

## CHAPTER 445B

### AIR CONTROLS

#### AIR POLLUTION

##### Definitions

445B.001	Definitions. ....	11
445B.002	“Act” defined. ....	11
445B.003	“Adjacent properties” defined. ....	11
445B.0035	“Administrative revision to a Class I operating permit” defined. ....	11
445B.004	“Administrator” defined. ....	11
445B.005	“Affected facility” defined. ....	11
445B.006	“Affected source” defined. ....	11
445B.007	“Affected state” defined. ....	11
445B.009	“Air-conditioning equipment” defined. ....	12
445B.011	“Air pollution” defined. ....	12
445B.013	“Allowable emissions” defined. ....	12
445B.014	“Alteration” defined. ....	12
445B.015	“Alternative method” defined. ....	12
445B.016	“Alternative operating scenarios” defined. ....	12
445B.018	“Ambient air” defined. ....	12
445B.019	“Applicable requirement” defined. ....	12
445B.021	“Area source” defined. ....	13
445B.022	“Atmosphere” defined. ....	13
445B.028	“Best available control technology” defined. ....	13
445B.030	“British thermal units” defined. ....	13
445B.034	“Class I-A application” defined. ....	13
445B.035	“Class I-B application” defined. ....	14
445B.036	“Class I source” defined. ....	14
445B.037	“Class II source” defined. ....	14
445B.038	“Class III source” defined. ....	14
445B.041	“Clean unit” defined. ....	14
445B.042	“Combustible refuse” defined. ....	14
445B.0425	“Commission” defined. ....	15
445B.043	“Confidential information” defined. ....	15
445B.044	“Construction” defined. ....	15
445B.046	“Contiguous property” defined. ....	15
445B.047	“Continuous monitoring system” defined. ....	15
445B.049	“Criteria pollutant” defined. ....	15
445B.051	“Day” defined. ....	15
445B.053	“Director” defined. ....	15
445B.054	“Dispersion technique” defined. ....	15
445B.055	“Effective date of the program” defined. ....	16
445B.056	“Emergency” defined. ....	16
445B.058	“Emission” defined. ....	16
445B.059	“Emission unit” defined. ....	17
445B.060	“Enforceable” defined. ....	17
445B.061	“EPA” defined. ....	17
445B.062	“Equivalent method” defined. ....	17
445B.063	“Excess emissions” defined. ....	17
445B.064	“Excessive concentration” defined. ....	17
445B.065	“Existing facility” defined. ....	18
445B.066	“Existing stationary source” defined. ....	18
445B.068	“Facility” defined. ....	18
445B.069	“Federally enforceable” defined. ....	18
445B.070	“Federally enforceable emissions cap” defined. ....	18
445B.072	“Fuel” defined. ....	19
445B.073	“Fuel-burning equipment” defined. ....	19
445B.075	“Fugitive dust” defined. ....	19
445B.077	“Fugitive emissions” defined. ....	19
445B.080	“Garbage” defined. ....	19
445B.082	“General permit” defined. ....	19
445B.083	“Good engineering practice stack height” defined. ....	19
445B.084	“Hazardous air pollutant” defined. ....	20
445B.086	“Incinerator” defined. ....	20
445B.087	“Increment” defined. ....	20
445B.091	“Local air pollution control agency” defined. ....	20

