any method of sampling and analyzing for a regulated air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the director that, in specific cases, it produces results adequate to determine compliance. [Environmental Comm’n, Air Quality Reg. § 1.7, eff. 12-4-76; A 8-28-79]—(NAC A 10-30-95)	71FR71486 12/11/2006
	445B.018 (Superseded 445.441)	<b>“Ambient air” defined.</b> “Ambient air” means that portion of the atmosphere which is external to buildings, structures, facilities or installations to which the public has access. [Environmental Comm’n, Air Quality Reg. § 1.4, eff. 11-7-75; renumbered as § 1.9, 12-4-76; A 8-28-79]—(NAC A 10-22-87)—(Substituted in revision for NAC 445.441)	71FR15040 3/27/2006
	445B.022 (Superseded 445.444)	<b>“Atmosphere” defined.</b> “Atmosphere” means all the air surrounding the earth and external to buildings and structures. [Environmental Comm’n, Air Quality Reg. § 1.7, eff. 11-7-75; renumbered as § 1.14, 12-4-76; A and renumbered as § 1.13, 8-28-79]—(Substituted in revision for NAC 445.444)	71FR15040 3/27/2006
	445.445	"Barite" defined. "Barite" means a naturally occurring sulfate of barium, BaSO <sub>4</sub> , which is transparent to opaque and is whitish in color. [Environmental Comm’n, Air Quality Reg. Art. 1 § 1, eff. 1-25-79; renumbered as 1.14, 8-28-79]	(c)(25)(i)(A)
	445.447	"Barite grinding mill" defined. "Barite grinding mill" means any single source designed to reduce crude barite to a finished product. [Environmental Comm’n, Air Quality Reg. Art. 1 § 2, eff. 1-25-79]	(c)(25)(i)(A)
	445B.030 (Superseded 445.457)	<b>“British thermal units” defined.</b> “British thermal units (Btu)” means that quantity of heat required to raise the temperature of one pound of water from 60 degrees Fahrenheit to 61 degrees Fahrenheit at a constant, absolute pressure of 14.7 pounds per square inch (29.92 inches of mercury). [Environmental Comm’n, Air Quality Reg. § 1.9, eff. 11-7-75; A and renumbered as § 1.21, 12-4-76]—(NAC A 10-22-87)—(Substituted in revision for NAC 445.457)	71FR15040 3/27/2006



Approved Reference:		State Implementation Plan Text of Regulations and Articles:	Cite: 40 CFR § 52.1470 Subpart DD
Article #	NAC #		
	445.458	"Calcine" defined. "Calcine" means the solid materials produced by a roaster. [Environmental Comm'n, Air Quality Reg. 1.22, eff. 12-4-76]	(c)(25)(i)(A)
	445.464	"Coal" defined. "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous or lignite as defined by Designation D-388-66 of the American Society for Testing and Materials. [Environmental Comm'n, Air Quality Reg. § 1.29, eff. 12-4-76]	(c)(25)(i)(A)
	445.470	"Colemanite" defined. "Colemanite" means naturally occurring hydrated calcium borate with a molecular formula of Ca <sub>2</sub> B <sub>6</sub> O <sub>11</sub> , 5H <sub>2</sub> O, and which is normally white or colorless. [Environmental Comm'n, Air Quality Reg. Art. 1 § 2, eff. 11-17-78]	(c)(25)(i)(A)
	445.471	"Colemanite processing plant" defined. "Colemanite processing plant" means a facility which has the capability of treating colemanite ore for the production of calcined or uncalcined concentrate. Treating may consist of crushing, screening, grinding, transferring, storing, calcining as required and loading. [Environmental Comm'n, Air Quality Reg. Art. 1 § 1, eff. 11-17-78]	(c)(25)(i)(A)
	445B.042 (Superseded 445.472)	<b>"Combustible refuse" defined.</b> "Combustible refuse" means any waste material which can be consumed by combustion. [Environmental Comm'n, Air Quality Reg. § 1.11, eff. 11-7-75; renumbered as § 1.35, 12-4-76]—(Substituted in revision for NAC 445.472)	71FR15040 3/27/2006
1.36		Commenced. With respect to the definition of "new source" in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.	(c)(14)(viii)
	445B.0425 (Superseded Article 1.38)	<b>"Commission" defined.</b> "Commission" has the meaning ascribed to it in NRS 445B.120. (Added to NAC by Environmental Comm'n, eff. 10-30-95; A by R105-97, 3-5-98)	71FR15040 3/27/2006
1.42		Construction. Fabrication, erection, or installation of an affected facility.	(c)(14)(viii)
1.43		Contiguous property. Any property under single or joint ownership or operatorship which is in physical contact, touching, near, or adjoining. Public property or public right-of-way shall not be deemed as a break in any contiguous property.	(c)(14)(viii)
	445B.047 (Superseded 445.480)	<b>"Continuous monitoring system" defined.</b> "Continuous monitoring system" means the equipment required for monitoring emissions which is used to sample and, if applicable, condition, to analyze, and to provide a permanent record of emissions or process parameters. [Environmental Comm'n, Air Quality Reg. § 1.44, eff. 12-4-76; A 12-15-77]—(Substituted in revision for NAC	71FR15040 3/27/2006

Approved Reference:		State Implementation Plan Text of Regulations and Articles:	Cite: 40 CFR § 52.1470 Subpart DD
Article #	NAC #		
		445.480)	
	445.482	"Converter" defined. "Converter" means any vessel in which lead concentrate or bullion is charged and refined. [Environmental Comm'n, Air Quality Reg. 1.46, eff. 12-4-76]	(c)(25)(i)(A)
	445B.051 (Superseded 445.486)	<b>"Day" defined.</b> "Day" means a 24-hour period which begins at midnight. [Environmental Comm'n, Air Quality Reg. § 1.51, eff. 12-4-76]—(NAC A 10-22-87)—(Substituted in revision for NAC 445.486)	71FR15040 3/27/2006
	445B.053 (Superseded 445.488)	<b>"Director" defined.</b> "Director" means the Director of the State Department of Conservation and Natural Resources or his designee or a person designated by or pursuant to a county or city ordinance or regional agreement or regulation to enforce local air pollution control ordinances and regulations. [Environmental Comm'n, Air Quality Reg. § 1.19, eff. 11-7-75; renumbered as § 1.53, 12-4-76; A 12-15-77]— (Substituted in revision for NAC 445.488)	71FR15040 3/27/2006
	445.492	"Dryer" defined. "Dryer" means any facility in which a charge of a copper sulfide ore concentrate is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than 5 percent of the sulfur contained in the charge is eliminated in the facility. [Environmental Comm'n, Air Quality Reg. 1.57, eff. 12-4-76]	(c)(25)(i)(A)
	445B.055	<b>"Effective date of the program" defined.</b> "Effective date of the program" means the date on which the Administrator approves the program. (Added to NAC by Environmental Comm'n, eff. 12-13-93)—(Substituted in revision for NAC 445.4915)	71FR15040 3/27/2006
1.60		Effective date. Upon the filing of the regulations with the Secretary of State, or as specified in the exceptions contained in NRS 233B.070.	(c)(14)(vii)
	445B.056	<b>"Emergency" defined.</b> "Emergency" means any situation arising from a sudden and reasonably unforeseeable event beyond the control of the owner or operator, including an act of God, that requires immediate corrective action to restore normal operation, and that causes the source to exceed an emission limitation contained in the operating permit which is based on a specific type of technology. The term does not include the failure to comply with emission limitations because of the improper design of the source, the lack of preventative maintenance, the careless or improper operation of the source, or any error by the operator. (Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.4955)	71FR15040 3/27/2006
	445B.058 (Superseded 445.499)	<b>"Emission" defined.</b> 1. "Emission" means the act of passing into the atmosphere a regulated air pollutant or a gas stream which contains, or may contain, a regulated air pollutant. 2. The term includes the material passed to the atmosphere. [Environmental Comm'n, Air Quality Reg. § 1.22, eff. 11-7-75; renumbered as § 1.65, 12-4-76]—(NAC A by R105-97, 3-5-98)	71FR15040 3/27/2006

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	445B.059 (Superseded 445.500)	<b>“Emission unit” defined.</b> “Emission unit” means a part of a stationary source which emits or has the potential to emit any regulated air pollutant. [Environmental Comm’n, Air Quality Reg. § 1.57.5, eff. 10-16-80]—(NAC A 10-22-87; 3-29-94, eff. 11-15-94; 10-30-95)	71FR15040 3/27/2006
	445B.060	<b>“Enforceable” defined.</b> “Enforceable” means enforceable under federal, state or local law. (Added to NAC by Environmental Comm’n, eff. 10-14-82)—(Substituted in revision for NAC 445.5005)	71FR15040 3/27/2006
	445B.061	<b>“EPA” defined.</b> “EPA” means the United States Environmental Protection Agency. (Added to NAC by Environmental Comm’n, eff. 12-13-93)—(Substituted in revision for NAC 445.5008)	71FR15040 3/27/2006
	445B.062 (Superseded 445.501)	<b>“Equivalent method” defined.</b> “Equivalent method” means any method of sampling and analyzing for a regulated air pollutant which has been demonstrated to the director’s satisfaction to have a consistent and quantitatively known relationship to the reference method under specified conditions. [Environmental Comm’n, Air Quality Reg. § 1.67, eff. 12-4-76]—(NAC A 10-30-95)	71FR71486 12/11/2006
	445B.063 (Superseded 445.504)	<b>“Excess emissions” defined.</b> “Excess emissions” means any emission which exceeds any applicable emission limitation prescribed by NAC 445B.001 to 445B.3497, inclusive, <i>and sections 2 to 5, inclusive, of this regulation,*</i> or that is contained in an operating permit. The averaging time and test procedures for determining excess emissions must be as specified in the relevant condition or conditions of the operating permit, except that this does not preclude the use, including the exclusive use, of any credible evidence or information relevant to the determination of whether a source would have been in compliance with the applicable requirements if the appropriate performance or compliance test or procedure had been performed to determine excess emissions. [Environmental Comm’n, Air Quality Reg. Art. 1 § 1, eff. 8-29-79]—(NAC A 10-22-87; 12-13-93)—(Substituted in revision for NAC 445.504) <i>*NOTE: Sections 2 to 5 were codified 01/2007 as NAC 445B.054, 445B.064, 445B.083 and 445B.107, respectively.</i>	71FR71486 12/11/2006
1.72		Existing facility. With reference to a stationary source, any apparatus of the type for which a standard is promulgated in this part, and the construction or modification of which was commenced before the date of proposal of that standard; or any apparatus which could be altered in such a way as to be of that type.	(c)(14)(viii)
1.73		Existing source. Equipment, machines, devices, articles, contrivances, or facilities which are constructed, purchased, or in operation on the effective date of these regulations; except that any existing equipment, machine, device, article, contrivance, or facility which is altered, replaced, or rebuilt which increases the total emission after the effective date of these regulations shall be reclassified as a “new source”.	(c)(14)(viii)
	445.512	"Floating roof" defined. "Floating roof" means a cover of a storage vessel consisting of a double deck, pontoon single deck, internal floating cover or covered floating roof, which rests upon and is supported by the petroleum liquid being contained and is equipped with a seal or seals to close the space between the edge of the roof and wall of the tank. [Environmental Comm'n, Air Quality Reg. 1.78, eff. 12-4-76]	(c)(25)(i)(A)
	445.513	"Fossil fuel" defined.	(c)(25)(i)(A)

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		"Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials for the purpose of creating useful heat. [Environmental Comm'n, Air Quality Reg. 1.79, eff. 12-4-76]	
	445B.072 (Superseded 445.516)	<b>"Fuel" defined.</b> "Fuel" means any form of combustible matter, solid, liquid, vapor or gas which is used to generate energy. [Environmental Comm'n, Air Quality Reg. § 1.28, eff. 11-7-75; renumbered as § 1.82, 12-4-76]—(NAC A 10-22-87)—(Substituted in revision for NAC 445.516)	71FR15040 3/27/2006
	445B.073 (Superseded 445.517)	<b>"Fuel-burning equipment" defined.</b> "Fuel-burning equipment" means: 1. Indirect heat transfer fuel-burning equipment which is any device used for the combustion of fuel in which heat is transferred from the products of combustion indirectly for the production of useful heat or power. 2. Direct heat transfer fuel-burning equipment which is any device used for the combustion of fuel in which heat is transferred from the products of combustion directly for the production of useful heat or power. [Environmental Comm'n, Air Quality Reg. §§ 1.29-1.29.2, eff. 11-7-75; renumbered as § 1.85, 12-4-76]—(NAC A 9-19-90)—(Substituted in revision for NAC 445.517)	71FR15040 3/27/2006
	445B.075 (Superseded Article 1.86)	<b>"Fugitive dust" defined.</b> "Fugitive dust" means emissions of solid, airborne particulate matter which could not reasonably pass through a stack, chimney, vent or a functionally equivalent opening. [Environmental Comm'n, Air Quality Reg. § 1.30, eff. 11-7-75; renumbered as § 1.86, 12-4-76; A and renumbered as § 1.75, 10-16-80]—(NAC A 3-29-94, eff. 11-15-94)—(Substituted in revision for NAC 445.520)	71FR15040 3/27/2006
	445B.077	<b>"Fugitive emissions" defined.</b> "Fugitive emissions" means emissions of any regulated air pollutants, including fugitive dust, which could not reasonably pass through a stack, chimney, vent or a functionally equivalent opening. [Environmental Comm'n, Air Quality Reg. § 1.75.5, eff. 10-16-80]—(NAC A 3-29-94, eff. 11-15-94; 10-30-95)	71FR15040 3/27/2006
	445B.080 (Superseded 445.525)	<b>"Garbage" defined.</b> "Garbage" means putrescible animal or vegetable refuse. [Environmental Comm'n, Air Quality Reg. § 1.31, eff. 11-7-75; renumbered as § 1.89, 12-4-76]—(Substituted in revision for NAC 445.525)	71FR15040 3/27/2006
	445B.084	<b>"Hazardous air pollutant" defined.</b> "Hazardous air pollutant" has the meaning ascribed to it in NRS 445B.140. (Added to NAC by Environmental Comm'n, eff. 12-13-93)—(Substituted in revision for NAC 445.5305)	71FR71486 12/11/2006
	445B.086 (Superseded 445.533)	<b>"Incinerator" defined.</b> "Incinerator" means an engineered apparatus capable of withstanding heat and designed to efficiently reduce solid, semisolid, liquid or gaseous waste at specified rates and from which the residues contain little or no combustible material. [Environmental Comm'n, Air Quality Reg. § 1.33, eff. 11-7-75; renumbered as § 1.98, 12-4-76]—(Substituted in revision for NAC 445.533)	71FR15040 3/27/2006
	445.536	"Lead" defined. "Lead" means elemental lead or alloys in which the predominant component is lead. [Environmental Comm'n, Air Quality Reg. 1.101, eff. 12-4-76; A and renumbered as 1.98, 8-28-79]	(c)(25)(i)(A)
	445B.091	<b>"Local air pollution control agency" defined.</b> "Local air pollution control agency" means any city, county or district	71FR15040

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	(Superseded 445.537)	air pollution control agency approved by the Commission. [Environmental Comm'n, Air Quality Reg. § 1.36, eff. 11-7-75; renumbered as § 1.103, 12-4-76; A and renumbered as § 1.99, 8-28-79]—(Substituted in revision for NAC 445.537)	3/27/2006
1.92		“Lowest achievable emission rate” means the emission rate for any source for which an environmental evaluation must be prepared which reflects: <ul style="list-style-type: none"> <li>a. The most stringent emission rate in the approve implementation plan of any state for any class or category or source, unless the owner or operator of the source demonstrates that such an emission limitation is not achievable; or</li> <li>b. The most stringent emission limitation which is achieved in practice by such class or category or source, whichever is more stringent so long as it is not less stringent than the emission rate allowed by any applicable emission standard established in these regulations.</li> </ul>	(c)(16)(i)
1.104		Major stationary source. Any building, structure, facility, or installation which emits or may emit any air contaminant and which contains one or a combination of the following: <ul style="list-style-type: none"> <li>1. affected facilities;</li> <li>2. existing facilities;</li> <li>3. facilities of the type for which no new source performance standards have been promulgated Article 16.</li> </ul>	(c)(14)(viii)
	445B.095 (Superseded 445.542)	“ <b>Malfunction</b> ” defined. “Malfunction” means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown are not considered malfunctions. [Environmental Comm'n, Air Quality Reg. § 1.105, eff. 12-4-76; A and renumbered as § 1.101, 8-28-79]— (Substituted in revision for NAC 445.542)	71FR15040 3/27/2006
	445B.097	“ <b>Maximum allowable throughput</b> ” defined. “Maximum allowable throughput” means: <ul style="list-style-type: none"> <li>1. The maximum process weight allowed through a continuous or long-run steady-rate operation, per hour; or</li> <li>2. For cyclical or batch unit operations or unit processes, the total process weight for a 1-hour period.</li> </ul> <p>➔ If any process, operation or the design of any equipment permits more than one interpretation of this section, the interpretation which results in the lesser value of allowable emissions applies.</p> <p>(Added to NAC by Environmental Comm'n, eff. 10-22-87)—(Substituted in revision for NAC 445.5435)</p>	71FR15040 3/27/2006
1.109		Modification. Any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted.	(c)(14)(viii)
	445B.103 (Superseded 445.548)	“ <b>Monitoring device</b> ” defined. “Monitoring device” means the total equipment used to measure and record emissions and process parameters which is required pursuant to 42 U.S.C. §§ 7401 to 7671q, inclusive, or NAC 445B.001 to 445B.601, inclusive, or as a condition of an operating permit. [Environmental Comm'n, Air Quality Reg. § 1.110, eff. 12-4-76]—(NAC A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-	71FR15040 3/27/2006

