

Form #1

Petition to Adopt, Amend, or Repeal Commission Regulations

Approved 10-3-1995



NEVADA
STATE ENVIRONMENTAL
COMMISSION

1. Name, address, telephone number, and signature:

Name: Nevada Division of Environmental Protection

Address: 901 South Stewart Street, Suite 4001

E-mail Address: atucker@ndep.nv.gov

Telephone Number: (775) 687-9340

Date of Petition: 4/5/2024

Representative capacity and signature of petitioner, authorized individual, officer or attorney:

A handwritten signature in black ink, appearing to be "AT" or similar initials.

Chief, Bureau of Air Quality Planning

2. Specific type of petitioner (individual, partnership, corporation, government agency, or other) and the exact occupation or business, including a description of the occupation or business if necessary:

The Nevada Division of Environmental Protection (NDEP) is a division of the Nevada Department of Conservation and Natural Resources of the State of Nevada. The NDEP is an environmental regulatory agency.

3. Exact and specific nature of changes sought, including delineation of the regulations, statutory provisions of Commission decisions involved. May include a statement of the written term or substance of the proposed regulatory action, or a description of the subjects and issues involved:

NDEP is proposing to repeal Nevada Administrative Code (NAC) 445B.038, 445B.260, and 445B.314 and is proposing amendments to the following subsections NAC 445B.22096(1)(c), NAC 445B.22096(1)(d), NAC 445B.22096(2)(a), NAC 445B.22096(2)(b), NAC 445B.288(2)(f), NAC 445B.288(2)(g), NAC 445B.288(2)(h), NAC 445B.3457(3), NAC 445B.3457(4), and NAC 445B.3457(5).

Nevada Revised Statutes (NRS) 445B.210 establishes the authority of the State Environmental Commission (SEC) to adopt regulations consistent with the intent and purpose of NRS 445B.100 to NRS 445B.640, inclusive, to prevent, abate and control air pollution.

4. A statement of the need for and purpose of the proposed regulations:

The purpose of the proposed amendments is to revise regulations to reduce confusion between state and federal requirements, streamline regulatory processes and repeal regulations that no longer serve a purpose for achieving the intents and purposes of NRS 445B.110 to NRS 445B.640, inclusive. It is necessary to amend and repeal these regulations to improve efficiency in administering Nevada's Air Program and minimize the resources needed to understand the regulatory requirements that may affect businesses and the public.

5. A statement of the:

(a) Estimated economic effect of the regulation on the business which it is to regulate:

The proposed amendments do not impose any regulatory requirements on business that the businesses are not already subject to under federal regulations. The proposed amendments are not expected to have any adverse impacts on businesses, but they will make it easier for certain types of changes to be made to existing permits.

(1) Both adverse and beneficial effects:

Not applicable.

(2) Both immediate and long-term effects:

Not applicable.

(b) Estimated economic effect on the public:

The proposed amendments will have no economic effect on the public.

(1) Both adverse and beneficial effects:

Not applicable.

(2) Both immediate and long-term effects:

Not applicable.

(c) Estimated cost by the agency for enforcement of the proposed regulation:

The proposed amendments will have no economic effect on the agency.

6. A description of any regulations for other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency:

Only one of the proposed amendments overlaps with a federal requirement and that is for the amendment of NAC 445B.288(2)(h). This amendment will reduce confusion when determining compliance with all regulatory requirements by improving consistency with federal regulations. Inclusion of certain federal regulations in the NAC's, such as the one being amended in this proposal, is necessary to allow for NDEP to be the agency that enforces the requirements instead of the U.S. Environmental Protection Agency. In general, the sources regulated by NDEP prefer NDEP be the enforcing agency instead of the U.S. EPA. The remaining regulations are only to repeal and amend existing regulations to remove unnecessary requirements.

7. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions. The statement must include the specific citation of the federal statute or regulation requiring such adoption:

Not applicable, the proposed amendments do not include requirements that are more stringent than federal regulations.

8. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used:

Not applicable, the proposed amendments do not provide for any new fees or increases to existing fees.

Supporting Documents



When submitting this form, attach a second document to your email with your proposed regulatory language. Include other supporting documents as needed.

Form #4

Small Business Impact Disclosure and Statement

Approved 5-2-2014



NEVADA
**STATE ENVIRONMENTAL
COMMISSION**

The purpose of this form is to provide a framework pursuant to NRS 233B.0608 for drafting and submitting a Small Business Impact Statement (SBIS) to the State Environmental Commission (SEC) and to determine whether a SBIS is required to be noticed and available at the public workshop. A SBIS must be completed and submitted to the Legislative Counsel Bureau for ALL adopted regulations.

Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time employees” (NRS 233B.0382).