445B.093	“Major modification” defined. ....	20
445B.094	“Major source” defined. ....	20
445B.0945	“Major stationary source” defined. ....	21
445B.095	“Malfunction” defined. ....	21
445B.096	“Maximum achievable control technology” defined. ....	21
445B.097	“Maximum allowable throughput” defined. ....	21
445B.099	“Modification” defined. ....	22
445B.103	“Monitoring device” defined. ....	22
445B.104	“Motor vehicle” defined. ....	22
445B.106	“Multiple-chamber incinerator” defined. ....	22
445B.107	“Nearby” defined. ....	22
445B.108	“New stationary source” defined. ....	22
445B.109	“Nitrogen oxides” defined. ....	23
445B.112	“Nonattainment area” defined. ....	23
445B.113	“Nonroad engine” defined. ....	23
445B.1135	“Nonroad vehicle” defined. ....	23
445B.114	“Nuisance” defined. ....	23
445B.116	“Odor” defined. ....	23
445B.117	“Offset” defined. ....	23
445B.119	“One-hour period” defined. ....	23
445B.121	“Opacity” defined. ....	24
445B.122	“Open burning” defined. ....	24
445B.123	“Operating permit” defined. ....	24
445B.124	“Operating permit to construct” defined. ....	24
445B.125	“Ore” defined. ....	24
445B.127	“Owner or operator” defined. ....	24
445B.129	“Particulate matter” defined. ....	25
445B.130	“Pathological wastes” defined. ....	25
445B.134	“Person” defined. ....	25
445B.1345	“Plantwide applicability limitation” defined. ....	25
445B.135	“PM <sub>10</sub> ” defined. ....	25
445B.136	“Pollution control project” defined. ....	25
445B.138	“Potential to emit” defined. ....	25
445B.141	“Preconstruction review” defined. ....	25
445B.142	“Prevention of significant deterioration of air quality” defined. ....	26
445B.144	“Process equipment” defined. ....	26
445B.145	“Process weight” defined. ....	26
445B.147	“Program” defined. ....	26
445B.148	“Proportional sampling” defined. ....	26
445B.151	“Reference conditions” defined. ....	26
445B.152	“Reference method” defined. ....	26
445B.153	“Regulated air pollutant” defined. ....	26
445B.154	“Renewal of an operating permit” defined. ....	27
445B.156	“Responsible official” defined. ....	27
445B.157	“Revision of an operating permit” defined. ....	27
445B.159	“Ringelmann Chart” defined. ....	27
445B.161	“Run” defined. ....	27
445B.163	“Salvage operation” defined. ....	28
445B.164	“Scheduled maintenance” defined. ....	28
445B.165	“Scheduled repair” defined. ....	28
445B.167	“Shutdown” defined. ....	28
445B.168	“Single-chamber incinerator” defined. ....	28
445B.172	“Six-minute period” defined. ....	28
445B.174	“Smoke” defined. ....	28
445B.176	“Solid waste” defined. ....	28
445B.177	“Source” defined. ....	28
445B.178	“Source reduction” defined. ....	29
445B.179	“Special mobile equipment” defined. ....	29
445B.180	“Stack” and “chimney” defined. ....	29
445B.182	“Standard” defined. ....	29
445B.185	“Start-up” defined. ....	29
445B.187	“Stationary source” defined. ....	29
445B.190	“Stop order” defined. ....	30
445B.194	“Temporary source” defined. ....	30
445B.196	“Toxic regulated air pollutant” defined. ....	30
445B.198	“Uncombined water” defined. ....	30
445B.200	“Violation” defined. ....	30
445B.202	“Volatile organic compounds” defined. ....	30
445B.205	“Waste” defined. ....	30
445B.207	“Wet garbage” defined. ....	30
445B.209	“Year” defined. ....	31
445B.211	Abbreviations. ....	31