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		11-96)—(Substituted in revision for NAC 445.548)	
	445B.106 (Superseded 445.549)	<b>“Multiple-chamber incinerator” defined.</b> “Multiple-chamber incinerator” means any article, machine, equipment contrivance, structure or part of a structure used to dispose of combustible refuse by burning, which consists of three or more refractory lined combustion furnaces in series, physically separated by refractory walls and interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned. [Environmental Comm’n, Air Quality Reg. § 1.39, eff. 11-7-75; renumbered as § 1.113, 12-4-76]—(Substituted in revision for NAC 445.549)	71FR15040 3/27/2006
1.114		New source. Equipment, machines, devices, articles, contrivances, or facilities built or installed on or after the effective date of these regulations.	(c)(14)(viii)
	445B.109 (Superseded 445.552)	<b>“Nitrogen oxides” defined.</b> “Nitrogen oxides” means all oxides of nitrogen except nitrous oxide, as measured by test methods approved by the EPA. [Environmental Comm’n, Air Quality Reg. § 1.116, eff. 12-4-76]—(NAC A 3-29-94, eff. 11-15-94)—(Substituted in revision for NAC 445.552)	71FR15040 3/27/2006
	445B.112	<b>“Nonattainment area” defined.</b> “Nonattainment area” means, for any regulated air pollutant, an area: 1. Which is shown by monitored data or is calculated by air quality modeling or any other method determined by the Administrator to be reliable, to exceed any national standard of ambient air quality for the regulated air pollutant; 2. Which is designated as a nonattainment area by the Governor; and 3. Which is promulgated as a nonattainment area by the Administrator. [Environmental Comm’n, Air Quality Reg. § 1.103, eff. 5-7-80]—(NAC A 3-29-94, eff. 11-15-94; 10-30-95)	71FR15040 3/27/2006
	445B.113	<b>“Nonroad engine” defined.</b> “Nonroad engine” has the meaning ascribed to it in 40 C.F.R. § 89.2, as that section existed on December 31, 1997. (Added to NAC by Environmental Comm’n by R117-00, eff. 6-1-2001)	71FR15040 3/27/2006
	445B.1135	<b>“Nonroad vehicle” defined.</b> “Nonroad vehicle” has the meaning ascribed to it in 40 C.F.R. § 89.2, as that section existed on December 31, 1997. (Added to NAC by Environmental Comm’n by R117-00, eff. 6-1-2001)	71FR15040 3/27/2006
	445B.116 (Superseded 445.555)	<b>“Odor” defined.</b> “Odor” means a characteristic of a regulated air pollutant which makes it perceptible to the sense of smell. [Environmental Comm’n, Air Quality Reg. § 1.43, eff. 11-7-75; renumbered as § 1.118, 12-4-76]—(NAC A 10-30-95)	71FR15040 3/27/2006
	445B.119 (Superseded 445.556)	<b>“One-hour period” defined.</b> “One-hour period” means any 60-minute period. [Environmental Comm’n, Air Quality Reg. § 1.119, eff. 12-4-76]—(NAC A 10-22-87)—(Substituted in revision for NAC 445.556)	71FR15040 3/27/2006
	445B.121 (Superseded)	<b>“Opacity” defined.</b> “Opacity” means the property of a substance tending to obscure vision and measured in terms of percent obscuration. The relationship between opacity and Ringelmann number is approximately equal to the following	71FR15040 3/27/2006

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	445.557)	<p>in shades of white to gray.</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">Opacity (Percent)</td> <td style="text-align: center;">Ringelmann Number</td> </tr> <tr> <td style="text-align: center;">20.....</td> <td style="text-align: center;">1</td> </tr> <tr> <td style="text-align: center;">40.....</td> <td style="text-align: center;">2</td> </tr> <tr> <td style="text-align: center;">60.....</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">80.....</td> <td style="text-align: center;">4</td> </tr> <tr> <td style="text-align: center;">100.....</td> <td style="text-align: center;">5</td> </tr> </table> <p>[Environmental Comm'n, Air Quality Reg. § 1.44, eff. 11-7-75; renumbered as § 1.120, 12-4-76]—(Substituted in revision for NAC 445.557)</p>	Opacity (Percent)	Ringelmann Number	20.....	1	40.....	2	60.....	3	80.....	4	100.....	5	
Opacity (Percent)	Ringelmann Number														
20.....	1														
40.....	2														
60.....	3														
80.....	4														
100.....	5														
	445B.122 (Superseded 445.558)	<p><b>“Open burning” defined.</b> “Open burning” means any fire from which the products of combustion are emitted into the atmosphere without passing through a stack or chimney. [Environmental Comm'n, Air Quality Reg. § 1.45, eff. 11-7-75; renumbered as § 1.21, 12-4-76]—(Substituted in revision for NAC 445.558)</p>	71FR15040 3/27/2006												
	445.559	<p>"Operating permit" defined. "Operating permit" means a document issued and signed by the director approving, with or without restrictions, the operation of a new or existing single source of air contaminants. [Environmental Comm'n, Air Quality Reg. 1.46, eff. 11-7-75; renumbered as 1.122, 12-4-76]</p>	(c)(25)(i)(A)												
	445B.125 (Superseded 445.560)	<p><b>“Ore” defined.</b> “Ore” means a natural combination of minerals from which a metal can be extracted. [Environmental Comm'n, Air Quality Reg. Art. 1 § 3, eff. 11-17-78]—(Substituted in revision for NAC 445.560)</p>	71FR15040 3/27/2006												
	445B.127 (Superseded 445.561)	<p><b>“Owner or operator” defined.</b> “Owner or operator” means any person who owns, leases, operates, controls or supervises an affected facility or a stationary source of which an affected facility is a part. [Environmental Comm'n, Air Quality Reg. § 1.123, eff. 12-4-76]—(Substituted in revision for NAC 445.561)</p>	71FR15040 3/27/2006												
	445B.129 (Superseded 445B.562)	<p><b>“Particulate matter” defined.</b> “Particulate matter” means any material except uncombined water that exists in a finely divided form as a liquid or solid at reference conditions. [Environmental Comm'n, Air Quality Reg. § 1.47, eff. 11-7-75; renumbered as § 1.124, 12-4-76]—(Substituted in revision for NAC 445.562)</p>	71FR15040 3/27/2006												
	445B.130 (Superseded 445.563)	<p><b>“Pathological wastes” defined.</b> “Pathological wastes” means human and animal remains consisting of carcasses, organs and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds and similar stationary sources. [Environmental Comm'n, Air Quality Reg. § 1.48, eff. 11-7-75; renumbered as § 1.125, 12-4-76]—(NAC A 10-30-95)</p>	71FR15040 3/27/2006												

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	445B.134 (Superseded 445.564)	<b>NAC 445B.134 “Person” defined.</b> “Person” has the meaning ascribed to it in NRS 0.039 and includes the State of Nevada, political subdivisions, administrative agencies and public or quasi-public corporations. [Environmental Comm’n, Air Quality Reg. § 1.49, eff. 11-7-75; renumbered as § 1.126, 12-4-76]—(NAC A by R151-06, 9-18-2006)	72FR19801 4/20/2007
	445.565	"Petroleum" defined. "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale and coal. [Environmental Comm'n, Air Quality Reg. 1.127, eff. 12-4-76]	(c)(25)(i)(A)
	445B.135	<b>“PM<sub>10</sub>” defined.</b> “PM <sub>10</sub> ” means any particulate matter in the atmosphere with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an approved reference method or equivalent method based on 40 C.F.R. Part 50, Appendix J and designated in accordance with 40 C.F.R. Part 53. (Added to NAC by Environmental Comm’n, eff. 12-26-91)—(Substituted in revision for NAC 445.5655)	71FR15040 3/27/2006
1.131		Point source. Any stationary source causing emission in excess of 23 metric tons (25 tons) per year of any pollutant for which there is ambient air standard, or without regard to amount of emission, stationary sources such as those listed in 40 CFR 51, Appendix C.	(c)(14)(viii)
	445.570	"Portland cement plant" defined. "Portland cement plant" means any facility manufacturing portland cement by either the wet or dry process. [Environmental Comm'n, Air Quality Reg. 1.132, eff. 12-4-76]	(c)(25)(i)(A)
	445.574	"Precious metal" defined. "Precious metal" means a metal of the gold, silver or platinum metal group. [Environmental Comm'n, Air Quality Reg. Art. 1, § 1, eff. 1-25-79; A 8-28-79]	(c)(25)(i)(A)
	445.575	"Precious metal processing plant" defined. "Precious metal processing plant" means a facility which is primarily engaged in crushing, screening, grinding, handling, loading, transferring or storing any precious metal or precious metal ore. [Environmental Comm'n, Air Quality Reg. Art. 1, § 2, eff. 1-25-79; A 8-28-79]	(c)(25)(i)(A)
	445B.144 (Superseded 445.581)	<b>“Process equipment” defined.</b> “Process equipment” means any equipment used for storing, handling, transporting, processing or changing any material, excluding that equipment specifically defined in NAC 445B.001 to 445B.601, inclusive, as fuel-burning equipment or incinerators. [Environmental Comm’n, Air Quality Reg. § 1.52, eff. 11-7-75; renumbered as § 1.140, 12-4-76]—(Substituted in revision for NAC 445.581)	71FR15040 3/27/2006
	445B.145 (Superseded 445.584)	<b>“Process weight” defined.</b> “Process weight” means the total weight of all materials introduced into an emission unit including solid fuels, but excluding liquids and gases used solely as fuels and air introduced for purposes of combustion of the fuel. [Environmental Comm’n, Air Quality Reg. § 1.50, eff. 11-7-75; renumbered as § 1.143, 12-4-76; A and renumbered as § 1.140, 8-28-79]—(NAC A 10-30-95)	71FR15040 3/27/2006



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	445.585	"Process weight rate" defined. "Process weight rate" means a rate established as follows: 1. For continuous or long-run steady-rate operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of the period or portions thereof. 2. For cyclical or batch unit operations or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles divided by the number of hours of actual process operation during such a period. 3. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this section, the interpretation that results in the minimum value of allowable emission applies. [Environmental Comm'n, Air Quality Reg. 1.51-1.51.3, eff. 11-7-75; renumbered as 1.144, 12-4-76; A and renumbered as 1.141, 8-28-79]	(c)(25)(i)(A)
	445B.151 (Superseded 445.589)	<b>"Reference conditions" defined.</b> "Reference conditions" means that all measurements of ambient air quality are corrected to a reference temperature of 77°F (25°C) and to a reference pressure of 29.92 inches (760 millimeters, 1,013.2 millibars) of mercury. [Environmental Comm'n, Air Quality Reg. § 1.53, eff. 11-7-75; A and renumbered as § 1.147, 12-4-76; A and renumbered as § 1.144, 8-28-79]—(NAC A 10-22-87)—(Substituted in revision for NAC 445.589)	71FR15040 3/27/2006
	445B.152 (Superseded 445.590)	<b>"Reference method" defined.</b> "Reference method" means any method of sampling and analyzing for a regulated air pollutant as described in Appendix A of 40 C.F.R. § 60. [Environmental Comm'n, Air Quality Reg. § 1.148, eff. 12-4-76; A and renumbered as § 1.145, 8-28-79]—(NAC A 10-30-95)	71FR15040 3/27/2006
	445.592	"Registration certificate" defined. "Registration certificate" means a document issued and signed by the director certifying that: 1. Adequate empirical data for a single source has been received and constitutes approval of location; or 2. An environmental evaluation has been submitted for a point source and that all portions of NAC 445.707 to 445.711, inclusive, and any other provisions of NAC 445.430 to 445.945, inclusive, have been complied with and constitutes approval of location and for construction. [Environmental Comm'n, Air Quality Reg. 1.55, eff. 11-7-75; renumbered as 1.151, 12-4-76; A and renumbered as 1.147, 8-28-79]	(c)(25)(i)(A)
	445B.153	<b>"Regulated air pollutant" defined.</b> "Regulated air pollutant" means: 1. Nitrogen oxides or any volatile organic compounds; 2. Any pollutant subject to: (a) A national ambient air quality standard and any constituents or precursors for such pollutants identified by the Administrator; (b) A standard or requirement adopted pursuant to 42 U.S.C. § 7411; or (c) A standard established pursuant to NAC 445B.22097; 3. Any Class I or Class II substance subject to a standard adopted pursuant to 42 U.S.C. §§ 7671 to 7671q, inclusive; or	71FR71486 12/11/2006

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		4. Any pollutant that otherwise is subject to regulation under the Act, except that any hazardous air pollutant regulated under 42 U.S.C. § 7412 is not a regulated air pollutant unless the hazardous air pollutant is also regulated as a constituent or precursor of an air pollutant listed pursuant to 42 U.S.C. § 7408. (Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94; A 10-30-95)	
	445.597	"Roaster" defined. "Roaster" means: 1. Any facility in which a zinc sulfide ore concentrate charge is heated in the presence of air to eliminate 10 percent or more of the sulfur contained in the charge; or 2. Any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate 5 percent or more of the sulfur contained in the charge. [Environmental Comm'n, Air Quality Reg. 1.156-1.157, eff. 12-4-76]	(c)(25)(i)(A)
	445B.161 (Superseded 445.599)	<b>"Run" defined.</b> "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice. [Environmental Comm'n, Air Quality Reg. § 1.159, eff. 12-4-76]—(Substituted in revision for NAC 445.599)	71FR15040 3/27/2006
	445B.163 (Superseded 445.601)	<b>"Salvage operation" defined.</b> "Salvage operation" means any operation conducted in whole or in part for the salvaging or reclaiming of any product or material. [Environmental Comm'n, Air Quality Reg. § 1.157, eff. 11-7-75; renumbered as § 1.161, 12-4-76]—(Substituted in revision for NAC 445.601)	71FR15040 3/27/2006
	445B.167 (Superseded Article 1.166)	<b>"Shutdown" defined.</b> "Shutdown" means the cessation of operation of an affected facility for any purpose. [Environmental Comm'n, Air Quality Reg. § 1.166, eff. 12-4-76]—(Substituted in revision for NAC 445.606)	71FR15040 3/27/2006
	445B.168 (Superseded 445.612)	<b>"Single-chamber incinerator" defined.</b> "Single-chamber incinerator" means an incinerator with one chamber that serves for ignition, combustion and ash removal of a design approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources. [Environmental Comm'n, Air Quality Reg. § 1.98.1, eff. 3-31-77; A 12-27-77; A and renumbered as § 1.94.1, 8-28-79]—(Substituted in revision for NAC 445.612)	71FR15040 3/27/2006
1.171		Single source. All similar process operations located at a single premise which can technically and economically be replaced by a single process that performs the same function. Two or more pieces of equipment or processes that handle different materials or produce dissimilar products will be treated separately.	(c)(14)(viii)
	445.617	"Six-minute period" defined. "Six-minute period" means any one of the 10 equal parts of a 1-hour period. [Environmental Comm'n, Air Quality Reg. 1.175, eff. 12-4-76]	(c)(25)(i)(A)
	445.618	"Slag" defined. "Slag" means the more or less completely fused and vitrified matter separated during the reduction of a metal from its ore.	(c)(25)(i)(A)

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		[Environmental Comm'n, Air Quality Reg. 1.176, eff. 12-4-76]	
	445B.174 (Superseded 445.621)	<b>“Smoke” defined.</b> “Smoke” means small particles consisting predominantly, but not exclusively, of carbon, ash or other combustible material, resulting from incomplete combustion. [Environmental Comm’n, Air Quality Reg. § 1.59, eff. 11-7-75; renumbered as § 1.179, 12-4-76]—(Substituted in revision for NAC 445.621)	71FR15040 3/27/2006
	445B.176 (Superseded 445.622)	<b>“Solid waste” defined.</b> “Solid waste” means refuse, more than 50 percent of which is municipal type waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustibles and noncombustible materials such as glass and rock. [Environmental Comm’n, Air Quality Reg. § 1.176, eff. 12-4-76]—(Substituted in revision for NAC 445.622)	71FR15040 3/27/2006
	445B.177 (Superseded Article 1.181)	<b>“Source” defined.</b> “Source” has the meaning ascribed to it in NRS 445B.155. [Environmental Comm’n, Air Quality Reg. § 1.60, eff. 11-7-75; renumbered as § 1.177, 12-4-76]—(NAC A 10-30-95)	71FR15040 3/27/2006
	45B.180 (Superseded 445.624)	<b>“Stack” and “chimney” defined.</b> “Stack” or “chimney” means any flue, conduit or duct which conducts a regulated air pollutant to the atmosphere. [Environmental Comm’n, Air Quality Reg. § 1.62, eff. 11-7-75; renumbered as § 1.178, 12-4-76]—(NAC A 10-14-82; 3-29-94, eff. 11-15-94; 10-30-95)	71FR15040 3/27/2006
	445B.182 (Superseded Article 1.185)	<b>“Standard” defined.</b> “Standard” means a standard of performance that is proposed or promulgated by the Administrator or the Director pursuant to NAC 445B.001 to 445B.735, inclusive. [Environmental Comm’n, Air Quality Reg. § 1.180, eff. 12-4-76]—(NAC A 3-29-94, eff. 11-15-94; 7-5-94)	71FR15040 3/27/2006
	445B.185 (Superseded 445.627)	<b>“Start-up” defined.</b> “Start-up” means the setting in operation of an affected facility for any purpose. [Environmental Comm’n, Air Quality Reg. § 1.179, eff. 12-4-76]—(Substituted in revision for NAC 445.627)	71FR15040 3/27/2006
1.187		Stationary source. Any building, structure, facility, or installation which emits or may emit any air pollutant and which contains any one or combination of the following; <ol style="list-style-type: none"> <li>1. affected facilities;</li> <li>2. existing facilities;</li> <li>3. facilities of the type for which no standards have been promulgated.</li> </ol>	(c)(14)(viii)
	445.630	"Stop order" defined. "Stop order" means a written notice by the director served on a person or persons causing or engaging in the construction, installation or alteration of work involving an air contaminant source or sources ordering the work to be stopped. [Environmental Comm'n, Air Quality Reg. 1.63, eff. 11-7-75; renumbered as 1.184, 12-4-76]	(c)(25)(i)(A)
	445.633	"Submerged fill pipe" defined. "Submerged fill pipe" means: <ol style="list-style-type: none"> <li>1. Any fill pipe, the discharge opening of which is entirely submerged when the liquid level is 6 inches (15 cm) above</li> </ol>	(c)(25)(i)(A)