To determine whether a SBIS must be noticed and available at the public workshop, answer the following questions:

1. Does this proposed regulation impose a direct and significant economic burden upon a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No, this regulation will not have an impact or significant economic burden on small businesses. This regulation will improve efficiency in administering Nevada's Air Program and will minimize the resources needed to understand the regulatory requirements that may affect businesses and the public.

2. Does this proposed regulation restrict the formation, operation or expansion of a small business? *(state yes or no. If no, please explain and submit the applicable documentation, which can also be addressed in #8 on the SBIS and simply referred to; and if yes, reference the attached SBIS)*

No, this regulation does not provide any barrier to the formation, operation, or expansion of small business. The proposed amendments will repeal or amend regulations that no longer serve a purpose.

If **Yes** to either of question 1 & 2, a SBIS must be noticed and available at the public workshop.

FORM 4: SMALL BUSINESS IMPACT STATEMENT (NRS 233B.0609)
(Provide attachments as needed)

1. Describe the manner in which comment was solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary. *(Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.)*

On March 30, 2023, NDEP held a preliminary public workshop to solicit comments on this proposed regulatory amendment. Additional, comments will be solicited through a workshop held in Carson City and video conferenced to Las Vegas. Notices of the workshop and an invitation for comments will be posted in all county public libraries, the Nevada Division of Environmental Protection (NDEP) buildings in Carson City and Las Vegas, the NDEP website, the Legislative Council Bureau's website, and the official State website. The workshop notice will also be emailed to an extensive distribution list maintained by NDEP's Bureau of Air Quality Planning. A summary of the workshop will be posted on the SEC website at <http://sec.nv.gov/meetings> when notice is posted for this proposed regulation to go before the SEC as an item for action.

2. The manner in which the analysis was conducted (if an impact was determined).

The agency determined that small business would not be impacted (see Small Business Impact Disclosure #1 and #2).

3. The estimated economic effect of the proposed regulation on small businesses:

Not applicable (see Small Business Impact Statement #2).

a. Both adverse and beneficial effects:

Not applicable (see Small Business Impact Statement #2).

b. Both direct and indirect effects:

Not applicable (see Small Business Impact Statement #2).

4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of the methods. *(Include a discussion of any considerations of the methods listed below.)*

Not applicable (see Small Business Impact Statement #2).

A. Simplification of the proposed regulation:

Not applicable (see Small Business Impact Statement #2).

B. Establishment of different standards of compliance for a small business:

Not applicable (see Small Business Impact Statement #2).

C. Modification of fees or fines so that a small business is authorized to pay a lower fee or fine:

Not applicable (see Small Business Impact Statement #2).

5. The estimated cost to the agency for enforcement of the proposed regulation. *(Include a discussion of the methods used to estimate those costs.)*

The regulations do not impose functions or costs on the agency, it is amending or repealing existing regulations.

6. If this regulation provides for a new fee or increases an existing fee, the total annual amount the agency expects to collect and manner in which the money will be used.

The regulation does not create new fees or increase existing fees.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, provide and explanation of why such duplicative or more stringent provisions are necessary.


Only one of the proposed amendments overlaps with a federal requirement and that is for the amendment of NAC 445B.288(2)(h). This amendment will reduce confusion when determining compliance with all regulatory requirements by improving consistency with federal regulations. Inclusion of certain federal regulations in the NAC's, such as the one being amended in this proposal, is necessary to allow for NDEP to be the agency that enforces the requirements instead of the U.S. Environmental Protection Agency. In general, the sources regulated by NDEP prefer NDEP be the enforcing agency instead of the U.S. EPA. The remaining regulations are only to repeal and amend existing regulations to remove unnecessary requirements.

The proposed amendments do not include requirements that are more stringent than federal regulations.

8. The reasons for the conclusions regarding the impact of a regulation on small businesses.

The regulation amendment does not impose any requirements, burdens, or fees on any businesses.

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on a small business and the information contained in this statement was prepared properly and is accurate.


Jennifer Carr (Apr 8, 2024 16:30 PDT)

Administrator, NDEP

04/08/24

Date

Supporting Documents



Attach copies of the comments received and copies of any workshop attendance sheets, noting which are identified as a small business.

<http://www.leg.state.nv.us/Statutes/77th2013/Stats201314.html#Stats201314page2304>

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

P2024-05

April 5, 2024

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

AUTHORITY: §1, NRS 445B.210.