**General Provisions**

445B.220	Severability.....	31
445B.2201	Hazardous air pollutants and toxic regulated air pollutants: Determination of substances.....	31
445B.22013	Hazardous air pollutants and toxic regulated air pollutants: Prohibited discharge. ....	32
445B.22017	Visible emissions: Maximum opacity; determination and monitoring of opacity. ....	32
445B.2202	Visible emissions: Exceptions for stationary sources. ....	32
445B.22027	Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates. ....	32
445B.2203	Emissions of particulate matter: Fuel-burning equipment.....	33
445B.22033	Emissions of particulate matter: Sources not otherwise limited. ....	33
445B.22037	Emissions of particulate matter: Fugitive dust. ....	33
445B.2204	“Sulfur emission” defined. ....	34
445B.22043	Sulfur emissions: Calculation of total feed sulfur.....	34
445B.22047	Sulfur emissions: Fuel-burning equipment. ....	34
445B.2205	Sulfur emissions: Other processes which emit sulfur. ....	35
445B.22057	Allowable emissions of sulfur from specific sources: Units Numbers 1, 2 and 3 of Reid Gardner Power Station. ....	35
445B.2206	Allowable emissions of sulfur from specific sources: Unit Number 4 of Reid Gardner Power Station. ....	35
445B.22063	Allowable emissions of sulfur from specific sources: North Valmy Power Station. ....	36
445B.22067	Open burning. ....	36
445B.2207	Incinerator burning.....	36
445B.22073	Municipal solid waste landfills. ....	37
445B.22077	Compliance with regulations. ....	38
445B.2208	Emission of hydrogen sulfide from certain facilities for generating electricity from geothermal brine.....	38
445B.22083	Construction, major modification or relocation of plants to generate electricity using steam produced by burning of fossil fuels. ....	38
445B.22087	Odors. ....	38
445B.2209	Reduction of animal matter. ....	39
445B.22093	Organic solvents and other volatile compounds. ....	39
445B.22097	Standards of quality for ambient air. ....	40
445B.221	Adoption by reference and applicability of certain provisions of federal law and regulations.....	41
445B.224	Public and confidential information. ....	43
445B.225	Prohibited conduct: Concealment of emissions. ....	43
445B.227	Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of required procedure. ....	43
445B.229	Hazardous emissions: Order for reduction or discontinuance.....	43
445B.230	Plan for reduction of emissions. ....	43
445B.232	Excess emissions: Scheduled maintenance, testing or repairs; notification of Director; malfunction, upset, start-up, shutdown or human error.....	44
445B.233	Excess emissions: Determination of violation. ....	45
445B.235	Construction or modification: Determination by Director. ....	45
445B.236	Construction or modification: Review of plans. ....	45
445B.239	Modification: Rate of emission. ....	46
445B.242	Modification: Alterations which are not considered modifications. ....	46
445B.247	Reconstruction: Notice of replacement of components. ....	46
445B.248	Reconstruction: Determination of whether replacement constitutes reconstruction. ....	47
445B.250	Notification of planned construction or reconstruction. ....	47
445B.252	Testing and sampling. ....	48
445B.254	Collection of data concerning air quality in affected area of exceptional event.....	49
445B.255	Monitoring guidelines. ....	50
445B.256	Monitoring systems: Calibration, operation and maintenance of equipment.....	50
445B.257	Monitoring systems: Location. ....	50
445B.258	Monitoring systems: Verification of operational status. ....	50
445B.259	Monitoring systems: Performance evaluations. ....	51
445B.260	Monitoring systems: Components contracted for before September 11, 1974.....	51
445B.261	Monitoring systems: Adjustments.....	52
445B.262	Monitoring systems: Measurement of opacity. ....	52
445B.263	Monitoring systems: Frequency of operation. ....	52
445B.264	Monitoring systems: Recordation of data. ....	53
445B.265	Monitoring systems: Records; reports.....	53
445B.267	Alternative monitoring procedures or requirements. ....	54
445B.271	Use of alternative method or equivalent method to determine compliance with permit.....	55
445B.273	Schedules for compliance.....	55
445B.275	Violations: Acts constituting; notice. ....	55
445B.277	Stop orders.....	56

445B.279	Appeal of Director’s decision: Application forms. ....	56
445B.281	Violations: Classification; administrative fines. ....	56
445B.283	Violations: Manner of paying fines. ....	57

**Operating Permits Generally**

445B.287	Operating permits: General requirements; exception; restrictions on transfers. ....	57
445B.288	Operating permits: Exemptions from requirements; insignificant activities. ....	58
445B.295	Application: General requirements. ....	60
445B.296	Application: Requests for inclusion of additional provisions. ....	60
445B.297	Application: Submission; certification; additional information. ....	61
445B.298	Application: Official date of submittal. ....	61
445B.305	Operating permits: Imposition of more stringent standards for emissions. ....	61
445B.308	Prerequisites and conditions for issuance of certain operating permits; compliance with control strategy. ....	61
445B.310	Environmental evaluation: Applicable sources and other subjects; exemption. ....	64
445B.311	Environmental evaluation: Contents; consideration of good engineering practice stack height. ....	64
445B.313	Method for determining heat input: Class I sources. ....	66
445B.3135	Method for determining heat input: Class II sources. ....	66
445B.314	Method for determining heat input: Class III sources. ....	66
445B.315	Contents of operating permits: Exception for operating permits to construct; required conditions. ....	66
445B.318	Operating permits: Requirement for each source; form of application; issuance or denial; posting. ....	67
445B.319	Operating permits: Administrative amendment. ....	68
445B.325	Operating permits: Termination, reopening and revision, revision, or revocation and reissuance. ....	68
445B.326	Operating permits: Assertion of emergency as affirmative defense to action for noncompliance. ....	69
445B.3265	Operating permits: Revocation and reissuance. ....	69
445B.327	Fees; late penalty. ....	70
445B.331	Request for change of location of emission unit. ....	72