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		the bottom of the tank; or 2. When applied to a tank which is loaded from the side, any fill pipe, the discharge of which is entirely submerged when the liquid level is two times the diameter of the fill pipe above the bottom of the tank. [Environmental Comm'n, Air Quality Reg. 1.64, eff. 11-7-75; renumbered as 1.191, 12-4-76]	
	445B.198 (Superseded 445.647)	<b>“Uncombined water” defined.</b> “Uncombined water” means visible mist or condensed water vapor. [Environmental Comm’n, Air Quality Reg. § 1.65, eff. 11-7-75; renumbered as § 1.205, 12-4-76; A and renumbered as § 1.200, 8-28-79]—(Substituted in revision for NAC 445.647)	71FR15040 3/27/2006
	445.649	"Violation" defined. "Violation" means any incident of excess emissions, regardless of the circumstances of the occurrence. [Environmental Comm'n, Air Quality Reg. 1.203, eff. 8-28-79]	(c)(25)(i)(A)
	445B.202 (Superseded 445.650)	<b>“Volatile organic compounds” defined.</b> “Volatile organic compounds” has the meaning ascribed to it in 40 C.F.R. § 51.100(s), as incorporated by reference in NAC 445B.221. [Environmental Comm’n, Air Quality Reg. § 1.67, eff. 11-7-75; renumbered as § 1.208, 12-4-76; A and renumbered as § 1.204, 8-28-79]—(NAC A 3-29-94, eff. 11-15-94)—(Substituted in revision for NAC 445.650)	71FR71486 12/11/2006
	445B.205 (Superseded 445.651)	<b>“Waste” defined.</b> “Waste” means useless, unneeded, or superfluous matter or discarded or excess material. [Environmental Comm’n, Air Quality Reg. § 1.68, eff. 11-7-75; renumbered as § 1.209, 12-4-76; A and renumbered as § 1.205, 8-28-79]—(Substituted in revision for NAC 445.651)	71FR15040 3/27/2006
	445B.207 (Superseded 445.653)	<b>“Wet garbage” defined.</b> “Wet garbage” means a combination of waste and garbage which contains more than 50 percent moisture. [Environmental Comm’n, Air Quality Reg. § 1.69, eff. 11-7-75; renumbered as § 1.211, 12-4-76; A and renumbered as § 1.207, 8-28-79]—(Substituted in revision for NAC 445.653)	71FR15040 3/27/2006
	445B.209	<b>“Year” defined.</b> “Year” means any consecutive 365-day period. (Added to NAC by Environmental Comm’n, eff. 10-22-87)—(Substituted in revision for NAC 445.6535)	71FR15040 3/27/2006
	445B.211 (Partially supersedes 445.655; revisions to this section will be finalized when EPA has completed all action on	<b>Abbreviations.</b> The abbreviations used in NAC 445B.001 to 445B.3497, inclusive, have the following meanings: BACT..... best available control technology Btu..... British thermal unit C.F.R..... Code of Federal Regulations CO <sub>2</sub> ..... carbon dioxide °F..... degree Fahrenheit Hg..... mercury H <sub>2</sub> S..... hydrogen sulfide lb..... pound NO..... nitric oxide NO <sub>x</sub> ..... nitrogen oxides O <sub>2</sub> ..... oxygen	71FR15040 3/27/2006

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	NDEP's ASIP update submittal)	ppm..... parts per million SO <sub>2</sub> ..... sulfur dioxide VOC..... volatile organic compound  [Environmental Comm'n, Air Quality Reg. § 1.213, eff. 12-4-76; A and renumbered as § 1.209, 8-28-79]—(NAC A 10-15-85; R105-97, 3-5-98; R040-01, 10-25-2001; R125-04, 9-24-2004)	
	445.655	Abbreviations. The abbreviations used in these regulations have the following meanings: A.S.T.M. - American Society for Testing and Materials °C - degree Celsius (centigrade) cal - calorie CdS - cadmium sulfide cfm - cubic feet per minute CO - carbon monoxide dscm - dry cubic meter at standard conditions dscf - dry cubic feet at standard conditions EAF - electric arc furnace eq - equivalents g - gram gal - gallon g eq - gram equivalents gr - grain hr - hour HCl - hydrochloric acid H <sub>2</sub> O - water H <sub>2</sub> SO <sub>4</sub> - sulfuric acid in - inch °K - degree Kelvin k - 1,000 kg - kilogram l - liter	
		lpm -liter per minute m - meter meq - milliequivalent min - minute mg - milligram	

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		ml - milliliter mm - millimeter mol. wt. - molecular weight mV - millivolt N <sub>2</sub> - nitrogen nm - nanometer - 10 <sup>-9</sup> meter NO <sub>2</sub> - nitrogen dioxide ppb - parts per billion psia - pounds per square inch absolute °R - degree Rankine s - at standard conditions sec - second SO <sub>3</sub> - sulfur trioxide ug/m <sup>3</sup> - micrograms - 10 <sup>-6</sup> gram P <sub>2</sub> O <sub>5</sub> - phosphorus pentoxide Kg-cal - kilogram-calorie CFR - Code of Federal Regulations [Environmental Comm'n, Air Quality Peg. 1.213, eff. 12-4-76; and renumbered as 1.209, 8-28-79]	
	445.660	Severability. If any of the provisions of NAC 445.430 to 445.846, inclusive, or any application thereof to any person, thing, or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application. [Environmental Comm'n, Air Quality Reg. 2.1.1, eff. 11-7-75]	(c)(25)(i)(A)
	445.663	Concealment of emissions prohibited. Except for the sole purpose of reducing the odor of an emission, no person may install, construct or use any device which conceals any emission without reducing the total release of air contaminants to the atmosphere. [Environmental Comm'n, Air Quality Reg. 2.2.1, eff. 11-7-75]	(c)(25)(i)(A)
	445.664	Pollution control equipment: Operation; modification; removal. Except as provided in NAC 445.667 and 445.668, no person may: <ol style="list-style-type: none"> <li>1. Operate any source of air pollution unless the required pollution control equipment is on and operating.</li> <li>2. Disconnect, alter, remove or modify any required pollution control equipment or procedure unless the alteration or modification has been found not to violate NAC 445.430 to 445.846, inclusive.</li> </ol> [Environmental Comm'n, Air Quality Reg. 2.2.2, eff. 12-15-77]	(c)(25)(i)(A)
	445.665	Hazardous emissions: Order for reduction or discontinuance. Without limiting the authority of any state officer to declare or to act on an emergency, the director or local air	(c)(25)(i)(A)

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		pollution control agency, upon determining that a generalized condition of air pollution exists or that the emission from one or more single sources of air contaminants is causing a danger to human health or safety, may order persons causing or contributing to the air pollution to immediately reduce or discontinue all emission of contaminants. [Environmental Comm'n, Air Quality Reg. 2.4.1, eff. 11-7-75]	
	445B.230 (Superseded 445.666)	<p><b>NAC 445B.230 [445.666] Plan for reduction of emissions.</b></p> <p>1. Any person who is able to cause or permit the emission of 100 tons (90.7 metric tons) or more per year of a regulated air pollutant from a stationary source shall prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the applicable state implementation plan.</p> <p>2. Any person required to have an operating permit who is able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant shall, upon written notice from the Director, prepare and submit to the Director a plan for reducing or eliminating that emission in accordance with the episode stages of alert, warning, and emergency as defined in the applicable state implementation plan.</p> <p>3. The written notice required under subsection 2 must be transmitted in accordance with subsection 4 to all persons who are within the same classification of sources as defined in the <i>Standard Industrial Classification Manual</i>, adopted by reference in NAC 445B.221, and who are able to cause or permit the emission of less than 100 tons (90.7 metric tons) per year of a regulated air pollutant.</p> <p>4. Written notice shall be deemed to have been served if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.4.2-2.4.4, eff. 11-7-75]—(NAC A 10-30-95; R125-04, 9-24-2004; R151-06, 9-18-2006)</p>	72FR19801 4/20/2007
	445.667	<p>Excess emissions: Scheduled maintenance; testing; malfunctions.</p> <p>1. Scheduled maintenance or testing approved by the director or repairs which may result in excess emissions of air contaminants prohibited by NAC 445.430 to 445.846, inclusive, must be performed during a time designated by the director as being favorable for atmospheric ventilation.</p> <p>2. The director must be notified in writing of the time and expected duration at least 24 hours in advance of any scheduled maintenance or repairs which may result in excess emissions of air contaminants prohibited by NAC 445.430 to 445.846, inclusive.</p> <p>3. The director must be notified of any excess emissions within 24 hours after any malfunction, breakdown, or upset of process or pollution control equipment or during startup of such equipment. Phone (702) 885-4670.</p> <p>4. The owner or operator of an affected facility shall provide the director, within 15 days after any malfunction, breakdown, upset, startup or human error sufficient information to enable the director to determine the seriousness of the excess emissions. The submission must include as a minimum:</p> <p>(a) The identity of the stack and other emission point or either of them where the excess emissions occurred.</p> <p>(b) The estimated magnitude of the excess emissions expressed in opacity or in the units of the applicable emission</p>	(c)(25)(i)(A)

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		<p>limitation and the operating data and methods used in estimating the magnitude of the excess emissions.</p> <p>(c) The time and duration of the excess emissions.</p> <p>(d) The identity of the equipment causing the excess emissions.</p> <p>(e) If the excess emissions were the result of a malfunction, steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions.</p> <p>(f) The steps taken to limit the excess emissions.</p> <p>(g) Documentation that the air pollution control equipment, process equipment or processes were at all times maintained and operated, to a maximum extent practicable, in a manner consistent with good practice for minimizing emissions.</p> <p>[Environmental Comm'n, Air Quality Reg. 2.5.1-2.5.3, eff. 11-7-75; A 8-28-79; 2.5.4, eff. 11-7-75; 2.5.4.1-2.5.4.7, eff. 8-28-79]</p>	
2.5		Scheduled Maintenance, Testing, and Breakdown or Upset	
2.5.4		Breakdown or upset, determined by the Director to be unavoidable and not the result of careless or marginal operations, shall not be considered a violation of these regulations.	(c)(11)
	445.682	<p>Testing and sampling.</p> <p>1. To determine compliance with NAC 445.430 to 445.846, inclusive, prior to approval of or prior to the continuance of an operating permit or similar class of permits, the director may either conduct or order the owner of any source to conduct or have conducted such testing and sampling as the director determines necessary. Testing and sampling or either of them must be conducted within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility and at such other times as may be required by the director.</p> <p>2. Performance tests must be conducted and data reduced in accordance with the test methods and procedures contained in each applicable subsection unless the director:</p> <p>(a) Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;</p> <p>(b) Approves the use of an equivalent method;</p> <p>(c) Approves the use of an alternative method, the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or</p> <p>(d) Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the director's satisfaction that the affected facility is in compliance with the standard.</p> <p>3. Performance tests must be conducted under such conditions as the director specifies to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the director such records as may be necessary to determine the conditions of the performance tests. Operations during periods of startup, shutdown and malfunction must not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.</p> <p>4. The owner or operator of an affected facility shall provide the director 30 days' prior notice of the performance test</p>	(c)(25)(i)(A)



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		<p>to afford the director the opportunity to have an observer present.</p> <p>5. Each performance test must consist of at least two separate runs using the applicable test method. Each run must be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the runs apply. In the event of forced shutdown, failure of an irreplaceable portion of the sampling train, extreme meteorological conditions or other circumstances with less than two valid samples being obtained, an additional performance test must be conducted.</p> <p>6. All testing and sampling will be performed in accordance with recognized methods and as specified by the director.</p> <p>7. The cost of all testing and sampling and the cost of all sampling holes, scaffolding, electric power and other pertinent allied facilities as may be required and specified in writing by the director must be provided and paid for by the owner of the source.</p> <p>8. All information and analytical results of testing and sampling must be certified as to their truth and accuracy and as to their compliance with all provisions of these regulations, and copies of these results must be provided to both the owner and the director.</p> <p>[Environmental Comm'n, Air Quality Reg. 2.6.1-2.6.4, eff. 11-7-65; A 12-4-76; 2.6.5-2.6.9, eff. 12-4-76]</p>	
2.16.1		Any owner or operator subject to the provisions of this part shall furnish the Director written notification as follows:	(c)(12)
2.16.1.1		A notification of the date construction (or reconstruction as defined under 2.15) of an affected facility is commenced postmarked no later than 30 days after such date. This requirement shall not apply in the case of mass-produced facilities which are purchased in completed form.	(c)(12)
2.16.1.2		A notification of the anticipated date of initial startup of an affected facility postmarked not more than 60 days not less than 30 days prior to such date.	(c)(12)
2.16.1.3		A notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.	(c)(12)
2.16.1.4		A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in 2.14 and the exemption is not denied under 2.14. This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The Director may request additional relevant information subsequent to this notice.	(c)(12)
2.16.2.5		A notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with 2.17. Notification shall be postmarked not less than 30 days prior to such date.	(c)(12)
	445B.256 (Superseded Art.2.17.10 and 2.17.10.1	<p><b>Monitoring systems: Calibration, operation and maintenance of equipment.</b> The owners or operators of all stationary sources identified in Appendix P of 40 C.F.R. § 51(1.1) as amended from time to time, are required to install, calibrate, operate and maintain all monitoring equipment necessary for continuously monitoring the pollutants specified in Appendix P for the applicable source category. Those stationary sources must meet the basic requirements of Appendix P of 40 C.F.R. § 51(2.0 et seq.).</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.17.10 &amp; 2.17.10.1, eff. 4-4-77]—(NAC A 10-30-95)</p>	71FR71486 12/11/2006

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	445B.257 (Superseded Art. 2.17.6 and 2.17.7)	<p><b>Monitoring systems: Location.</b></p> <p>1. All continuous monitoring systems or monitoring devices must be installed so that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems are contained in the applicable Performance Specifications of Appendix B of 40 C.F.R. § 60.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.17.6 &amp; 2.17.7, eff. 12-4-76]—(Substituted in revision for NAC 445.684)</p>	71FR71486 12/11/2006
	445B.258 (Superseded 445.685)	<p><b>Monitoring systems: Verification of operational status.</b></p> <p>2. All continuous monitoring systems and monitoring devices must be installed and operational before conducting performance tests under NAC 445B.252. Verification of operational status must, as a minimum, consist of the following:</p> <p>(a) For continuous monitoring systems referred to in subsection 2 of NAC 445B.259, completion of the conditioning period specified by applicable requirements in Appendix B of 40 C.F.R. Part 60.</p> <p>(b) For continuous monitoring systems referred to in NAC 445B.260, completion of 7 days of operation.</p> <p>(c) For monitoring devices referred to in NAC 445B.256 to 445B.267, inclusive, completion of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.17.1-2.17.2.3, eff. 12-4-76]—(NAC A by R151-06, 9-18-2006)</p>	72FR19801 4/20/2007
	445B.259 (Superseded 445.686)	<p><b>Monitoring systems: Performance evaluations.</b></p> <p>1. During any performance tests required under NAC 445B.252 or within 30 days thereafter and at such other times as may be required by the Director under § 114 of the Act, the owner or operator of any affected facility shall conduct continuous evaluations of the performance of monitoring systems and furnish the Director within 60 days thereof two or upon request more copies of a written report of the results of such tests. These evaluations must be conducted in accordance with the specifications and procedures provided in this section and NAC 445B.260.</p> <p>2. Except as provided in NAC 445B.260, continuous monitoring systems listed within this subsection must be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of Appendix B of 40 C.F.R. Part 60. Continuous monitoring systems for measuring:</p> <p>(a) Opacity of emissions must comply with Performance Specification 1.</p> <p>(b) Nitrogen oxides emissions must comply with Performance Specification 2.</p> <p>(c) Sulfur dioxide emissions must comply with Performance Specification 2.</p> <p>(d) The oxygen and carbon dioxide content of effluent gases must comply with Performance Specification 3.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.17.3 &amp; 2.17.3.1, eff. 12-4-76]—(NAC A by R151-06, 9-18-2006)</p>	72FR19801 4/20/2007
	445B.260 (Superseded 445.687)	<p><b>Monitoring systems: Components contracted for before September 11, 1974.</b></p> <p>1. Except as otherwise provided in subsection 2, an owner or operator who, before September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components shall comply with the following requirements:</p>	72FR19801 4/20/2007

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		<p>(a) Continuous monitoring systems for measuring opacity of emissions must be capable of measuring, with a confidence level of 95 percent, emission levels within <math>\pm 20</math> percent of the mean value of the data obtained using the applicable reference method set forth in terms of the units of the emission standard. The calibration drift test and associated calculation procedures set forth in Performance Specification 1 in Appendix B of 40 C.F.R. Part 60 must be used for demonstrating compliance with this specification.</p> <p>(b) Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide must be capable of measuring, with a confidence level of 95 percent, emission levels within <math>\pm 20</math> percent of the mean value of the data obtained using the applicable reference method set forth in terms of the units of the emission standard. The calibration drift test, the relative accuracy test and associated operating and calculation procedures set forth in Performance Specification 2 in Appendix B of 40 C.F.R. Part 60 must be used for demonstrating compliance with this specification.</p> <p>2. Owners or operators of all continuous monitoring systems installed on an affected facility before October 6, 1975, are not required to conduct tests under paragraphs (a) and (b) of subsection 1 unless requested by the Director.</p> <p>3. All continuous monitoring systems referred to in subsection 1 must be upgraded or replaced, if necessary, with new continuous monitoring systems, and such improved systems must be demonstrated to comply with applicable performance specifications under NAC 445B.259 by September 11, 1979.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.17.3.2 &amp; 2.17.3.3, eff. 12-4-76; A 12-4-77]—(NAC A by R151-06, 9-18-2006)</p>	
	445B.261 (Superseded 445.688)	<p><b>Monitoring systems: Adjustments.</b> Owners or operators of all continuous monitoring systems installed in accordance with the provisions of NAC 445B.256 to 445B.267, inclusive, shall check the zero and span drift at least once daily in accordance with the method prescribed by the manufacturer of the systems unless the manufacturer recommends adjustments at shorter intervals, in which case the recommendations must be followed. The zero and span must, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in Appendix B of 40 C.F.R. § 60 are exceeded.</p> <p>[Environmental Comm'n, Air Quality Reg. part § 2.17.4, eff. 12-4-76; A 12-15-77]—(Substituted in revision for NAC 445.688)</p>	71FR71486 12/11/2006
	445B.262 (Superseded 445.689)	<p><b>Monitoring systems: Measurement of opacity.</b></p> <p>1. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases must be cleaned before performing the zero or span drift adjustments, except that for systems using automatic zero adjustments, the optical surfaces must be cleaned when the cumulative automatic zero compensation exceeds 4 percent opacity. Unless otherwise approved by the director, the following procedures, as applicable, must be followed:</p> <p>(a) For extractive continuous monitoring systems measuring gases, minimum procedures must include introducing applicable zero and span gas mixtures into the measurement system as near the probe as is practical. Span and zero gases certified by their manufacturer to be traceable to National Institute of Standards and Technology reference gases must be used whenever these reference gases are available. The span and zero gas mixtures must be the same composition as specified in Appendix B of 40 C.F.R. Part 60. Every 6 months after the date of manufacture, span and</p>	71FR71486 12/11/2006