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

Section 1. NAC 445B.22096 is hereby amended to read as follows:

NAC 445B.22096 1. The sources listed below must install, operate and maintain the following control measures which constitute BART and must not emit or cause to be emitted NO_x, SO₂, or PM₁₀ in excess of the following limits:

(a) For power-generating units numbers 1 and 2 of NV Energy’s Fort Churchill Generating Station, located in hydrographic area 108:

UNIT (Boiler)	NO _x		SO ₂		PM ₁₀	
	Emission Limit (lb/10 ⁶ Btu, 12-month rolling average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 24-hr average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 3-hr average)	Control Type
1	0.20	Low NO _x burners with flue gas	0.05	Pipeline natural gas and/or No.	0.03	Pipeline natural gas and/or No. 2
2	0.16	recirculation	0.05	2 fuel oil	0.03	fuel oil

(b) For power-generating units numbers 1, 2 and 3 of NV Energy's Tracy Generating Station, located in hydrographic area 83:

UNIT (Boiler)	NO _x		SO ₂		PM ₁₀	
	Emission Limit (lb/10 ⁶ Btu, 12-month rolling average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 24-hr average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 3-hr average)	Control Type
1	0.15		0.05		0.03	

UNIT (Boiler)	NO _x		SO ₂		PM ₁₀	
	Emission Limit (lb/10 ⁶ Btu, 12-month rolling average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 24-hr average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 3-hr average)	Control Type
2	0.12	Low NO _x burners with flue gas recirculation	0.05	Pipeline natural gas	0.03	Pipeline natural gas
3	0.19	Low NO _x burners with selective noncatalytic reduction	0.05	and/or No. 2 fuel oil	0.03	and/or No. 2 fuel oil

~~[(c) For power generating units numbers 1, 2 and 3 of NV Energy's Reid Gardner Generating Station, located in hydrographic area 218:~~

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UNIT (Boiler)	NO _x		SO ₂		PM ₁₀	
	Emission Limit (lb/10 ⁶ Btu, 30-day rolling average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 24-hr average)	Control Type	Emission Limit (lb/10 ⁶ Btu, 3-hr average)	Control Type
1	0.20, averaged across all 3 units	Low NO _x burners	0.15	Wet soda-ash flue-gas desulphurization	0.015	Fabric filter
2		with over-	0.15			
3		fire-air and selective noncatalytic reduction	0.15			

(d) For power-generating units numbers 1 and 2 of Southern California Edison's Mohave Generating Station, located in hydrographic area 213:

UNIT (Boiler)	NO _x			SO ₂		PM ₁₀	
	Emission Limit (lb/10 ⁶ Btu, 12- month	Mass Emission Rate (lb/hr,	Control Type	Emission Limit (lb/10 ⁶ Btu,	Control Type	Emission Limit (lb/10 ⁶ Btu,	Control Type

	rolling average)	1-hr average)		30-day rolling average)		3-hr average)	
1	0.15	788	Low NO _x burners	0.0019		0.0077	
2	0.15	788	with over- fire air and conversion to pipeline natural gas only	0.0019	Conversion to pipeline natural gas only	0.0077	Conversion to pipeline natural gas only

2. The control measures established in subsection 1 may be replaced or supplemented with alternative technologies approved in advance by the Director, provided that the emission limits in subsection 1 are met. The established or approved control measures must be installed and operating:

- [(a) For NV Energy’s Fort Churchill and Tracy ~~and Reid Gardner generating stations:~~
- ~~—~~(1) On or before June 30, 2016; or
 - (2) Not later than 5 years after approval of Nevada’s state implementation plan for regional haze by the United States Environmental Protection Agency Region 9,
- ↪ whichever occurs first.
- ~~— (b) For Southern California Edison’s Mohave Generating Station, at the time that each unit resumes operation.]~~

3. If the ownership of any BART regulated emission unit changes, the new owner must comply with the requirements set forth in subsection 2.

4. For purposes of this section, PM₁₀ emissions include the components of PM_{2.5} emissions as a subset.

Sec. 2. NAC 445B.288 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~——(1) Less than 500 horsepower; or~~

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

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

~~——(1) Less than 250 horsepower; or~~

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

~~(h)}~~**(f)** An emergency generator. Except as otherwise provided in this paragraph, an emergency generator qualifies as an insignificant activity pursuant to this paragraph only if the emergency generator is an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages. An emergency generator that is

owned or operated by a stationary source and whose potential to emit is calculated on the basis of less than ~~500~~ 100 hours of operation does not qualify as an insignificant activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. NAC 445B.3457 is hereby amended to read as follows:

NAC 445B.3457 1. Except as otherwise provided in [NAC 445B.319](#) and [445B.342](#), within 10 working days after the date of receipt of an application for a Class II operating permit or for the revision of a Class II operating permit, accompanied by the applicable fee, the Director shall determine if the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier.

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in [NAC 445B.001](#) to [445B.390](#), inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

3. *Except as otherwise provided in [NAC 445B.319](#) and [445B.342](#), the ~~[The]~~ Director shall issue or deny a Class II operating permit or the revision of a Class II operating permit:*

(a) If notice to the public is not required pursuant to subsection 5, within 60 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit; or

(b) If notice to the public is required pursuant to subsection 5, within 90 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit.