**Class I Operating Permits**

445B.3361	General requirements. ....	72
445B.3363	Operating permit to construct: Application. ....	73
445B.33633	Operating permit to construct for designation of clean unit: Application. ....	74
445B.33635	Operating permit to construct for approval of pollution control project: Application. ....	75
445B.33637	Operating permit to construct for approval of plantwide applicability limitation: Application. ....	75
445B.3364	Operating permit to construct: Action by Director on application; notice; public comment and hearing. ....	76
445B.3365	Operating permit to construct: Required conditions and information. ....	79
445B.33653	Operating permit to construct for designation of clean unit: Required conditions and information. ....	80
445B.33656	Operating permit to construct for approval of plantwide applicability limitation: Required conditions and information. ....	80
445B.3366	Expiration and extension of operating permit to construct; expiration and renewal of plantwide applicability limitation. ....	81
445B.3368	Additional requirements for application; exception. ....	82
445B.337	Class I-A application: Filing requirement. ....	84
445B.3375	Class I-B application: Filing requirement. ....	85
445B.338	Class I-A application: Period for filing; effect of application and previous permits. ....	85
445B.3385	Class I-A application: Schedule for filing. ....	86
445B.3395	Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit. ....	86
445B.340	Prerequisites to issuance, revision or renewal of permit. ....	89
445B.3405	Required contents of permit. ....	89
445B.342	Certain changes authorized without revision of permit; notification of authorized changes. ....	91
445B.3425	Minor revision of permit. ....	92
445B.344	Significant revision of permit. ....	93
445B.3441	Administrative revision of permit to incorporate conditions of certain permits to construct. ....	94
445B.3443	Renewal of permit. ....	94
445B.3447	Class I general permit. ....	95

**Class II Operating Permits**

445B.3453	Application: General requirements. ....	95
445B.3457	Application: Action by Director; notice; public comment and hearing.....	96
445B.346	Required contents of permit. ....	97
445B.3465	Application for revision. ....	98
445B.3473	Renewal of permit.....	98
445B.3477	Class II general permit.....	99

**Class III Operating Permits**

445B.3485	Application: General requirements. ....	99
445B.3487	Application: Action by Director. ....	100
445B.3489	Required contents of permit. ....	100
445B.3493	Application for revision. ....	101
445B.3497	Renewal of permit.....	101