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		<p>zero gases must be reanalyzed by conducting triplicate analyses with Reference Methods 6 for SO<sub>2</sub>, 7 for NO, and 3 for O<sub>2</sub> and CO<sub>2</sub>, respectively. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.</p> <p>(b) For nonextractive continuous monitoring systems measuring gases, minimum procedures include upscale checks using a certified calibration gas cell or test cell which is functionally equivalent to a known gas concentration. The zero check may be performed by computing the zero value from upscale measurements or by mechanically producing a zero condition.</p> <p>(c) For continuous monitoring systems measuring opacity of emissions, minimum procedures include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. These procedures must provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.</p> <p>2. Notwithstanding the provisions of subsection 1, the Director shall not approve an equivalent method or alternative method to determine compliance with a standard or emission limitation contained in Part 60, 61 or 63 of Title 40 of the Code of Federal Regulations for:</p> <p>(a) An emission unit that is subject to a testing requirement pursuant to Part 60, 61 or 63 of Title 40 of the Code of Federal Regulations; or</p> <p>(b) An affected source.</p> <p>[Environmental Comm'n, Air Quality Reg. part § 2.17.4, eff. 12-4-76; § 2.17.4.1, eff. 12-4-76; A 12-15-77; §§ 2.17.4.2 &amp; 2.17.4.3, eff. 12-4-76]—(NAC A by R065-03, 10-30-2003)</p>	
	445B.263 (Superseded 445.690)	<p><b>Monitoring systems: Frequency of operation.</b> Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required by NAC 445B.261, all continuous monitoring systems must be in continuous operation and meet minimum frequency of operation requirements as follows:</p> <p>1. All continuous monitoring systems referred to in NAC 445B.259 and 445B.260 for measuring opacity of emissions must complete a minimum of one cycle of operation (sampling, analyzing and data recording) for each successive 10-second period.</p> <p>2. All continuous monitoring systems referred to in NAC 445B.259 for measuring oxides of nitrogen, sulfur dioxide, carbon dioxide or oxygen must complete a minimum of one cycle of operation (sampling, analyzing and data recording) for each successive 15-minute period.</p> <p>3. All continuous monitoring systems referred to in NAC 445B.260, except opacity, must complete a minimum of one cycle of operation (sampling, analyzing and data recording) for each successive 1-hour period.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.17.5-2.17.5.3, eff. 12-4-76]—(Substituted in revision for NAC 445.690)</p>	71FR71486 12/11/2006
	445B.264 (Superseded)	<p><b>Monitoring systems: Recordation of data.</b> 1. Owners or operators of all continuous monitoring systems for the measurement of opacity shall reduce all data to 6-minute averages and for systems other than opacity to 1-hour</p>	71FR71486 12/11/2006

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	445.691)	<p>averages.</p> <p>2. For systems other than opacity, 1-hour averages must be computed from four or more data points equally spaced over each 1-hour period.</p> <p>3. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments must not be included in the data averages computed under this section. An arithmetic or integrated average of all calibrated data must be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form, e.g., ppm pollutant and percent O<sub>2</sub> or lb/million Btu of pollutant.</p> <p>4. All excess emissions must be converted into units of the standard using the applicable conversion procedures specified in NAC 445B.001 to 445B.3497, inclusive. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in those sections to specify the applicable standard, e.g., rounded to the nearest 1 percent opacity.</p> <p>5. As used in this section, “calibrated data” means data which is precise and accurate within a stated acceptance criteria for the instrument.</p> <p>[Environmental Comm’n, Air Quality Reg. § 2.17.8, eff. 12-4-76]—(NAC A 10-22-87; R118-00, 9-25-2000)</p>	
	445B.265 (Superseded 445.692)	<p><b>Monitoring systems: Records; reports.</b></p> <p>1. Any owner or operator subject to the provisions of NAC 445B.256 to 445B.267, inclusive, shall maintain records of the occurrence and duration of any start-up, shutdown or malfunction in the operation of an affected facility and any malfunction of the air pollution control equipment or any periods during which a continuous monitoring system or monitoring device is inoperative.</p> <p>2. Each owner or operator required to install a continuous monitoring system shall submit a written report of excess emissions to the director for every calendar quarter. All quarterly reports must be postmarked by the 30th day following the end of each calendar quarter and must include the following information:</p> <p>(a) The magnitude of excess emissions computed in accordance with NAC 445B.256 to 445B.267, inclusive, any conversion factors used, and the date and time of commencement and completion of each time period of excess emissions.</p> <p>(b) Specific identification of each period of excess emissions that occurs during start-ups, shutdowns and malfunctions of the affected facility.</p> <p>(c) The nature and cause of any malfunction, if known, the corrective action taken or preventative measures adopted.</p> <p>(d) Specific identification of each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of any repairs or adjustments that were made.</p> <p>↪ When no excess emissions have occurred and the continuous monitoring system has not been inoperative, repaired or adjusted, such information must be included in the report.</p> <p>3. Any owner or operator subject to the provisions of NAC 445B.256 to 445B.267, inclusive, shall maintain a file of all measurements, including:</p> <p>(a) Continuous monitoring systems, monitoring devices and performance testing measurements;</p> <p>(b) All continuous monitoring system performance evaluations;</p> <p>(c) All continuous monitoring systems or monitoring device calibration checks;</p>	71FR71486 12/11/2006

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		(d) Adjustments and maintenance performed on these systems or devices; and (e) All other information required by NAC 445B.256 to 445B.267, inclusive, recorded in a permanent form suitable for inspection. ➔ The file must be retained for at least 2 years following the date of the measurements, maintenance, reports and records. [Environmental Comm'n, Air Quality Reg. §§ 2.16.2-2.16.4, eff. 12-4-76]—(NAC A 7-2-84)—(Substituted in revision for NAC 445.692)	
	445B.267 (Superseded 445.693)	<p><b>Alternative monitoring procedures or requirements.</b></p> <p>1. Upon written application by an owner or operator, the director may approve alternatives to any monitoring procedures or requirements of NAC 445B.256 to 445B.267, inclusive, including, but not limited to, the following:</p> <p>(a) Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by those sections would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.</p> <p>(b) Alternative monitoring requirements when the affected facility is infrequently operated.</p> <p>(c) Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.</p> <p>(d) Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.</p> <p>(e) Alternative methods of converting regulated air pollutant concentration measurements to units of the standards.</p> <p>(f) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.</p> <p>(g) Alternatives to the test methods of the American Society for Testing and Materials or sampling procedures specified by any provision of NAC 445B.256 to 445B.267, inclusive.</p> <p>(h) Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1, Appendix B of 40 C.F.R. Part 60, but adequately demonstrate a definite and consistent relationship between their measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The director may require that such demonstration be performed for each affected facility.</p> <p>(i) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.</p> <p>2. Notwithstanding the provisions of subsection 1, the Director shall not approve an equivalent method or alternative method to determine compliance with a standard or emission limitation contained in Part 60, 61 or 63 of Title 40 of the Code of Federal Regulations for:</p> <p>(a) An emission unit that is subject to a testing requirement pursuant to Part 60, 61 or 63 of Title 40 of the Code of Federal Regulations; or</p> <p>(b) An affected source.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 2.17.9-2.17.9.7, eff. 12-4-76; § 2.17.9.8, eff. 12-4-76; A 12-15-77]—</p>	71FR71486 12/11/2006

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		(NAC A 10-30-95; R065-03, 10-30-2003)	
	445.694	Emission discharge information. Emission discharge information, as correlated to mass emission rates or ambient air quality regulations related to all registration certificates and operating permits, will be maintained by the director as public information at 201 South Fall Street, Capitol Complex, Carson City, Nevada 89710. [Environmental Comm'n, Air Quality Reg. 3.1.9.1, eff. 11-7-75; A 12-4-76]	(c)(25)(i)(A)
	445.696	Notice of violations; appearance before commission. 1. When in the opinion of the director there is a violation of any provision of NAC 445.430 to 445.846, inclusive, or an approved compliance schedule, he shall cause a written notice to be served upon the person responsible for the alleged violation. The director shall issue a notice of violation to any owner or operator who: (a) Fails to construct a source in accordance with the application as approved by the director; (b) Fails to construct and operate a source in accordance with the conditions imposed by the director which appear on the registration certificate; or (c) Commences construction or modification of a source without applying for and receiving a registration certificate as required by NAC 445.430 to 445.846, inclusive. 2. The written notice must specify the provision of NAC 445.430 to 445.846, inclusive, or the approved compliance schedule that is being violated and the facts constituting the alleged violation. It may include an order to take corrective action or require submission of a schedule for compliance within a specified reasonable time. The order becomes final unless, within 10 calendar days after service of the written notice, the person named in the order requests a hearing before the commission. 3. Written notice shall be deemed to have been served if delivered to the person to whom addressed or if sent by registered or certified mail to the last known address of the person. 4. With or without the issuance of an order to take corrective action or require submission of a schedule for compliance within a specified reasonable time, the director may require the person to appear before the commission at a specified time or place or the commission may initiate action to levy the appropriate fine. [Environmental Comm'n, Air Quality Reg. 2.3.1 & 2.9.5-2.9.7, eff. 11-7-75; + 13.1.8, eff. 11-7-75; A 12-15-77]	(c)(25)(i)(A)
	445.697	Stop orders. 1. A stop order will be issued if: (a) The proposed construction, installation, alterations or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted for registration; or (b) The design material or the construction itself is of such a nature that it patently cannot bring the source into compliance with NAC 445.430 to 445.846, inclusive. 2. A stop order can be issued at any time before the operating permit is granted, except that a stop order for a source must not be issued after construction or modification has commenced if the construction is in accordance with the provisions of the registration certificate as submitted and approved by the director under NAC 445.708 to 445.711, inclusive.	(c)(25)(i)(A)

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		<p>3. A person served with a stop order:</p> <p>(a) Shall forthwith stop all activities specified in the stop order.</p> <p>(b) May apply for its revocation at any time, setting forth the facts upon which he believes that the reasons for the issuance of the stop order no longer exist. If the director finds that the reasons for the issuance of the stop order no longer exist, he shall withdraw the order promptly. If the director finds that the reasons for the issuance of the stop order still exist, or that other reasons exist for continuing a stop order in effect, he shall, within 24 hours, serve a written statement of his reasons for so finding.</p> <p>[Environmental Comm'n, Air Quality Reg. 3.3.1-3.3.5, eff. 11-7-75]</p>	
	445.704	<p>Registration certificates and operating permits required.</p> <p>1. Unless exempted under NAC 445.705:</p> <p>(a) A registration certificate and an operating permit are required for all new sources.</p> <p>(b) An existing single source requires only an operating permit.</p> <p>2. Registration certificates and operating permits for single sources may be issued through an approved local air pollution control program.</p> <p>3. Registration certificates and operating permits are nontransferable as to location, owner or equipment. A replacement registration certificate or operating permit may be issued with the identical conditions upon change of ownership or name of source for the effective time remaining on the original certificate or permit by filing a request for replacement with the director on the application form provided by him accompanied by the appropriate fee.</p> <p>[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]</p>	(c)(25)(i)(A)
	445.705	<p>Exemptions.</p> <p>The following existing and new single sources do not require either registration certificates or operating permits:</p> <ol style="list-style-type: none"> <li>1. Air-conditioning equipment or fuel-burning equipment having a rating of less than 4,000,000 Btu's (1,000,000 kg-cal) per hour.</li> <li>2. Motor vehicles, special mobile equipment and internal combustion engines.</li> <li>3. Residential and commercial housekeeping vacuum systems.</li> <li>4. Incinerators with less than 25 lb (11 kg) per hour rated burning capacity.</li> <li>5. Agricultural land use.</li> <li>6. Storage containers for gasoline, petroleum distillate or other volatile organic compounds having a capacity of less than 40,000 gallons (150 kiloliters).</li> <li>7. Equipment or contrivances used exclusively for the processing of food for human consumption.</li> <li>8. Disturbing topsoil of less than 20 acres (8 hectares).</li> <li>9. Process weight rates of less than 50 lb (23 kg) per hour.</li> </ol> <p>[Environmental Comm'n, Air Quality Reg. 3.1.8, eff. 11-7-75]</p>	(c)(25)(i)(A)
	445.706	<p>Application date; payment of fees.</p> <p>1. A United States registered or certified postmark date establishes the official date of all applications for registration certificates and operating permits.</p>	(c)(25)(i)(A)



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		2. All fees must be paid to the State of Nevada or the local agency which certified issuance of the certificate or permit and are not refundable. [Environmental Comm'n, Air Quality Reg. 3.1.4 & 3.1.7, eff. 11-7-75]	
	445.707	<p>Registration certificates: Prerequisite; application; fee; issuance, denial; expiration.</p> <p>1. A separate registration certificate is required for each new or modified single source. A valid registration certificate must be obtained before the commencement of construction or alteration of any single source of air contaminant.</p> <p>2. Requests for the issuance of a registration certificate or the replacement of a lost or damaged registration certificate with the appropriate fee must be submitted to the director on the application form provided by him. The fee for each initial registration certificate, its replacement, or renewal is \$10.</p> <p>3. Within 5 working days after receiving an application for registration the director shall determine if any additional information is needed. Within 15 days after receiving adequate information the director shall make a preliminary determination to issue or deny a registration certificate. The director shall give preliminary notice of his intent to issue or deny a registration certificate for a single source within 15 days after receiving adequate information for reviewing the registration application.</p> <p>4. The application, the director's review and preliminary intent to issue or deny must be made public and maintained on file with the director during normal business hours at 201 South Fall Street, Carson City, Nevada, and in the air quality region where the source is located at a site specified in a prominent advertisement by the director for 30 days to enable public participation and comment. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 days after the public announcement.</p> <p>5. Within 75 days after receiving adequate information, pursuant to NAC 445.708 to 445.711, inclusive, the director shall issue or deny a registration certificate. The director shall make his decision by taking into account written public comments on the director's review and preliminary intent for issuance or denial, project proponent submittal and the effect of such a facility on the maintenance of the ambient air quality standards contained in NAC 445.843 and the control strategy contained in the air quality plan.</p> <p>6. A registration certificate only expires if construction of a new or modified source is not commenced within 1 year from the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.</p> <p>[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 &amp; 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]</p>	(c)(25)(i)(A)
	445.712	<p>Operating permits: Prerequisite; application; fee; issuance, denial; posting.</p> <p>1. A separate operating permit is required for each new or existing single source. Possession of a valid registration certificate is a prerequisite to obtaining the initial operating permit for a new source.</p> <p>2. Application for the issuance of an initial operating permit must be submitted in writing to the director on the exact form provided by him and with the appropriate fee prior to the date of the proposed initial operation of the source. The fee for each initial operating permit is \$50.</p> <p>3. An operating permit must be granted if the director finds from a stack emission test or other appropriate test and</p>	(c)(25)(i)(A)

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		<p>other relevant information that use of the source will not result in any violation of the air quality regulations or 40 C.F.R. Parts 60 and 61, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.</p> <p>4. A denial of an application for an operating permit must be accompanied by a statement of the reasons therefor, 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.</p> <p>5. Operating permits must be posted conspicuously at or near the single source. [Environmental Comm'n, Air Quality Reg. part 3.4.1 &amp; 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]</p>	
3.1.6		Application forms for requesting the issuance of either a registration certificate or an operating permit can be obtained from the Director	(c)(11)
	445.713	<p>Operating permits: Renewal.</p> <p>1. Operating permits must be renewed 5 years after the date of issuance.</p> <p>2. Requests for the renewal of an operating permit must be submitted, in writing, to the director with the appropriate fee at least 30 calendar days prior to the expiration date of the current permit.</p> <p>3. The fee for each renewed operating permit is \$50. [Environmental Comm'n, Air Quality Reg. part 3.4.1 &amp; 3.4.4 &amp; 3.4.8, eff. 11-7-75]</p>	(c)(25)(i)(A)
	445.714	<p>Operating permits: Replacement of lost or damaged permits.</p> <p>1. Requests for the replacement of a lost or damaged operating permit must be made, in writing, to the director with the appropriate fee within 30 calendar days after the date of its loss or destruction.</p> <p>2. The fee for the replacement of a lost or damaged operating permit is \$10. [Environmental Comm'n, Air Quality Reg. 3.4.9 &amp; 3.4.12, eff. 11-7-75]</p>	(c)(25)(i)(A)
	445.715	<p>Operating permits: Revocation.</p> <p>1. An operating permit may be revoked if the control equipment is not operating.</p> <p>2. An operating permit may be revoked by the director upon determining that there has been a violation of NAC 445.430 to 445.846, inclusive, or 40 C.F.R. Parts 60 or 61, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.</p> <p>3. The revocation is effective 10 days after the service of a written notice, and the revoked operating permit must be surrendered immediately unless a hearing is requested.</p> <p>4. The fee for reissuing an operating permit that has been revoked or allowed to expire is \$100. [Environmental Comm'n, Air Quality Reg. 3.4.10, eff. 11-7-75; A 8-28-79; 3.4.13 &amp; 3.4.14, eff. 11-7-75]</p>	(c)(25)(i)(A)
	445.716	<p>Operating permits: Change of location.</p> <p>Requests for change of location must be made in writing to the director with a \$2 fee for each operating permit at least 30 calendar days prior to the operation of the source at the new location. The source must not be operated at the new location until the director approves of the location. [Environmental Comm'n, Air Quality Reg. 3.4.11, eff. 11-7-75; A 12-15-77]</p>	(c)(25)(i)(A)