4. *Except as otherwise provided in [NAC 445B.319](#) and [445B.342](#), if ~~FF~~* notice to the public is required pursuant to subsection 5, the Director shall:

(a) Make a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit within 45 days after the official date of submittal of the application for the Class II operating permit or for the revision of the Class II operating permit;

(b) Take such action as is necessary to ensure compliance with the provisions of subsections 6, 7 and 8, as applicable; and

(c) Issue or deny the Class II operating permit or the revision of the Class II operating permit taking into account:

(1) Written comments from the public;

(2) Information submitted by proponents of the project; and

(3) The effect of such a facility on the maintenance of the national ambient air quality standards, the state ambient air quality standards contained in [NAC 445B.22097](#) and the applicable state implementation plan.

5. *Except as otherwise provided in [NAC 445B.319](#) and [445B.342](#), the ~~The~~* Director shall provide public notice of the preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit for:

(a) A Class II operating permit for a stationary source that has not previously held a Class I operating permit or Class II operating permit;

(b) A Class II operating permit for a stationary source that is located within 1,000 feet of a school, hospital or residential area; or

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

Pollutant	Threshold in tons per year
Carbon monoxide.....	40
Nitrogen oxides.....	40
Sulfur dioxide.....	40
PM _{2.5}	10
PM ₁₀	15
Ozone measured as VOC.....	40
Lead.....	0.6

6. If notice is required pursuant to subsection 5, at the time the Director makes a preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit pursuant to subsection 4, the Director shall:

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

(b) Publish notice of the Director's preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit and a copy of the proposed Class II operating permit on an Internet website designed to give general public notice;

(c) Provide written notification of the Director's preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit to persons on a mailing list developed by the Director, including those persons who request in writing to be included on the list;

(d) Provide notice of the Director's preliminary determination to issue or deny a Class II operating permit or the revision of a Class II operating permit and a copy of the draft Class II operating permit to the Administrator and to any local air pollution control agency having jurisdiction in the area in which the proposed new Class II source or the proposed modification to the existing Class II source is located; and

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

7. The notice required pursuant to subsection 5 must include:

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

(b) The name and address of the state agency processing the Class II operating permit or the revision of the Class II operating permit;

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

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

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

(f) A summary of the analysis of the effect of the proposed new Class II source or the proposed modification to the existing Class II source on the quality of air, as analyzed by the state agency processing the Class II operating permit or the revision of the Class II operating permit;

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

(h) A brief description of the procedures for public participation.

8. All comments on the draft Class II operating permit and the Director's review and preliminary determination to issue or deny a Class II operating permit or a revision of a Class II operating permit for which notice to the public is required to be provided pursuant to this section must be submitted in writing to the Director within the time specified in the notice. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

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

10. If construction will occur in more than one phase, the projected date of commencement of construction of each phase must be approved by the Director. A Class II operating permit or the revision of a Class II operating permit for a new or modified stationary source expires if the initial

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

Sec. 4. NAC 445B.038, NAC 445B.260, and NAC 445B.314 are hereby repealed.

TEXT OF REPEALED SECTIONS

NAC 445B.038 “Class III source” defined. “Class III source” means a stationary source which is subject to the requirements set forth in [NAC 445B.001](#) to [445B.390](#), inclusive, and:

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

Part 60 except for:

- (a) A stationary compression ignition internal combustion engine subject to Subpart IIII; or
- (b) A stationary spark ignition internal combustion engine subject to Subpart JJJJ;
5. Which is not subject to the requirements of 40 C.F.R. Part 61;

6. Which is not subject to the requirements of 40 C.F.R. Part 63, except for a stationary reciprocating internal combustion engine subject to Subpart ZZZZ and which does not exceed 750 horsepower;

7. Which is not a temporary source;

8. Which is not located at or a part of another stationary source;

9. Which does not operate a thermal unit that emits mercury, as defined in [NAC 445B.3643](#);

and

10. Whose owner or operator:

(a) Is not seeking a limitation on emissions to avoid the requirements of 40 C.F.R. Part 63;

(b) Is not required to obtain an operating permit to operate the stationary source solely to comply with [NAC 445B.22037](#) relating to surface area disturbances; or

(c) Is not required to obtain a Class IV operating permit to operate the stationary source.

NAC 445B.260 Monitoring systems: Components contracted for before September 11, 1974.

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:

(a) Continuous monitoring systems for measuring opacity of emissions must be capable of measuring, with a confidence level of 95 percent, emission levels within ± 20 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.

(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 ± 20 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.

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.

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.

NAC 445B.314 Method for determining heat input: Class III and Class IV sources.

For the purposes of determining the effects of a Class III source or a Class IV source on the quality of ambient air pursuant to [NAC 445B.308](#), [445B.310](#) and [445B.311](#), the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a

plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.