**Nevada Mercury Air Emissions Control Program**

445B.3611	Definitions. ....	101
445B.3613	“De minimis mercury emissions” defined. ....	101
445B.3615	“Existing thermal unit that emits mercury” defined.....	102
445B.3617	“Mercury” defined. ....	102
445B.3619	“Mercury co-product” defined.....	102
445B.3621	“Mercury early reduction credit” defined.....	102
445B.3623	“Mercury emissions” defined. ....	102
445B.3625	“Mercury operating permit to construct” defined. ....	102
445B.3627	“Modified thermal unit that emits mercury” defined. ....	102
445B.3629	“Nevada maximum achievable control technology” and “NvMACT” defined.....	103
445B.3631	“New thermal unit that emits mercury” defined. ....	103
445B.3633	“Phase-1 application” defined. ....	103
445B.3635	“Phase-2 application” defined. ....	103
445B.3637	“Precious metals mining” defined.....	103
445B.3639	“Presumptive Nevada maximum achievable control technology” and “presumptive NvMACT” defined. ....	103
445B.3641	“Thermal unit” defined.....	103
445B.3643	“Thermal unit that emits mercury” defined. ....	104
445B.3645	“Tier-1 thermal unit that emits mercury” defined. ....	104
445B.3647	“Tier-2 thermal unit that emits mercury” defined. ....	104
445B.3649	“Tier-3 thermal unit” defined. ....	104
445B.3651	Identification of technologies that constitute presumptive NvMACT. ....	104
445B.3653	Identification of tier-1 thermal units that emit mercury.....	106
445B.3655	Establishment and implementation of Nevada Mercury Air Emissions Control Program. ....	108
445B.3657	Determination by Director of de minimis mercury emissions. ....	108
445B.3659	Application of NvMACT required for control of mercury emissions.....	109
445B.3661	Mercury operating permits to construct: General requirements; restrictions on transfers.....	109
445B.3663	Mercury operating permits to construct: Duties of owner or operator of stationary source which conducts precious metals mining; form of application.....	109
445B.3665	Duties of owner or operator of tier-3 thermal unit.....	109
445B.3667	Existing thermal unit that emits mercury: Deadlines for submission of phase-1 and phase-2 applications. ....	110
445B.3669	Existing thermal unit that emits mercury: Submission of phase-1 application following determination of de minimis mercury emissions. ....	110
445B.3671	Existing thermal unit that emits mercury: Contents of required applications. ....	110
445B.3673	Existing thermal unit that emits mercury: Contents of phase-1 application; sampling and testing for tier-1 thermal unit. ....	111
445B.3675	Existing thermal unit that emits mercury: Contents of phase-2 application.....	111
445B.3677	Review of and action on application for tier-1 or tier-2 thermal unit that emits mercury. ....	112
445B.3679	Mercury operating permit to construct for tier-1 or tier-2 thermal unit that emits mercury: Required conditions and information. ....	115
445B.3681	New or modified thermal unit that emits mercury: Contents of required application. ....	116
445B.3683	Review of and action on application for new or modified thermal unit that emits mercury. ....	117
445B.3685	Mercury operating permit to construct for new or modified thermal unit that emits mercury: Required conditions and information. ....	119
445B.3687	Mercury operating permit to construct for new or modified thermal unit that emits mercury: Expiration and extension. ....	120
445B.3689	Fees: Determination, payment and collection; late penalty. ....	120

## EMISSIONS FROM ENGINES

### General Provisions

445B.400	Scope.....	121
445B.401	Definitions.....	122
445B.403	“Approved inspector” defined.....	122
445B.4045	“Authorized inspection station” defined.....	122
445B.405	“Authorized station” defined.....	122
445B.408	“Carbon monoxide” defined.....	122
445B.409	“Certificate of compliance” defined.....	122
445B.4092	“Certified on-board diagnostic system” defined.....	122
445B.4096	“Class 1 approved inspector” defined.....	122
445B.4097	“Class 1 fleet station” defined.....	122
445B.4098	“Class 2 approved inspector” defined.....	123
445B.4099	“Class 2 fleet station” defined.....	123
445B.410	“CO <sub>2</sub> ” defined.....	123
445B.411	“Commission” defined.....	123
445B.413	“Department” defined.....	123
445B.415	“Director” defined.....	123
445B.416	“Emission” defined.....	123
445B.418	“EPA” defined.....	123
445B.419	“Established place of business” defined.....	123
445B.420	“Evidence of compliance” defined.....	123
445B.421	“Exhaust emissions” defined.....	124
445B.422	“Exhaust gas analyzer” defined.....	124
445B.424	“Fleet station” defined.....	124
445B.4247	“Gross vehicle weight rating” defined.....	124
445B.426	“Heavy-duty motor vehicle” defined.....	124
445B.427	“Hydrocarbon” defined.....	124
445B.428	“Hz” defined.....	124
445B.432	“Light-duty motor vehicle” defined.....	124
445B.433	“Mini motor home” defined.....	125
445B.434	“Motor home” defined.....	125
445B.435	“Motor vehicle” defined.....	125
445B.440	“New motor vehicle” defined.....	125
445B.442	“Opacity” defined.....	125
445B.443	“Person” defined.....	125
445B.444	“ppm” defined.....	125
445B.449	“Smoke” defined.....	125
445B.450	“Special mobile equipment” defined.....	125
445B.451	“Standard” defined.....	126
445B.4515	“State electronic data transmission system” defined.....	126
445B.452	“Tampering” defined.....	126
445B.4525	“Test station” defined.....	126
445B.453	“Truck” defined.....	126
445B.454	“Used motor vehicle” defined.....	126
445B.455	“Van conversion” defined.....	126
445B.4553	“Vehicle inspection report” defined.....	126
445B.4556	“Vehicle inspection report number” defined.....	126
445B.456	Severability.....	127