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	445B.22017 (Superseded 445.721)	<p><b>Visible emissions: Maximum opacity; determination.</b></p> <p>1. Except as otherwise provided in this section and NAC 445B.2202, no owner or operator may cause or permit the discharge into the atmosphere from any emission unit which is of an opacity equal to or greater than 20 percent. Opacity must be determined by one of the following methods:</p> <p>(a) If opacity is determined by a visual measurement, it must be determined as set forth in Reference Method 9 in Appendix A of 40 C.F.R. Part 60.</p> <p>(b) If a source uses a continuous monitoring system for the measurement of opacity, the data must be reduced to 6-minute averages as set forth in 40 C.F.R. § 60.13(h).</p> <p>2. The provisions of this section and NAC 445B.2202 do not apply to that part of the opacity that consists of uncombined water. The burden of proof to establish the application of this exemption is upon the person seeking to come within the exemption.</p> <p>3. If the provisions of 40 C.F.R. Part 60, Subpart D or Da apply to an emission unit, the emission unit must be allowed one 6-minute period per hour of not more than 27 percent opacity as set forth in 40 C.F.R. § 60.42(a)(2) and 40 C.F.R. § 60.42a(b).</p> <p>4. The continuous monitoring system for monitoring opacity at a facility must be operated and maintained by the owner or operator specified in the permit for the facility in accordance with NAC 445B.256 to 445B.267, inclusive. [Environmental Comm'n, Air Quality Reg. §§ 4.1 &amp; 4.2, eff. 11-7-75; § 4.5.1.1, eff. 8-28-79]—(NAC A 9-19-90; 10-30-95; R118-00, 9-25-2000)—(Substituted in revision for NAC 445B.354)</p>	72FR25972 5/8/2007
	NAC 445B.2202 (Superseded Articles 4.3, 4.3.1-4.3.3, 4.3.5)	<p><b>Visible emissions: Exceptions for stationary sources.</b> The provisions of NAC 445B.22017 do not apply to:</p> <p>1. Smoke from the open burning described in NAC 445B.22067;</p> <p>2. Smoke discharged in the course of training air pollution control inspectors to observe visible emissions, if the facility has written approval of the Commission;</p> <p>3. Emissions from an incinerator as set forth in NAC 445B.2207; or</p> <p>4. Emissions of stationary diesel-powered engines during warm-up for not longer than 15 minutes to achieve operating temperatures.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 4.3.1-4.3.3, eff. 11-7-75; § 4.3.6, eff. 12-4-76; A and renumbered as § 4.3.4, 12-15-77; § 4.3.5, eff. 11-7-75; § 4.3.6, eff. 12-15-77; A 4-18-80]—(NAC A by R065-03, 10-30-2003; R198-03, 4-26-2004, eff. 3-1-2006)</p>	72FR25972 5/8/2007
	NAC 445B.22027	<p><b>Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates.</b> For purposes of NAC 445B.22027 to 445B.22037, inclusive, the maximum allowable throughput to be used to calculate allowable emission rates must be the maximum process weight for an emission unit.</p> <p>[Environmental Comm'n, Air Quality Reg. § 7.2.4, eff. 11-7-75; A 12-4-76]—(NAC A 10-22-87; 12-26-91; R105-97, 3-5-98)—(Substituted in revision for NAC 445B.360)</p>	72FR25972 5/8/2007
	445.729	<p>Process weight rate for calculating emission rates.</p> <p>For purposes of NAC 445.729 to 445.737, inclusive, the process weight rate to be used to calculate allowable emission</p>	(c)(25)(i)(A)

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		rates must be the weight rates for single sources. [Environmental Comm'n, Air Quality Reg. 7.2.4, eff. 11-7-75; A 12-4-76]	
	445.730	<p>Colemanite flotation processing plants.</p> <p>1. The maximum amount of particulate matter which may be emitted in an hour by any colemanite flotation processing plant and the formulas by which the amount will be determined are:</p> <p>(a) For a crushing, screening or grinding plant, a maximum of 2.5 pounds (1.13 kilograms) per hour as calculated by: <math>E = 0.02 \times 10^{-3} P</math> (0.04P).</p> <p>(b) For a storage bin for ore or an ore product, a maximum of 0.55 pounds (0.25 kilogram) per hour as calculated by: <math>E = 0.01 \times 10^{-3} P</math> (0.02P).</p> <p>(c) For a dryer and calciner, a maximum of 10.50 pounds (4.75 kilograms) per hour as calculated by: <math>E = 0.31 \times 10^{-3} P</math> (0.62P).</p> <p>2. For the purposes of subsection 1:</p> <p>(a) "E" means the maximum emission rate allowed in pounds (kilograms) per hour.</p> <p>(b) "P" means the process weight rate in tons (kilograms) per hour.</p> <p>[Environmental Comm'n, Air Quality Reg. 7.2.8.1-7.2.8.3, eff. 11-17-78]</p>	(c)(25)(i)(A)
	NAC 445B.2203 (Superseded 445.731)	<p><b>Emissions of particulate matter: Fuel-burning equipment.</b></p> <p>1. No person may cause or permit the emission of PM<sub>10</sub> resulting from the combustion of fuel in fuel-burning equipment in excess of the quantity set forth in the following formulas:</p> <p>(a) For maximum input of heat equal to or greater than 4 million Btu's per hour, but less than or equal to 10 million Btu's per hour, the allowable emission is 0.6 of a pound per million Btu's of input of heat.</p> <p>(b) For maximum input of heat greater than 10 million Btu's per hour, but less than 4,000 million Btu's per hour, the allowable emissions must be calculated using the following equation:</p> $Y = 1.02X^{-0.231}$ <p>(c) For maximum input of heat equal to or greater than 4,000 million Btu's per hour, the emission must be calculated using the following equation:</p> $Y = 17.0X^{-0.568}$ <p>2. For the purposes of paragraphs (b) and (c) of subsection 1:</p> <p>(a) "X" means the maximum operating rate in million Btu's per hour.</p> <p>(b) "Y" means the allowable rate of emission in pounds per million Btu's.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 7.1.1-7.1.1.2, eff. 11-7-75; § 7.1.3, eff. 11-7-75; renumbered as § 7.1.2, 12-15-77]—(NAC A 10-15-85; 9-19-90; 12-26-91; 10-30-95; R022-99, 9-27-99)—(Substituted in revision for</p>	72FR25972 5/8/2007

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		NAC 445B.362)	
	45B.22033 (Superseded 445.732)	<p><b>Emissions of particulate matter: Sources not otherwise limited.</b></p> <p>1. Owners or operators of stationary sources not otherwise included in NAC 445B.22027 to 445B.22037, inclusive, shall not cause or permit PM<sub>10</sub> to be discharged from any emission unit into the atmosphere in excess of the allowable emission determined by the use of the formula contained in subsection 2 or 3.</p> <p>2. When the maximum allowable throughput is less than 30 tons per hour, the maximum allowable weight discharged per hour must be determined by using the following equation:</p> $E = 4.10P^{0.67}$ <p>3. When the maximum allowable throughput equals or exceeds 30 tons per hour, the maximum allowable weight discharged per hour must be determined by using the following equation:</p> $E = 55P^{0.11} - 40$ <p>4. For the purposes of subsections 2 and 3:</p> <p>(a) “E” means the maximum rate of emission in pounds per hour.</p> <p>(b) “P” means the maximum allowable throughput in tons per hour.</p> <p>[Environmental Comm’n, Air Quality Reg. §§ 7.2.1-7.2.3, eff. 11-7-75]—(NAC A 10-19-83; 10-15-85; 10-22-87; 9-19-90; 12-26-91; 10-30-95; R105-97, 3-5-98)—(Substituted in revision for NAC 445B.363)</p>	72FR25972 5/8/2007
	445B.22037 (Superseded 445.734)	<p><b>Emissions of particulate matter: Fugitive dust.</b></p> <p>1. No person may cause or permit the handling, transporting or storing of any material in a manner which allows or may allow controllable particulate matter to become airborne.</p> <p>2. Except as otherwise provided in subsection 4, no person may cause or permit the construction, repair, demolition, or use of unpaved or untreated areas without first putting into effect an ongoing program using the best practical methods to prevent particulate matter from becoming airborne. As used in this subsection, “best practical methods” includes, but is not limited to, paving, chemical stabilization, watering, phased construction and revegetation.</p> <p>3. Except as otherwise provided in subsection 4, no person may disturb or cover 5 acres or more of land or its topsoil until he has obtained an operating permit for surface area disturbance to clear, excavate, or level the land or to deposit any foreign material to fill or cover the land.</p> <p>4. The provisions of subsections 2 and 3 do not apply to:</p> <p>(a) Agricultural activities occurring on agricultural land; or</p> <p>(b) Surface disturbances authorized by a permit issued pursuant to NRS 519A.180 which occur on land which is not less than 5 acres or more than 20 acres.</p> <p>[Environmental Comm’n, Air Quality Reg. §§ 7.3.1 &amp; 7.3.2, eff. 11-7-75; § 7.3.3, eff. 11-7-75; A 12-15-77]—(NAC A 9-19-90; 12-26-91; 12-13-93; 10-30-95)—(Substituted in revision for NAC 445B.365)</p>	72FR25972 5/8/2007

Approved Reference:		State Implementation Plan Text of Regulations and Articles:	Cite: 40 CFR § 52.1470 Subpart DD
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7.2.5.1		The maximum allowable weight of particulates which may be discharged per hour from the first barite grinding mill of Milchem Incorporated near Battle Mountain is the weight prescribed in paragraph (a) or the weight determined by the use of the equation in paragraph (b), whichever is less: (a) Emissions of 5.6 kilograms (12.4 pounds) per hour. (b) Emissions determined by the equation $E = 0.0084 P^{0.67}$ ( $E = 1.79 P^{0.67}$ ), where P = Process weight rate in kilograms (tons) per hour. E = Emission allowed in kilograms (pounds) per hour.	(c)(22)(ii)
	445B.2204 (Superseded 445.742)	<b>“Sulfur emission” defined.</b> For purposes of NAC 445B.2204 to 445B.22063, inclusive, “sulfur emission” means the sulfur portion of the sulfur compounds emitted. [Environmental Comm’n, Air Quality Reg. § 8.2.2.4, eff. 11-7-75; renumbered as § 8.2.4, 12-4-76; A and renumbered as § 8.2.2, 12-15-77]—(Substituted in revision for NAC 445B.370)	71FR15040 3/27/2006
	445B.22043 (Superseded 445.743)	<b>Sulfur emissions: Calculation of total feed sulfur.</b> For the purposes of NAC 445B.2204 to 445B.2205, inclusive, total feed sulfur must be calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere. When furnaces, sinter machines, sinter boxes, roasters, converters, or other similar devices are used for converting ores, concentrates, residues, or slag to the metal or the oxide of the metal either wholly or in part, the combined sulfur input of all units must be used to determine the allowable emission. [Environmental Comm’n, Air Quality Reg. § 8.1.5, eff. 11-7-75]—(Substituted in revision for NAC 445B.371)	71FR15040 3/27/2006
	445B.22047 (Superseded Article 8.2, 8.2.1, 8.2.1.1 and 8.2.1.2)	<b>Sulfur emissions: Fuel-burning equipment.</b> 1. No person may cause or permit the emission of compounds of sulfur caused by the combustion of fuel in fuel-burning equipment in excess of the quantity calculated by the use of the formula in subsection 2 or 3. 2. Where an emission unit has a maximum input of heat of less than 250 million Btu’s per hour, the allowable emission must be calculated by the use of the following equation: $Y = 0.7X$ For the purposes of this subsection: (a) “X” means the maximum operating input of heat in millions of Btu’s per hour. (b) “Y” means the allowable rate of emission of sulfur in pounds per hour. 3. Where an emission unit has a maximum input of heat equal to or greater than 250 million Btu’s per hour, the allowable emission of sulfur must be calculated by the use of the following equations:  Liquid fuel $Y = 0.4X$ Solid fuel $Y = 0.6X$	71FR15040 3/27/2006

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		<p>Combination Fuel</p> $Y = \frac{L(0.4X) + S(0.6X)}{L + S}$ <p>For the purposes of this subsection:</p> <p>(a) "X" means the maximum input of the operation in millions of Btu's per hour.</p> <p>(b) "Y" means the allowable rate of emissions of sulfur in pounds per hour.</p> <p>(c) "L" means the percentage of total input of heat derived from liquid fuel.</p> <p>(d) "S" means the percentage of total input of heat derived from solid fuel.</p> <p>[Environmental Comm'n, Air Quality Reg. § 8.2.1, eff. 11-7-75; § 8.2.2.1, eff. 11-7-75; A and renumbered as § 8.2.2, 12-4-76; renumbered as § 8.2.1.1, 12-15-77; § 8.2.2.2, eff. 11-7-75; A and renumbered as § 8.2.3, 12-4-76; renumbered as § 8.2.1.2, 12-15-77; § 8.2.2.3, eff. 11-7-75]—(NAC A 10-19-83; 10-15-85; 9-19-90; 12-24-91; 10-30-95; R105-97, 3-5-98; R022-99, 9-27-99)—(Substituted in revision for NAC 445B.373)</p>	
	445B.2205 (Superseded 445.746)	<p><b>Sulfur emissions: Other processes which emit sulfur.</b></p> <p>1. No person may cause or permit the emission of sulfur compounds where the sulfur originates in the material being processed, excluding hydrogen sulfide and sulfur from all solid, liquid or gaseous fuel, in excess of the quantity determined by the following equation:</p> $E = 0.292P^{0.904}$ <p>when "E" is equal to or greater than 10 pounds per hour. When "E" is less than 10 pounds per hour, the gas stream concentration must not exceed 1,000 ppm by volume.</p> <p>2. For the purposes of subsection 1:</p> <p>(a) "E" means the allowable sulfur emission in pounds per hour.</p> <p>(b) "P" means the total feed sulfur, excluding hydrogen sulfide, in pounds per hour.</p> <p>3. When sulfur emissions are due to sulfur contributions from both the fuel and the material being processed, the allowable emissions must be the sum of those allowed by this section and NAC 445B.22047.</p> <p>4. Incinerators used solely for the control of odor by the combustion of noxious sulfur containing compounds are exempt from the provisions of NAC 445B.2204 to 445B.2205, inclusive, and are governed by the provisions of NAC 445B.22027 to 445B.22037, inclusive, and 445B.287 to 445B.3497, inclusive.</p> <p>[Environmental Comm'n, Air Quality Reg. §§ 8.3.1-8.4, eff. 11-7-75]—(NAC A 9-5-84; 9-19-90; 12-26-91; 12-13-93; 10-30-95; 5-3-96; R105-97, 3-5-98)—(Substituted in revision for NAC 445B.374)</p>	71FR15040 3/27/2006
	445B.22067 (Superseded Article 5.1, 5.2, 5.2.1, 5.2.2, 5.2.3,	<p><b>Open burning.</b></p> <p>1. The open burning of any combustible refuse, waste, garbage or oil, or for any salvage operations, except as specifically exempted, is prohibited.</p> <p>2. Open burning:</p> <p>(a) For the purpose of weed abatement, conservation, disease control, game or forest management, personnel</p>	71FR15040 3/27/2006

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	5.2.4, 5.2.5 and 5.3)	<p>training or elimination of hazards is allowed if:</p> <p>(1) Approved in advance by the Director; or</p> <p>(2) Authorized by an officer of the State of Nevada or its political subdivisions and concurred in by the Director.</p> <p>(b) Of yard waste and other untreated wood waste, as described in NAC 444.640, is allowed if approved in advance by the Director.</p> <p>(c) Is allowed for agricultural purposes and management except where prohibited by local ordinances or regulations.</p> <p>(d) Is allowed at single-family residences located in all areas of the State except in and within 1 mile of the boundaries of Babbitt, Battle Mountain, Caliente, Carlin, Douglas County, East Ely, Elko Township, Ely, Fallon, Fernley, Gabbs, Hawthorne, Lovelock, McGill, Tonopah, Virginia City, Weed Heights, Wells, Winnemucca and Yerington, and inside the limits of Carson City and in those portions of Lyon County that are within 1 mile of the Carson City line.</p> <p>(e) Is allowed at single-family residences located in and within 1 mile of the boundaries of Babbitt, Battle Mountain, Caliente, Carlin, Douglas County, East Ely, Elko Township, Ely, Fallon, Fernley, Gabbs, Hawthorne, Lovelock, McGill, Tonopah, Virginia City, Weed Heights, Wells, Winnemucca and Yerington, and inside the limits of Carson City and in those portions of Lyon County that are within 1 mile of the Carson City line if:</p> <p>(1) Authorized by an officer of the State of Nevada or its political subdivisions;</p> <p>(2) Concurred in by the Director; and</p> <p>(3) Not specifically prohibited by local ordinances or regulations.</p> <p>(f) Of small wood fires is allowed for recreational, educational, ceremonial, heating or cooking purposes.</p> <p>3. All open burning must be attended and controlled at all times to eliminate fire hazards.</p> <p>[Environmental Comm'n, Air Quality Reg. Art. 5, eff. 11-7-75; A 5-8-77]—(NAC A by R237-03, 4-15-2004)</p>	
	445B.2207 (Superseded 445.754)	<p><b>Incinerator burning.</b></p> <p>1. Except as otherwise provided in subsection 6:</p> <p>(a) Burning in any incinerator other than the multiple-chamber type is prohibited.</p> <p>(b) Incinerator burning which produces, for periods totaling 1 minute in 1 hour, a visible emission which is of an opacity equal to or greater than 20 percent is prohibited.</p> <p>2. Incinerators used for the burning of pathological wastes, wet garbage or high moisture content material must be high temperature types with either grate or solid hearth construction, drying shelves for wet wastes and an auxiliary heating unit to ensure temperatures of 1400°F (760°C) for not less than 0.3 of a second. The hearth must be frequently cleaned at regular intervals to prevent buildup of residues and deposits.</p> <p>3. The rated burning capacity, operating and maintenance procedures approved by the Director must be posted conspicuously at or near the incinerator.</p> <p>4. Allowable PM<sub>10</sub> emissions from incinerators of less than 2,000 lb per hour rated burning capacity may not exceed 1.8 lb/ton of dry refuse charged.</p> <p>5. Allowable PM<sub>10</sub> emissions from incinerators equal to or greater than 2,000 lb per hour burning capacity must be calculated using the following equation:</p>	71FR15040 3/27/2006



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		<p style="text-align: center;"><math>E = 0.6 (40.7 \times 10^{-5}C)</math></p> <p>For the purposes of this subsection, “E” means the maximum allowable rate of emission of PM<sub>10</sub> in pounds per hour and “C” means the rate of charge of dry refuse in pounds per hour.</p> <p>6. Single-chamber incinerators may be used at single-family residences, in all areas of the State, except in and within 1 mile of the boundaries of Babbitt, Battle Mountain, Caliente, Carlin, Douglas County, East Ely, Elko Township, Ely, Fallon, Fernley, Gabbs, Hawthorne, Lovelock, McGill, Tonopah, Virginia City, Weed Heights, Wells, Winnemucca and Yerington, and inside the limits of Carson City and in those portions of Lyon County that are within 1 mile of the Carson City line, unless otherwise prohibited by local ordinances or regulations.</p> <p>[Environmental Comm’n, Air Quality Reg. §§ 6.1 &amp; 6.2, eff. 11-7-75; § 6.3, eff. 11-7-75; A 3-31-77; §§ 6.4-6.6.2, eff. 11-7-75]—(NAC A 9-19-90; 12-26-91; R237-03, 4-15-2004)</p>	
	445.764	<p>Reduction of employees' pay because of use of system prohibited.</p> <p>If the owner or operator of a source uses a supplemental or intermittent control system, or other control system designed to vary with atmospheric conditions, for the purpose of meeting the requirements of an order issued pursuant to § 113(d) or 119 which relates to primary nonferrous smelters in the Act, he may not temporarily reduce the pay of any of his employees because of his use of that system.</p> <p>[Environmental Comm’n, Air Quality Reg. 14.1, eff. 8-17-81]</p>	(c)(25)(i)(A)
16.3.3		Standard for Opacity	(c)(14)(viii)
16.3.3.2		No person shall cause, suffer, allow, or permit the discharge from any clinker cooler which exhibit greater than 10 percent opacity.	(c)(14)(viii)
16.3.3.3		On or after the date on which the performance test required by Article 2.6 is completed, no owner or operator subject to the provision of Article 16.3 shall cause to be discharged into the atmosphere from any affect facility other than the kiln and clinker cooler any gases which exhibit 10% opacity or greater.	(c)(14)(viii)
	445.808	<p>1. This section applies to those systems of the facilities described in subsection 2 which are used for crushing, screening, grinding, handling, transferring, concentrating, refining and storing crude barite.</p> <p>2. No owner or operator may cause or permit the emission of particulate matter in excess of the following:</p> <p>(a) IMCO Services’ barite grinding mill in Battle Mountain in Air Quality Region 147, Humboldt River Basin, Basin 59, Lower Reese River Valley, for grinding barite ore, 0.06 pounds per short ton (0.03 kilograms per metric ton) of crude barite processed.</p> <p>(b) Dresser Industries barite grinding mill south of Battle Mountain in Air Quality Control Region 147, Humboldt River Basin, Basin 55, Carico Lake Valley:</p> <p>(1) For primary crushing of barite ore, 0.015 pounds per short ton (0.0075 kilograms per metric ton) of barite ore processed.</p> <p>(2) For secondary crushing or screening of barite ore, 0.035 pounds per short ton (0.0175 kilograms per metric ton)</p>	(c)(26)(i)(A)