### Facilities for Inspection and Maintenance

445B.460	Test station: License required to operate; expiration of license; ratings; prohibited acts; location; servicing of fuel injection system.....	127
445B.461	Compliance by Federal Government, state agencies and political subdivisions.....	128
445B.462	Test station: Application for license to operate; inspection of premises; issuance of license.....	128
445B.463	Test station: Grounds for denial, revocation or suspension of license; reapplication; permanent revocation of license.....	129
445B.464	Test station: Hearing concerning denial, suspension or revocation of license.....	130
445B.465	Authorized station or authorized inspection station: Requirements for bond or deposit.....	130
445B.466	Authorized station or authorized inspection station: Liability under bond or deposit; suspension and reinstatement of licenses.....	131
445B.467	Authorized station or authorized inspection station: Disbursement, release or refund of bond or deposit.....	131
445B.468	Authorized stations or authorized inspection stations: Coverage of bond or deposit.....	132
445B.469	Authorized station or authorized inspection station: Posting of signs and placards.....	132
445B.470	Test station: Display of licenses; availability of reference information.....	132
445B.471	Test station: Advertising; distribution of brochure to public by Department.....	133

445B.472	Test station: Records of inspections and repairs; inspection of place of business; audit of exhaust gas analyzers. ....	133
445B.473	Test station: Notice of lost or stolen certificates of compliance. ....	134
445B.474	Test station: Failure to employ approved inspector. ....	134
445B.475	Authorized station or class 2 fleet station: Requirements for employees. ....	135
445B.476	Test station: Willful failure to comply with directive; suspension of license; reapplication after revocation of license. ....	135
445B.478	Fleet station: Licensing; powers and duties. ....	135
445B.480	Test station: General duties. ....	135

#### Inspectors

445B.485	Prerequisites to licensing.....	136
445B.486	Examination of applicants for licensing. ....	136
445B.487	Denial of license. ....	137
445B.489	Grounds for denial, suspension or revocation of license. ....	137
445B.490	Hearing on suspension or revocation of license. ....	138
445B.491	Temporary suspension or refusal to renew license.....	138
445B.492	Duration of suspension; surrender of license. ....	138
445B.493	Limitation on reapplication after revocation or denial of license; surrender of revoked license; permanent revocation of license. ....	138
445B.495	Contents of license. ....	139
445B.496	Expiration of license. ....	139
445B.497	Requirements for renewal of license. ....	139
445B.498	Performance of emission inspection without license prohibited; expiration of license; license ratings.....	140
445B.4983	Issuance of access code to approved inspector; use of access code and identification number. ....	140
445B.4985	Violations.....	140
445B.499	Fees. ....	141
445B.501	Report of change in place of employment or termination of employment. ....	141
445B.502	Submission of certificate of employment to report change. ....	141

#### Exhaust Gas Analyzers

445B.5049	Connection to state electronic data transmission system. ....	141
445B.505	Availability of list of approved analyzers and their specifications. ....	141
445B.5052	Approved analyzer. ....	142
445B.5055	Revocation of approval of analyzer.....	142
445B.5065	Manufacturer of approved analyzer: Required warranty. ....	142
445B.5075	Manufacturer of approved analyzer: Required services; administrative fine for violations.....	142