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		<p>of barite ore processed.</p> <p>(c) Dresser Industries' barite grinding mill in Battle Mountain in Air Quality Control Region 147, Humboldt River Basin, Basin 59, Lower Reese River Valley:</p> <p>(1) For grinding barite ore, 0.06 pounds per short ton (0.03 kilograms per metric ton) of crude barite processed.</p> <p>(2) For bulk-loading barite ore, 0.18 pounds per short ton (0.09 kilograms per metric ton) of barite dispensed.</p> <p>3. No owner or operator may cause or permit a discharge with an opacity of greater than 20 percent from a barite grinding mill.</p> <p>4. The owner or operator of any barite grinding mill, as indicated on the permit, shall record the production rates and hours of operation of the mill and shall comply with all requirements for notification and recordkeeping in NAC 445.660 to 445.700 inclusive.</p> <p>5. All test methods and procedures in NAC 445.660 to 445.700, inclusive, and Appendix A, Reference Methods of 40 C.F.R. Part 60, apply to barite grinding mills.</p> <p>[Environmental Comm'n, Air Quality Reg. 16.27, eff. 1-25-79; A 8-28-79; 12-3-80; 8-17-81; 16.27.2, eff. 1-25-79; A 8-28-79; 8-17=81; 16.27.1.1-16.27.4 eff. 8-17-81; 16.27.4, eff. 1-25-79; NAC A 10-19-83]</p>	
	445.816	<p>1. This section applies to those systems of the facilities described in subsection 2 which are used for crushing, screening, grinding, handling, transferring, concentrating, refining and storing any precious metals or precious metal ore.</p> <p>2. No operator may permit the emission of particulate matter in excess of the following:</p> <p>(d) Freeport Gold Company's processing plant for precious metal in Air Quality Control Region 147, Basin 44, North Fork area:</p> <p>(1) For crushing, screening, grinding, handling and transferring any precious metal or precious metal ore, 0.04 lb/short ton (0.02 kg/metric ton) of precious metal ore processed.</p> <p>(2) For loading, transferring and storing any precious metal or precious metal ore, 0.02 lb/short ton (0.01 kg/metric ton).</p> <p>3. No owner or operator may permit the discharge of particulate matter of greater than 20 percent opacity from a single source of a processing plant for precious metal.</p> <p>4. The owner and the operator of any processing plant for precious metal shall record the yearly production rate and hours of operation for each source of particulate matter to which an emission standard applies.</p> <p>5. All tests must be performed in accordance with Appendix A of 40 C.F.R. Part 60.</p> <p>[Environmental Comm'n, Air Quality Reg. 16.26, eff. 1-25-79; A 8-28-79; 11-21-79; 12-20-79; 4-18-80; 16.26.1., eff. 1-25-79; 16.26.1.1, eff. 1-25-79; 8-28-79; 4-18-80; 16.26.1.2, eff. 1-25-79; A 4-18-80; 16.26.1.3-16.26.1.6, eff. 4-18-80; 16.26.1.7, eff. 4-18-80; A 8-17-81; 16.26.1.8; eff. 16.32.2, eff. 12-20-79; renumbered as 16.26.1.3, 4-18-80; NAC A 7-29-82; 10-19-83]</p>	(c)(26)(i)(A)
	445B.2209 (Superseded 445.845)	<p><b>Reduction of animal matter.</b></p> <p>1. The operation of any machine, equipment or other contrivance for the reduction of animal matter is prohibited unless all gases, vapors and gas-entrained effluents are:</p>	71FR15040 3/27/2006

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		(a) Incinerated at temperatures of not less than 1400°F (760°C) for not less than 0.3 second; 2. This section does not apply to any machine, equipment or other contrivance used exclusively for the processing of food for human consumption. [Environmental Comm'n, Air Quality Reg. §§ 10.2.1-10.2.2, eff. 11-7-75]—(Substituted in revision for NAC 445B.394)					
	445B.22093  (Superseded 445.846 and Articles 9.2, 9.2.1, 9.2.1.1 and 9.2.1.2)	<b>Organic solvents and other volatile compounds.</b> 1. Solvents or other volatile compounds such as paints, acids, alkalies, pesticides, fertilizers and manure must be processed, stored, used and transported in such a manner and by such means as to minimize the tendency to evaporate, leak, escape or be otherwise discharged into the ambient air causing or contributing to air pollution. If methods of control are available and feasible effectively to reduce the contribution to air pollution from evaporation, leakage or discharge, as determined by the director, the installation and use of such methods, devices or equipment for control is mandatory. 2. No person may place, store or hold in any new reservoir, stationary tank or other container with a capacity equal to or greater than 40,000 gallons (150 kiloliters) any gasoline, petroleum distillate, or volatile organic compound having a vapor pressure of 1.5 lb/square inch absolute (1,055 kg/square meter) or greater under actual storage conditions unless the tank, reservoir or other container is a pressure tank maintaining working pressure sufficient at all times to prevent loss of vapor or gas to the atmosphere or is equipped with one of the following devices properly installed, in good working order, and in operation: (a) A floating roof which consists of a pontoon type or double-deck roof which rests on the surface of the liquid contents and is equipped with a seal to close the space between the roof eave and tank wall or a vapor balloon or a vapor dome designed in accordance with accepted standards of the petroleum industry. This control equipment is not permitted if the gasoline or petroleum distillate has a vapor pressure of 11 lb/square inch absolute (7,734 kg/square meter) or greater under actual conditions. All gauging and sampling devices for tanks must be gastight except when gauging or sampling is taking place. (b) Other equipment proven to be of equal efficiency for preventing discharge of gases and vapors to the atmosphere. 3. Any tank for the storage of any other petroleum or volatile organic compound which is constructed or extensively remodeled on or after November 7, 1975, must be equipped with a submerged fill pipe for the control of emissions. 4. All facilities for dock loading of products consisting of petroleum or other volatile organic compounds having a vapor pressure of 1.5 lb/square inch absolute (1,055 kg/square meter) or greater at loading pressure must have facilities for submerged filling by a submerged fill pipe for the control of emissions. [Environmental Comm'n, Air Quality Reg. Art. 9, eff. 11-7-75]—(NAC A 10-19-83)—(Substituted in revision for NAC 445B.395)	71FR71486 12/11/2006				
	445B.22097 (Superseded 445.843)	<b>Standards of quality for ambient air.</b> 1. The table contained in this section lists the minimum standards of quality for ambient air. <table border="1" data-bbox="480 1386 1787 1421"> <tr> <td></td> <td>NEVADA STANDARDS<sup>A</sup></td> <td>NATIONAL STANDARDS<sup>B</sup></td> <td></td> </tr> </table>		NEVADA STANDARDS <sup>A</sup>	NATIONAL STANDARDS <sup>B</sup>		71FR15040 3/27/2006
	NEVADA STANDARDS <sup>A</sup>	NATIONAL STANDARDS <sup>B</sup>					

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Article #	NAC #	POLLUTANT	AVERAGING TIME	CONCENTRATION <sup>C</sup>	METHOD <sup>D</sup>	PRIMARY <sup>C, E</sup>	SECONDARY <sup>C, F</sup>	METHOD <sup>D</sup>
		Ozone	1 hour	0.12 ppm (235 µg/m <sup>3</sup> )	Ultraviolet absorption	0.12 ppm (235 µg/m <sup>3</sup> )	Same as primary	Chemiluminescence
		Ozone-Lake Tahoe Basin, #90	1 hour	0.10 ppm (195 µg/m <sup>3</sup> )	Ultraviolet absorption	--	--	--
		Carbon monoxide less than 5,000' above mean sea level	8 hours	9 ppm (10,500 µg/m <sup>3</sup> )	Non-dispersive infrared photometry	9 ppm (10 mg/m <sup>3</sup> )	None	Non-dispersive infrared photometry
		At or greater than 5,000' above mean sea level		6 ppm (7,000 µg/m <sup>3</sup> )				
		Carbon monoxide at any elevation	1 hour	35 ppm (40,500 µg/m <sup>3</sup> )				
		Nitrogen dioxide	Annual arithmetic mean	0.053 ppm (100 µg/m <sup>3</sup> )	Gas phase chemiluminescence	0.053 ppm (100 µg/m <sup>3</sup> )	Same as primary	Gas phase chemiluminescence
		Sulfur dioxide	Annual arithmetic mean	0.030 ppm (80 µg/m <sup>3</sup> )	Ultraviolet Fluorescence	0.030 ppm	None	Spectrophotometry (Pararosaniline method)
			24 hours	0.14 ppm (365 µg/m <sup>3</sup> )		0.14 ppm		
			3 hours	0.5 ppm (1,300 µg/m <sup>3</sup> )		None	0.5 ppm	
		Particulate matter as PM <sub>10</sub>	Annual arithmetic mean	50 µg/m <sup>3</sup>	High volume PM <sub>10</sub> sampling	50 µg/m <sup>3</sup>	Same as primary	High volume PM <sub>10</sub> sampling
			24 hours	150 µg/m <sup>3</sup>		150 µg/m <sup>3</sup>		

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		Lead (Pb)	Quarterly arithmetic mean	1.5 µg/m <sup>3</sup>	High volume sampling, acid extraction and atomic absorption spectrometry	1.5 µg/m <sup>3</sup>	Same as primary	High volume sampling, acid extraction and atomic absorption spectrometry
		Hydrogen sulfide	1 hour	0.08 ppm (112 µg/m <sup>3</sup> ) <sup>G</sup>	Ultraviolet Fluorescence	--	--	--
<p>Notes:</p> <p>Note A: The Director shall use the Nevada standards in considering whether to issue a permit for a stationary source and shall ensure that the stationary source will not cause the Nevada standards to be exceeded in areas where the general public has access.</p> <p>Note B: These standards, other than for ozone, particulate matter, and those based on annual averages, must not be exceeded more than once per year. The 1-hour ozone standard is attained when the expected number of days per calendar year with a maximum hourly average concentration above the standard is equal to or less than one. The PM<sub>10</sub> 24-hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above the standard, rounded to the nearest 10 µg/m<sup>3</sup>, is equal to or less than one. The expected number of days per calendar year is generally based on an average of the number of times the standard has been exceeded per year for the last 3 years. The National standards are to be used in determinations of attainment or nonattainment.</p> <p>Note C: Where applicable, concentration is expressed first in units in which it was adopted. All measurements of air quality that are expressed as mass per unit volume, such as micrograms per cubic meter, must be corrected to a reference temperature of 25°C and a reference pressure of 760 mm of Hg (1,013.2 millibars); “ppm” in this table refers to parts per million by volume, or micromoles of regulated air pollutant per mole of gas; “µg/m<sup>3</sup>” refers to micrograms per cubic meter.</p> <p>Note D: Any reference method specified in accordance with 40 C.F.R. Part 50 or any reference method or equivalent method designated in accordance with 40 C.F.R. Part 53 may be substituted.</p> <p>Note E: National primary standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health.</p> <p>Note F: National secondary standards are the levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a regulated air pollutant.</p>								

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		Note G: The ambient air quality standard for hydrogen sulfide does not include naturally occurring background concentrations. 2. These standards of quality for ambient air are minimum goals, and it is the intent of the Commission in this section to protect the existing quality of Nevada's air to the extent that it is economically and technically feasible. [Environmental Comm'n, Air Quality Reg. §§ 12.1-12.1.6, eff. 11-7-75; A and renumbered as § 12.1, 12-4-76; A 12-15-77; 8-28-79; §§ 12.2-12.4, eff. 11-7-75; § 12.5, eff. 12-4-76; A 8-28-79]—(NAC A 10-19-83; 9-5-84; 12-26-91; 10-30-95; R103-02, 12-17-2002; R198-03, 4-26-2004)	
13.1		General Provisions for the Review of New Sources	(c)(8)
13.1.1		Prior to the issuance of any registration certificates in accordance with this Article the applicant shall submit to the Director an environmental evaluation and any other information the Director may deem necessary to make an independent air quality impact assessment.	(c)(16)(viii)
13.1.3		The Director shall not issue a registration certificate for any point source if: 1. The environmental evaluation submitted by the application shows or if the Director determines, in accordance with the provisions of this Article, that the point source: a. Will prevent the attainment and maintenance of the State or national ambient air quality standards; b. Will cause a violation of the applicable control strategy contained in the approved Air Quality Implementation Plan; or c. Will cause a violation of 40 CFR Parts 60 and 61, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; 2. The source is located in any designated nonattainment area and: a. The lowest achievable emission rate for each nonattainment pollutant from the source is not defined and adopted as an emission limitation for the source; b. Any other source within this state which is owned, operated or controlled by the applicant is not in compliance or on a schedule of compliance with these regulations and all other applicable emission limitations or variances as provided in NRS 445.506 to 445.521, inclusive; c. The total allowable emissions of each nonattainment pollutant from (1) the existing sources in the area, (2) those sources in the area which have received their respective registration certificates and (3) the proposed source will not be sufficiently less, by the time the proposed source is to commence operation, than the total emissions from (1) the existing sources and (2) those sources in the area which have received their respective registration certificates before the proposed source makes application for its registration certificate, so that reasonable further progress is achieved; d. The emissions from the source will cause or contribute to emission levels which exceed the allowance permitted for such a pollutant for the nonattainment area. 3. In any attainment area the best available control technology is not defined and adopted as an emission	(c)(18)(i)

Approved Reference:		State Implementation Plan Text of Regulations and Articles:	Cite: 40 CFR § 52.1470 Subpart DD
Article #	NAC #		
		limitation for the source.	
13.1.4		The Director may impose any reasonable conditions on his approval, including conditions requiring the source owner or operator to conduct ambient air quality monitoring at the facility site for a reasonable period to commencement of construction or modification, and for any specified period after the source has commenced operation.	(c)(8)
13.1.5		Where a proposed source located on contiguous property is constructed or modified in increments which individually are not subject to review as provided in this Article, as such increments occurring since the effective date of this Article shall be added together for determining the applicability of this Article.	(c)(8)
13.1.6		Approval and issuance of a registration certificate to any source construction or modification shall not affect the responsibilities of the owner or owners to comply with any other portion of the control strategy	(c)(8)
13.1.7		Any source or proposed facility shall, upon written application to the Director, receive within thirty (30) days a written notice of his determination, either requiring the submittal of an environmental evaluation or exempting the source from such requirement.	(c)(8)
<i>Articles 13.2 - 13.2.9 were removed in March 2003 pursuant to (c)(16)(viii) of §52.1470 which requires that all references to complex sources be removed from 13.1.1, 13.1.2, 13.2, 13.2.1-13.5.3.</i>			
13.3		The following new single sources or modifications to an existing single source which would cause increases to existing single sources as specified below shall submit an evaluation with their application(s) for registration:	(c)(8)
13.3.1		Any single source which can cause, allow or permit the emission of an air contaminant of greater than 23 kilograms (50 pounds) per hour.	(c)(8)
13.3.2		Any combination of single sources located at a single premise which can cause, allow or permit the emission of an air contaminant of greater than 23 kilograms (50 pounds) per hour	(c)(8)
13.3.3		Any single source, upon written notice from the Director.	(c)(8)
13.4		Environmental Evaluation:	(c)(8)
13.4.1	<i>3-03: ref to complex sources removed</i>	The environmental evaluation required for new or modified single as determined by this Article or as required by the Director, shall include the following:	(c)(16)(viii)
13.4.1.1		An environmental evaluation shall be a careful and detailed assessment of the environmental aspects of a proposed action.	(c)(8)
13.4.1.2		An environmental evaluation shall contain adequate environmental safeguards to be implemented by the applicant to provide for the maintenance of acceptable air quality and shall consider: a. Ambient air concentrations before, during and after construction, empirically calculated with recognized methods as approved by the Director; or, in the case of existing ambient air concentrations, they may be measured with approved methods at approved site locations for not less than one year. Estimates shall be empirically determined for ambient air concentration immediately contiguous to the facility and at the point of predicted maximum concentration within the surrounding region.	(c)(8)  Note: This is the rule effective 10-25-74.

Approved Reference:		State Implementation Plan Text of Regulations and Articles:	Cite: 40 CFR § 52.1470 Subpart DD
Article #	NAC #		
		<p>b. Diffusion models used to determine the location and estimated value of highest air contaminant concentration shall contain:</p> <ol style="list-style-type: none"> <li>1. Assumptions and premises.</li> <li>2. Evaluation at the recorded most adverse meteorological conditions in the last 100 years.</li> <li>3. Evaluation at the recorded most adverse meteorological conditions in the last year.</li> <li>4. Geographic area considered in the evaluation.</li> <li>5. Dispersion equations.</li> <li>6. Predicted contaminant buildup.</li> <li>7. Location, type and amount of emissions.</li> <li>8. Meteorological information.</li> </ol> <p>c. Alternate proposals which could be implemented as conditions of approval.</p> <p>d. Other probable environmental effects, before, during and after construction shall be considered in the narrative portion of the evaluation.</p>	
<p><i>Articles 13.5, 13.5.1-13.5.3 were removed in March 2003 pursuant to (c)(16)(viii) of §52.1470, which requires that all references to complex sources be removed from 13.1.1, 13.1.2, 13.2, 13.2.1-13.5.3. The 13.5s were exceptions to Article 13.2, which was also removed because it dealt only with complex sources.</i></p>			



## ENCLOSURE 3

# NEVADA REVISED STATUTES STATE IMPLEMENTATION PLAN as of January 16, 2008 (2004 Codification)

**EXPLANATION:** Numbers in brackets after NRS number refer to the superseded statute in the ASIP, where applicable.

## TITLE 40 CHAPTER 445B - AIR POLLUTION

### GENERAL PROVISIONS

<u>NRS 445B.105</u> [445.406]	Definitions.
<u>NRS 445B.110</u> [445.411]	“Air contaminant” defined.
<u>NRS 445B.115</u> [445.416]	“Air pollution” defined.
<u>NRS 445B.120</u> [445.421]	“Commission” defined.
<u>NRS 445B.125</u> [445.424]	“Department” defined.
<u>NRS 445B.130</u> [445.427]	“Director” defined.
<u>NRS 445B.135</u> [445.431]	“Federal Act” defined.
<u>NRS 445B.140</u> [new]	“Hazardous air pollutant” defined.
<u>NRS 445B.145</u> [new]	“Operating permit” defined.
<u>NRS 445B.150</u> [445.441]	“Person” defined.
<u>NRS 445B.155</u> [445.446]	“Source” and “indirect source” defined.

### STATE ENVIRONMENTAL COMMISSION

<u>NRS 445B.200</u> [445.451]	Creation and composition; Chairman; quorum; compensation of members and employees; disqualification; technical support.
<u>NRS 445B.205</u> [445.456]	Department designated as State Air Pollution Control Agency.
<u>NRS 445B.210</u> [445.461]	Powers of Commission.
<u>NRS 445B.220</u> [445.471]	Additional powers of Commission.
<u>NRS 445B.225</u> [445.472]	Power of Commission to require testing of sources.
<u>NRS 445B.230</u> [445.473]	Powers and duties of Department.
<u>NRS 445B.235</u> [445.474]	Additional powers of Department.
<u>NRS 445B.240</u> [445.476]	Power of representatives of Department to enter and inspect premises.
<u>NRS 445B.245</u> [445.477]	Power of Department to perform or require test of emissions from stacks.

### LOCAL HEARING BOARD

<u>NRS 445B.275</u> [445.481]	Creation; members; terms.
<u>NRS 445B.280</u> [445.486]	Attendance of witnesses at hearing; contempt; compensation.

### PROVISIONS FOR ENFORCEMENT

<u>NRS 445B.300</u> [445.491]	Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act.
<u>NRS 445.493</u> <sup>1</sup>	Limitations on enforcement of regulations as to indirect sources and authority to review new indirect sources.
<u>NRS 445B.320</u> [445.496]	Approval of plans and specifications required before construction or alteration of structure.
<u>NRS 445B.340</u> [445.498]	Appeals to Commission: Notice of appeal.

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<sup>1</sup> NRS 445B.310 is approved to replace 445.493 contingent on evidence of public participation process for adoption of 445B.310 as a SIP revision (72 FR 71095).

NRS 445B.350 [445.499] Appeals to Commission: Hearings.  
NRS 445B.360 [445.501] Appeals to Commission: Appealable matters; action by Commission; regulations.

#### **VIOLATIONS**

NRS 445B.450 [445.526] Notice and order by Director; hearing; alternative procedures.  
NRS 445B.460 [445.529] Injunctive relief.

#### **PROGRAM FOR CONTROL OF AIR POLLUTION**

NRS 445B.500 [445.546] 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.  
NRS 445B.510 [445.551] Commission may require program for designated area.  
NRS 445B.520 [445.556] Commission may establish or supersede county program.  
NRS 445B.530 [445.561] Commission may assume jurisdiction over specific classes of air contaminants.  
NRS 445B.540 [445.566] Restoration of superseded local program; continuation of existing local program.

#### **MISCELLANEOUS PROVISIONS**

NRS 445B.560 [445.571] Plan or procedure for emergency.  
NRS 445B.570 [445.576] Confidentiality and use of information obtained by Department; penalty.  
NRS 445B.580 [445.581] Officer of Department may inspect or search premises; search warrant.  
NRS 445B.595 [445.586] Governmental sources of air contaminants to comply with state and local provisions regarding air pollution; permit to set fire for training purposes; planning and zoning agencies to consider effects on quality of air.  
NRS 445B.600 [445.596] Private rights and remedies not affected.  
NRS 445B.610 [445.598] Provisions for transition in administration.

#### **PENALTIES**

NRS 445B.640 [445.601] Levy and disposition of administrative fines; additional remedies available; penalty.

### **TITLE 0 - PRELIMINARY CHAPTER**

#### **GENERAL PROVISIONS**

NRS 0.039 [new] "Person" defined.

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## CHAPTER 445B - AIR POLLUTION

### GENERAL PROVISIONS

**NRS 445B.105 [445.406] Definitions.** As used in NRS 445B.100 to 445B.640, inclusive, unless the context otherwise requires, the words and terms defined in NRS 445B.110 to 445B.155, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1971, 1192; A 1973, 1811; 1993, 2852)—(Substituted in revision for NRS 445.406)

**NRS 445B.110 [445.411] “Air contaminant” defined.** “Air contaminant” means any substance discharged into the atmosphere except water vapor and water droplets.

(Added to NRS by 1971, 1192)—(Substituted in revision for NRS 445.411)

**NRS 445B.115 [445.416] “Air pollution” defined.** “Air pollution” means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in such quantity and duration as may tend to:

1. Injure human health or welfare, animal or plant life or property.
2. Limit visibility or interfere with scenic, esthetic and historic values of the State.
3. Interfere with the enjoyment of life or property.

(Added to NRS by 1971, 1192)—(Substituted in revision for NRS 445.416)

**NRS 445B.120 [445.421] “Commission” defined.** “Commission” means the State Environmental Commission.

(Added to NRS by 1971, 1192; A 1973, 1811)—(Substituted in revision for NRS 445.421)

**NRS 445B.125 [445.424] “Department” defined.** “Department” means the State Department of Conservation and Natural Resources.

(Added to NRS by 1973, 1808; A 1973, 1406; 1977, 1142)—(Substituted in revision for NRS 445.424)

**NRS 445B.130 [445.427] “Director” defined.** “Director” means the Director of the Department or his designee or person designated by or pursuant to a county or city ordinance or regional agreement or regulation to enforce local air pollution control ordinances and regulations.

(Added to NRS by 1973, 1808)—(Substituted in revision for NRS 445.427)

**NRS 445B.135 [445.431] “Federal Act” defined.** “Federal Act” means the Clean Air Act (42 U.S.C. §§ 7401 et seq.), which includes the Clean Air Act of 1963 (P.L. 88-206) and amendments made by the Motor Vehicle Air Pollution Control Act (P.L. 89-272, October 20, 1965), the Clean Air Act Amendments of 1966 (P.L. 89-675, October 15, 1966), the Air Quality Act of 1967 (P.L. 90-148, November 21, 1967), the Clean Air Amendments of 1970 (December 31, 1970) and any amendments thereto made after July 1, 1971.

(Added to NRS by 1971, 1192; A 1993, 2852)—(Substituted in revision for NRS 445.431)

**NRS 445B.140 “Hazardous air pollutant” defined.** “Hazardous air pollutant” means a substance designated as such by the Commission pursuant to NRS 445B.210.

(Added to NRS by 1993, 2849)—(Substituted in revision for NRS 445.433)

**NRS 445B.145 “Operating permit” defined.** “Operating permit” means a permit signed and issued by the Director approving, with conditions, the construction and operation of a source of any air contaminant.

(Added to NRS by 1993, 2849)—(Substituted in revision for NRS 445.438)

**NRS 445B.150 [445.441] “Person” defined.** “Person” includes the State of Nevada, political subdivisions, administrative agencies and public or quasi-public corporations.

(Added to NRS by 1971, 1192; A 1985, 517)—(Substituted in revision for NRS 445.441)

**NRS 445B.155 [445.446] “Source” and “indirect source” defined.**

1. “Source” means any property, real or personal, which directly emits or may emit any air contaminant.
2. “Indirect source” means any property or facility that has or solicits secondary or adjunctive activity which emits or may emit any air contaminant for which there is an ambient air quality standard, notwithstanding that such property or facility may not itself possess the capability of emitting such air contaminants. Indirect sources include, but are not limited to:

- (a) Highways and roads;
  - (b) Parking facilities;
  - (c) Retail, commercial and industrial facilities;
  - (d) Recreation, amusement, sports and entertainment facilities;
  - (e) Airports;
  - (f) Office and government buildings;
  - (g) Apartment and condominium buildings;
  - (h) Educational facilities; and
  - (i) Other such property or facilities which will result in increased air contaminant emissions from motor vehicles or other stationary sources.
- (Added to NRS by 1971, 1192; A 1973, 1811; 1975, 1781; 1977, 1558)—(Substituted in revision for NRS 445.446)

## STATE ENVIRONMENTAL COMMISSION

### **NRS 445B.200 [445.451] Creation and composition; Chairman; quorum; compensation of members and employees; disqualification; technical support.**

1. The State Environmental Commission is hereby created within the State Department of Conservation and Natural Resources. The Commission consists of:

- (a) The Director of the Department of Wildlife;
- (b) The State Forester Firewarden;
- (c) The State Engineer;
- (d) The Director of the State Department of Agriculture;
- (e) The Administrator of the Division of Minerals of the Commission on Mineral Resources;
- (f) A member of the State Board of Health to be designated by that Board; and
- (g) Five members appointed by the Governor, one of whom is a general engineering contractor or a general building contractor licensed pursuant to chapter 624 of NRS and one of whom possesses expertise in performing mining reclamation.

2. The Governor shall appoint the Chairman of the Commission from among the members of the Commission.

3. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

4. Each member who is appointed by the Governor is entitled to receive a salary of not more than \$80, as fixed by the Commission, for each day's attendance at a meeting of the Commission.

5. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. Any person who receives or has received during the previous 2 years a significant portion of his income, as defined by any applicable state or federal law, directly or indirectly from one or more holders of or applicants for a permit required by NRS 445A.300 to 445A.730, inclusive, is disqualified from serving as a member of the Commission. The provisions of this subsection do not apply to any person who receives or has received during the previous 2 years, a significant portion of his income from any department or agency of state government which is a holder of or an applicant for a permit required by NRS 445A.300 to 445A.730, inclusive.

7. The State Department of Conservation and Natural Resources shall provide technical advice, support and assistance to the Commission. All state officers, departments, commissions and agencies, including the Department of Transportation, the Department of Human Resources, the University and Community College System of Nevada, the State Public Works Board, the Department of Motor Vehicles, the Department of Public Safety, the Public Utilities Commission of Nevada, the Transportation Services Authority and the State Department of Agriculture may also provide technical advice, support and assistance to the Commission.

(Added to NRS by 1971, 1192; A 1973, 908, 1406, 1720; 1975, 1404; 1977, 1142, 1220, 1484, 1561; 1979, 910, 1800; 1981, 1983; 1983, 2089; 1985, 424, 1991; 1989, 1288, 1715; 1989, 1288, 1715; 1993, 404, 1623; 1995, 579; 1997, 1998; 1999, 3623; 2001, 2616; 2003, 1564)

**NRS 445B.205 [445.456] Department designated as State Air Pollution Control Agency.** The Department is:

1. Designated as the Air Pollution Control Agency of the State for the purposes of the Federal Act insofar as it pertains to state programs.

2. Authorized to take all action necessary or appropriate to secure to this state the benefits of the Federal Act.

(Added to NRS by 1971, 1139; A 1973, 1813)—(Substituted in revision for NRS 445.456)

**NRS 445B.210 [445.461] Powers of Commission.** The Commission may:

1. Subject to the provisions of NRS 445B.215, adopt regulations consistent with the general intent and purposes of NRS 445B.100 to 445B.640, inclusive, to prevent, abate and control air pollution.
  2. Establish standards for air quality.
  3. Require access to records relating to emissions which cause or contribute to air pollution.
  4. Cooperate with other governmental agencies, including other states and the Federal Government.
  5. Establish such requirements for the control of emissions as may be necessary to prevent, abate or control air pollution.
  6. By regulation:
    - (a) Designate as a hazardous air pollutant any substance which, on or after October 1, 1993, is on the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b); and
    - (b) Delete from designation as a hazardous air pollutant any substance which, after October 1, 1993, is deleted from the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b),  
 ➔based upon the Commission's determination of the extent to which such a substance presents a risk to the public health.
  7. Hold hearings to carry out the provisions of NRS 445B.100 to 445B.640, inclusive, except as otherwise provided in those sections.
  8. Establish fuel standards for both stationary and mobile sources of air contaminants. Fuel standards for mobile sources of air contaminants must be established to achieve air quality standards that protect the health of the residents of the State of Nevada.
  9. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.
- (Added to NRS by 1971, 1193; A 1973, 1813; 1993, 2852; 1997, 3230)

**NRS 445B.220 [445.471] Additional powers of Commission.** In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, the Commission, in addition to any other action which may be necessary or appropriate to carry out such purposes, may:

1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.
  2. Recommend measures for control of air pollution originating in this state.
- (Added to NRS by 1971, 1194; A 1973, 1814)—(Substituted in revision for NRS 445.471)

**NRS 445B.225 [445.472] Power of Commission to require testing of sources.** The Commission may require the monitoring or source tests of existing or new stationary sources which can emit an air contaminant.

(Added to NRS by 1973, 1810)—(Substituted in revision for NRS 445.472)

**NRS 445B.230 [445.473] Powers and duties of Department.** The Department shall:

1. Make such determinations and issue such orders as may be necessary to implement the purposes of NRS 445B.100 to 445B.640, inclusive.
  2. Apply for and receive grants or other funds or gifts from public or private agencies.
  3. Cooperate and contract with other governmental agencies, including other states and the Federal Government.
  4. Conduct investigations, research and technical studies consistent with the general purposes of NRS 445B.100 to 445B.640, inclusive.
  5. Prohibit as specifically provided in NRS 445B.300 and 445B.320 and as generally provided in NRS 445B.100 to 445B.640, inclusive, the installation, alteration or establishment of any equipment, device or other article capable of causing air pollution.
  6. Require the submission of such preliminary plans and specifications and other information as it deems necessary to process permits.
  7. Enter into and inspect at any reasonable time any premises containing an air contaminant source or a source under construction for purposes of ascertaining compliance with NRS 445B.100 to 445B.640, inclusive.
  8. Specify the manner in which incinerators may be constructed and operated.
  9. Institute proceedings to prevent continued violation of any order issued by the Director and to enforce the provisions of NRS 445B.100 to 445B.640, inclusive.
  10. Require access to records relating to emissions which cause or contribute to air pollution.
  11. Take such action in accordance with the rules, regulations and orders promulgated by the Commission as may be necessary to prevent, abate and control air pollution.
- (Added to NRS by 1973, 1808)—(Substituted in revision for NRS 445.473)

**NRS 445B.235 [445.474] Additional powers of Department.** In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, the Department may, if it considers it necessary or appropriate:

1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.

2. On behalf of this state, apply for and receive funds made available to the State for programs from any private source or from any agency of the Federal Government under the Federal Act. All moneys received from any federal agency or private source as provided in this section shall be paid into the State Treasury and shall be expended, under the direction of the Department, solely for the purpose or purposes for which the grant or grants have been made.

3. Certify to the appropriate federal authority that facilities are in conformity with the state program and requirements for control of air pollution, or will be in conformity with the state program and requirements for control of air pollution if such facility is constructed and operated in accordance with the application for certification.

4. Develop measures for control of air pollution originating in the State.

(Added to NRS by 1973, 1809)—(Substituted in revision for NRS 445.474)

**NRS 445B.240 [445.476] Power of representatives of Department to enter and inspect premises.**

1. Any duly authorized officer, employee or representative of the Department may enter and inspect any property, premises or place on or at which an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with NRS 445B.100 to 445B.640, inclusive, and rules and regulations in force pursuant thereto.

2. No person shall:

(a) Refuse entry or access to any authorized representative of the Department who requests entry for purposes of inspection, as provided in this section, and who presents appropriate credentials.

(b) Obstruct, hamper or interfere with any such inspection.

3. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(Added to NRS by 1971, 1194; A 1973, 1815)—(Substituted in revision for NRS 445.476)

**NRS 445B.245 [445.477] Power of Department to perform or require test of emissions from stacks.** The Department may perform a stack source emission test or require the source owner or operator to have such test made prior to approval or prior to the continuance of an operating permit or similar class of permits.

(Added to NRS by 1973, 1810; A 1975, 1405)—(Substituted in revision for NRS 445.477)

## LOCAL HEARING BOARD

**NRS 445B.275 [445.481] Creation; members; terms.**

1. The governing body of any district, county or city authorized to operate an air pollution control program pursuant to NRS 445B.100 to 445B.640, inclusive, may appoint an air pollution control hearing board.

2. The air pollution control hearing board appointed by a county, city or health district must consist of seven members who are not employees of the State or any political subdivision of the State. One member of the hearing board must be an attorney admitted to practice law in Nevada, one member must be a professional engineer licensed in Nevada and one member must be licensed in Nevada as a general engineering contractor or a general building contractor as defined by NRS 624.215. Three must be appointed for a term of 1 year, three must be appointed for a term of 2 years and one must be appointed for a term of 3 years. Each succeeding term must be for a period of 3 years.

(Added to NRS by 1971, 1195; A 1973, 1815; 1975, 1782; 1997, 1068)

**NRS 445B.280 [445.486] Attendance of witnesses at hearing; contempt; compensation.**

1. The district court in and for the county in which any hearing is being conducted may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the chairman of the hearing.

2. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena the chairman may report to the district court in and for the county in which the hearing is held, by petition setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in NRS 445B.100 to 445B.640, inclusive; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing, and asking an order of the court compelling the witness to attend and testify or produce the books or papers in the hearing.

3. The court, upon petition of the chairman, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers in the hearing. A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the chairman, the court shall thereupon enter an order that the witness appear in the hearing at the time and place fixed in the order and testify or produce the required books or papers, and upon a failure to obey the order the witness shall be dealt with as for contempt of court.

4. Witnesses may be compensated in the amounts provided in NRS 50.225.

(Added to NRS by 1971, 1195; A 1973, 1816)—(Substituted in revision for NRS 445.486)

### PROVISIONS FOR ENFORCEMENT

#### **NRS 445B.300 [445.491] Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act.**

1. The Commission shall by regulation:

(a) Require the person operating or responsible for the existence of each source of air contaminant, generally or within a specified class or classes, to apply for and obtain an operating permit for the source.

(b) Require that written notice be given to the Director before the construction, installation, alteration or establishment of any source of air contaminant or of any specified class or classes of such sources, or the alteration of any device intended primarily to prevent or reduce air pollution. If within the time prescribed by regulation the Director determines that:

(1) The proposed construction, installation, alteration or establishment will not be in accordance with the provisions of the plans, specifications and other design material required to be submitted under NRS 445B.100 to 445B.640, inclusive, or applicable regulations; or

(2) The design material or the construction itself is of such a nature that it patently cannot bring such source into compliance with NRS 445B.100 to 445B.640, inclusive, or applicable regulations,

the Director shall issue an order prohibiting the construction, installation, alteration or establishment of the source or sources of air contaminant.

2. The Commission shall by regulation provide for:

(a) The issuance, renewal, modification, revocation and suspension of operating permits, and charge appropriate fees for their issuance in an amount sufficient to pay the expenses of administering NRS 445B.100 to 445B.640, inclusive, and any regulations adopted pursuant to those sections.

(b) The issuance of authorizations for the issuance of building permits pursuant to paragraph (a) of subsection 2 of NRS 445B.320.

3. Any failure of the Commission or the Department to issue a regulation or order to prohibit any act does not relieve the person so operating from any legal responsibility for the construction, operation or existence of the source of air contaminant.

4. All administrative fees collected by the Commission pursuant to subsection 2 must be accounted for separately and deposited in the State General Fund for credit to the Account for the Management of Air Quality. This subsection does not apply to any fees collected by political subdivisions or their agencies.

(Added to NRS by 1971, 1196; A 1973, 1816; 1993, 2853)—(Substituted in revision for NRS 445.491)

#### **NRS 445.493 Limitations on enforcement of regulations as to indirect sources and authority to review new indirect sources.**

1. No regulation adopted pursuant to any provision of NRS 445.401 to 445.601, inclusive, may be enforced as to indirect sources if it is more stringent with respect to the size cutoffs established for designated areas pursuant to the United States Clean Air Act of 1963 and the rules and regulations adopted in furtherance thereof.

2. Except as provided in subsection 3, if the United States Environmental Protection Agency delays the effective date for enforcement of its indirect source regulations beyond January 17, 1977, the authority of a state agency or

district board of health to review new indirect sources shall expire. Those projects approved prior to that date shall continue under the guidelines established in their permit.

3. If the federal indirect source regulations become effective after January 17, 1977, then:

(a) The authority of a state agency to review new indirect sources may be exercised only:

(1) In the enforcement of the federal indirect source regulations; and

(2) To the extent enforcement by the state agency is required by the federal act.

(b) The governing body of each county and each incorporated city may enforce within its jurisdiction the federal indirect source regulations or any indirect source regulations it adopts which are no more strict than the federal indirect source regulations, to the extent such local enforcement is not inconsistent with the requirements of the federal act.

(Added to NRS by 1975, 1781; A 1977, 1559)

**NRS 445B.320 [445.496] Approval of plans and specifications required before construction or alteration of structure.**

1. The Commission shall require, with respect to all sources of air contaminant, including indirect sources, that plans, specifications and such other information as the Commission may direct be submitted to the Director not later than a specified interval before the construction or alteration of a building or other structure if such construction or alteration includes the establishment or alteration of a source or indirect source of air contaminant.

2. The local government authority, if any, responsible for issuing any required building permit shall not issue such building permit:

(a) Until the Department has given its authorization therefor, pursuant to regulation of the Commission.

(b) If a stop order prohibiting such construction or alteration has been issued.

(Added to NRS by 1971, 1197; A 1973, 1817; 1977, 1559; 1993, 2854)—(Substituted in revision for NRS 445.496)

**NRS 445B.340 [445.498] Appeals to Commission: Notice of appeal.** A party aggrieved may file notice of appeal with the Commission within 10 days after the date of notice of action of the Department, except as otherwise provided by law.

(Added to NRS by 1973, 1809)—(Substituted in revision for NRS 445.498)

**NRS 445B.350 [445.499] Appeals to Commission: Hearings.**

1. Within 20 days after receipt of the notice of appeal provided for in NRS 445B.340, the Commission shall hold a hearing.

2. Notice of the hearing shall be given to all affected parties no less than 5 days prior to the date set for the hearing.

3. The Commission may sit en banc or in panels of three or more to conduct hearings.

4. The attendance of witnesses and the production of documents may be subpoenaed by the Commission at the request of any party. Witnesses shall receive the fees and mileage allowed witnesses in civil cases. Costs of subpoenas shall be taxed against the requesting party.

5. All testimony shall be given under oath, and recorded verbatim by human or electronic means.

6. For the purpose of judicial review under NRS 445B.560, the parties may agree upon a statement of facts in lieu of a transcript of testimony.

7. Costs of transcribing proceedings of the Commission shall be taxed against the requesting party.

(Added to NRS by 1973, 1809)—(Substituted in revision for NRS 445.499)

**NRS 445B.360 [445.501] Appeals to Commission: Appealable matters; action by Commission; regulations.**

1. Any person aggrieved by:

(a) The issuance, denial, renewal, modification, suspension or revocation of an operating permit; or

(b) The issuance, modification or rescission of any other order,

↳by the Director may appeal to the Commission.

2. The Commission shall affirm, modify or reverse any action taken by the Director which is the subject of the appeal.

3. The Commission shall provide by regulation for the time and manner in which appeals are to be taken to the Commission.

(Added to NRS by 1971, 1197; A 1973, 1818; 1977, 69; 1993, 2854)—(Substituted in revision for NRS 445.501)



## VIOLATIONS

### **NRS 445B.450 [445.526] Notice and order by Director; hearing; alternative procedures.**

1. Whenever the Director believes that a statute or regulation for the prevention, abatement or control of air pollution has been violated, he shall cause written notice to be served upon the person or persons responsible for the alleged violation.

2. The notice shall specify:

- (a) The statute or regulation alleged to be violated; and
- (b) The facts alleged to constitute the violation.

3. The notice may include an order to take corrective action within a reasonable time, which shall be specified. Such an order becomes final unless, within 10 days after service of the notice, a person named in the order requests a hearing before the Commission.

4. With or without the issuance of an order pursuant to subsection 3, or if corrective action is not taken within the time specified:

(a) The Director may notify the person or persons responsible for the alleged violation to appear before the Commission at a specified time and place; or

(b) The Commission may initiate proceedings for recovery of the appropriate penalty.

5. Nothing in this section prevents the Commission or the Director from making efforts to obtain voluntary compliance through warning, conference or other appropriate means.

(Added to NRS by 1971, 1198; A 1973, 1818; 1975, 1405)—(Substituted in revision for NRS 445.526)

### **NRS 445B.460 [445.529] Injunctive relief.**

1. If, in the judgment of the Director, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of NRS 445B.100 to 445B.640, inclusive, or any rule, regulation, order or operating permit issued pursuant to NRS 445B.100 to 445B.640, inclusive, the Director may request that the Attorney General apply to the district court for an order enjoining the act or practice, or for an order directing compliance with any provision of NRS 445B.100 to 445B.640, inclusive, or any rule, regulation, order or operating permit issued pursuant to NRS 445B.100 to 445B.640, inclusive.

2. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in or is about to engage in such an act or practice, the control officer may request that the district attorney of the county in which the act or practice is being engaged in or is about to be engaged in apply to the district court for such an order.

3. Upon a showing by the Director or the control officer that a person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order may be granted by the court.

(Added to NRS by 1973, 1809; A 1993, 2854; 2001, 1295)

## PROGRAM FOR CONTROL OF AIR POLLUTION

### **NRS 445B.500 [445.546] 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.**

1. Except as otherwise provided in this section and in NRS 445B.310:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 400,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. For the purposes of this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

(Added to NRS by 1971, 1199; A 1973, 1819; 1975, 1126, 1782; 1977, 1559; 1979, 546; 1985, 291; 1991, 2161; 1993, 175; 1997, 1999; 1999, 1976; 2001, 1296, 1515; 2003, 44)

**NRS 445B.510 [445.551] Commission may require program for designated area.**

1. If the Commission finds that:

- (a) The location, character or extent of particular concentrations of population or sources of air contaminant;
- (b) Geographic, topographic or meteorological considerations; or
- (c) Any combination of these factors,

↳ makes impracticable the maintenance of appropriate levels of air quality without an areawide air pollution control program, it shall after a public hearing define the area so affected.

2. If an areawide air pollution control program is not established by cooperative or interlocal agreement within a time specified by the Commission, the Commission shall establish such a program, which shall be a charge on the counties, and may supersede any local program within the area.

(Added to NRS by 1971, 1200)—(Substituted in revision for NRS 445.551)

**NRS 445B.520 [445.556] Commission may establish or supersede county program.**

1. If a county required to establish or participate in an air pollution control program fails to do so, or if the Commission believes that a program previously approved is inadequate, it shall hold a public hearing. If it finds that an adequate program has not been adopted or that a program has become inadequate, it shall fix a time within which necessary corrective measures are to be taken.

2. If the prescribed measures are not so taken, the Commission shall direct the Department to administer an adequate air pollution control program within the county, which shall be a charge on the county, and may supersede any existing county air pollution control program.

(Added to NRS by 1971, 1200; A 1973, 1820)—(Substituted in revision for NRS 445.556)

**NRS 445B.530 [445.561] Commission may assume jurisdiction over specific classes of air contaminants.**

1. If the Commission finds that the control of a particular class of sources of air contaminant because of its complexity or magnitude is beyond the reasonable capability of one or more local air pollution control authorities, it may assume and retain jurisdiction over that class in the county or counties so affected.

2. Sources may be classified for the purpose of this section on the basis of their nature or their size relative to the county in which they are located.

(Added to NRS by 1971, 1200)—(Substituted in revision for NRS 445.561)

**NRS 445B.540 [445.566] Restoration of superseded local program; continuation of existing local program.**

1. A county or area whose local jurisdiction over air pollution control has been superseded may establish or restore a local air pollution control program if such program is approved as adequate by the Commission.

2. A district, county or city which has an air pollution control program in operation on July 1, 1971, may continue its program if within 1 year after July 1, 1971, the program is approved as adequate by the Commission. Such approval shall be deemed granted unless the Commission specifically disapproves the program after a public hearing. Nothing in NRS 445B.100 to 445B.640, inclusive, is to be construed as invalidating any rule, regulation, enforcement action, variance, permit, cease and desist order, compliance schedule, or any other legal action taken by any existing air pollution control authority pursuant to former NRS 445.400 to 445.595, inclusive, on or before July 1, 1971, unless it is specifically repealed, superseded or disapproved, pursuant to NRS 445B.215.

(Added to NRS by 1971, 1200)—(Substituted in revision for NRS 445.566)

### MISCELLANEOUS PROVISIONS

**NRS 445B.560 [455.571] Plan or procedure for emergency.**

1. The Commission may provide by rules and regulations for alert, warning, and emergency standards and abatement procedures relative to air pollution episodes or emergencies constituting, or likely to constitute, an imminent and substantial danger to the health of persons.

2. Any person responsible for the operation of a source of air contaminants which is designated by the Director shall prepare and submit emergency plans for reducing or eliminating the emissions of air contaminants during such periods of air stagnation or air pollution episodes or emergencies as may be declared by the Director. The emergency plans shall be subject to review and approval by the Director. If, in the opinion of the Director, an emergency plan does not effectively carry out the objective of reducing or eliminating the emissions of air contaminants during periods of air stagnation or air pollution episodes or emergencies, the Director shall disapprove it, state the reason for disapproval, and order the preparation and submission of an amended emergency plan within the time period specified in the order. If an approvable emergency plan is not prepared and submitted within the time period specified in the order, the Director shall issue an emergency plan applicable to that person. Persons subject to the emergency plan shall obey the plan during periods of air stagnation or air pollution episodes or emergencies declared by the Director. The provisions of NRS 445B.360 with respect to appeals do not apply to this subsection.

3. Any other provisions of law to the contrary notwithstanding, if the Director finds that a generalized condition of air pollution exists or that emissions from one or more air contaminant sources occur and that the condition or sources create, or are likely to create, an imminent and substantial danger to health requiring immediate action to protect human health and safety, the Director shall order persons causing or contributing to the air pollution or responsible for the operation of the source to reduce or discontinue immediately the emission of air contaminants. Any person subject to the order may appeal directly to the district court or request a hearing before the Commission.

4. This section does not limit any power of any other state officer to declare an emergency and to act on the basis of such declaration.

(Added to NRS by 1971, 1201; A 1973, 1820)—(Substituted in revision for NRS 445.571)

**NRS 445B.570 [445.576] Confidentiality and use of information obtained by Department; penalty.**

1. Any information which the Department obtains in the course of the performance of its duties pursuant to the provisions of this chapter is public information unless otherwise designated as confidential information pursuant to the provisions of this section.

2. The emission of an air contaminant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by regulation of the Commission cannot be certified as being confidential.

3. Any confidential information received by the Commission, the Director or any local control authority which is certified in writing to the recipient as confidential by the owner or operator disclosing the information and verified and approved in writing as confidential by the recipient must, unless the owner expressly agrees to its publication or availability to the public, be used only:

(a) In the administration or formulation of air pollution controls;

(b) In compiling or publishing analyses or summaries relating to the condition of the outdoor atmosphere which do not identify any owner or operator or reveal any confidential information; or

(c) In complying with federal statutes, rules and regulations.

4. This section does not prohibit the use of confidential information in a prosecution for the violation of any statute, ordinance or regulation for the control of air pollution.

5. A person who discloses or knowingly uses confidential information in violation of this section is guilty of a misdemeanor, and is liable in tort for any damages which may result from such disclosure or use.

6. As used in this section, "confidential information" means information or records which:

(a) Relate to dollar amounts of production or sales;

(b) Relate to processes or production unique to the owner or operator; or

(c) If disclosed, would tend to affect adversely the competitive position of the owner or operator.

(Added to NRS by 1971, 1201; A 1973, 1821; 1975, 1405; 1993, 2855)—(Substituted in revision for NRS 445.576)

**NRS 445B.580 [445.581] Officer of Department may inspect or search premises; search warrant.**

1. It is a condition of the issuance of any operating permit required by the Commission or pursuant to any local ordinance for the control of air pollution that the holder of the operating permit agrees to permit inspection of the premises to which the permit relates by any authorized officer of the Department at any time during the holder's hours of operation without prior notice. This condition must be stated on each application form and operating permit.

2. If a source of air contaminant exists or is constructed or operated without an operating permit, such an officer may inspect it at any reasonable time, and may enter any premises to search for such a source. If entry is refused, or before attempting to enter, such an officer may apply to any magistrate for a search warrant. The magistrate shall issue the warrant if he believes from the supporting affidavit or affidavits that there is probable cause to believe that a source of air contaminant exists or is being constructed or operated on the premises to be searched.

(Added to NRS by 1971, 1202; A 1973, 1822; 1993, 2855)—(Substituted in revision for NRS 445.581)

**NRS 445B.595 [445.586] Governmental sources of air contaminants to comply with state and local provisions regarding air pollution; permit to set fire for training purposes; planning and zoning agencies to consider effects on quality of air.**

1. Except as otherwise provided by subsection 2, all governmental sources of air contaminants shall comply with all local and state air pollution laws, regulations and ordinances.

2. A fire department, county fire protection district, fire protection training academy or training center may, after obtaining a permit for a specific site, set a fire at that site for training purposes so long as the site is not within an area in which an air pollution episode or emergency constituting, or likely to constitute, an imminent and substantial danger to the health of persons exists. The permit must be obtained from:

(a) The county air pollution control agency, if one has been designated pursuant to NRS 445B.500; or

(b) The Director, if an agency has not been so designated.

3. All planning commissions, zoning boards of adjustment, and governing bodies of unincorporated towns, incorporated cities and counties shall in the performance of their duties imposed by chapter 278 of NRS or other statutes relating to planning and zoning consider the effects of possible air pollution and shall submit to the Department for evaluation a concise statement of the effects on air quality by complex sources.

(Added to NRS by 1971, 1202; A 1973, 1822; 1975, 1406; 1989, 584)—(Substituted in revision for NRS 445.586)

**NRS 445B.600 [445.596] Private rights and remedies not affected.** NRS 445B.100 to 445B.595, inclusive, does not abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor in the courts of this state or the courts of the United States on a tort claim against the United States or a federal agency as authorized by federal statutes.

(Added to NRS by 1971, 1202; A 1985, 292)—(Substituted in revision for NRS 445.596)

**NRS 445B.610 [445.598] Provisions for transition in administration.**

1. All rules, regulations and standards promulgated by the State Commission of Environmental Protection pertaining to air pollution control in force on July 1, 1973, shall remain in effect until such time as revised by the State Environmental Commission pursuant to NRS 445B.100 to 445B.640, inclusive.

2. Any and all action taken by the State Commission of Environmental Protection, including but not limited to existing orders, notices of violation, variances, permits, cease and desist orders and compliance schedules, shall remain in full force and effect and binding upon the State Environmental Commission, the Director, the Department and all persons to whom such action may apply on or after July 1, 1973.

3. In the event that a local air pollution control program described in NRS 445B.500 is transferred in whole or in part from an existing air pollution control agency to another agency, all rules and regulations adopted by the existing agency may be readopted as amended to reflect the transfer of authorities by the new agency immediately upon such transfer, and the provisions of NRS 445B.215 shall not apply to such reoption.

4. If a transfer of local authority as described in subsection 3 occurs, all orders, notices of violation, variances, cease and desist orders, compliance schedules and other legal action taken by the existing air pollution control board, control officer, or hearing board shall remain in full force and effect, and shall not be invalidated by reason of such transfer.

(Added to NRS by 1973, 1810)—(Substituted in revision for NRS 445.598)

## PENALTIES

### **NRS 445B.640 [445.601] Levy and disposition of administrative fines; additional remedies available; penalty.**

1. Except as otherwise provided in subsection 4 and NRS 445C.010 to 445C.120, inclusive, any person who violates any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant thereto, other than NRS 445B.570 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$10,000 per day per offense. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines not exceeding \$500 for lesser violations of any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, regulations in force pursuant thereto, and orders made pursuant to NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, by injunction or other appropriate remedy, and the Commission or the Director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

4. Any person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to persons found by the court to be indigent.

5. All administrative fines collected by the Commission pursuant to this section must be deposited in the county school district fund of the county where the violation occurred.

(Added to NRS by 1971, 1202; A 1973, 1822; 1975, 1406; 1977, 70; 1989, 736; 1993, 2856; 1997, 1080)

# TITLE 0 - PRELIMINARY CHAPTER

## GENERAL PROVISIONS

**NRS 0.039 “Person” defined.** Except as otherwise expressly provided in a particular statute or required by the context, “person” means a natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government.

(Added to NRS by 1985, 499)