#### Control of Emissions: Generally

445B.575	Device to control pollution: General requirement; alteration or modification. ....	143
445B.576	Vehicles powered by gasoline or diesel fuel: Restrictions on visible emissions and on idling of diesel engines. ....	144
445B.577	Devices used on stationary rails: Restrictions on visible emissions. ....	145
445B.578	Exceptions to restrictions on visible emissions. ....	145
445B.579	Inspection of vehicle: Devices for emission control required.....	145
445B.580	Inspection of vehicle: Procedure for certain vehicles with model year of 1995 or older and heavy-duty vehicles with model year of 1996 or newer.....	145
445B.5805	Inspection of vehicle: Procedure for light-duty vehicles with model year of 1996 or newer.....	146
445B.581	Inspection of vehicle: Place and equipment for performance.....	147
445B.5815	Inspection of vehicle: Certified on-board diagnostic systems. ....	147
445B.582	Repair of vehicle; reinspection or retesting.....	148
445B.583	Evidence of compliance: Purpose; records.....	148
445B.584	Evidence of compliance: Purchase of vehicle inspection report numbers. ....	148
445B.585	Evidence of compliance: Issuance by approved inspector. ....	148
445B.586	Evidence of compliance: Return of fee. ....	148
445B.587	Testing of light-duty motor vehicles powered by diesel engines: Equipment for measurement of smoke opacity.....	149
445B.588	Testing of light-duty motor vehicles powered by diesel engines: List of approved equipment.....	150
445B.589	Testing of light-duty motor vehicles powered by diesel engines: Procedure; certificate of compliance; effect of failure.....	150
445B.5895	Provision of list of authorized stations.....	151
445B.590	Waiver of standards for emissions. ....	151
445B.591	Form for registration of vehicle in area where inspection of vehicle not required. ....	152
445B.592	Applicability of certain standards for emissions and other requirements.....	152

445B.593	Evidence of compliance required for certain vehicles based in Clark County.....	152
445B.594	Evidence of compliance required for certain vehicles based in Washoe County.....	153
445B.595	Inspections of vehicles owned by State or political subdivisions or operated on federal installations. ....	153
445B.596	Standards for emissions. ....	154
445B.598	Imposition and statement of fee for inspection and testing; listing of stations and fees.....	155
445B.599	Prescription and notice of maximum fees for inspections and testing. ....	155
445B.600	Procedure for setting new fee. ....	155
445B.601	Concealment of emissions prohibited. ....	155

#### Restored Vehicles

445B.6115	Exemption of vehicle from certain provisions.....	155
445B.6125	Certification of vehicle for exemption.....	156

#### Inspection of Test Stations and Approved Inspectors

445B.7015	Annual and additional inspections. ....	156
445B.7025	Alteration of emission control system of vehicle used to conduct inspection. ....	156
445B.7035	Preliminary written notice of violation; reinspection of vehicle.....	156
445B.7045	Administrative fines and other penalties for certain violations.....	157

#### Miscellaneous Provisions

445B.727	Administrative fines and other penalties.....	158
445B.735	Program for licensure to install, repair and adjust devices for control of emissions.....	159

#### Control of Emissions: Heavy-Duty Motor Vehicles

445B.737	Definitions. ....	159
445B.739	“Certification level” defined. ....	159
445B.740	“Citation” defined. ....	159
445B.7405	“Commission” defined. ....	159
445B.741	“Demonstration of correction” defined. ....	159
445B.742	“Department” defined.....	159
445B.743	“Director” defined.....	160
445B.744	“Driver” defined. ....	160
445B.745	“Emission control label” defined.....	160
445B.746	“Emission control system” defined. ....	160
445B.747	“Fleet” defined.....	160
445B.749	“Heavy-duty motor vehicle” defined. ....	160
445B.750	“Inspection procedure” defined. ....	160
445B.751	“Inspector” defined. ....	160
445B.755	“Officer” defined. ....	160
445B.756	“Opacity” defined.....	160
445B.757	“Post-repair test” defined. ....	161
445B.758	“Repair facility” defined.....	161
445B.759	“Smokemeter” defined.....	161
445B.760	“Snap-idle cycle” defined.....	161
445B.761	“Tampered” defined.....	161
445B.762	“Test procedure” defined.....	161
445B.765	Applicability.....	161
445B.7665	Standards of opacity; citation for violation; equipment for measurement. ....	161
445B.767	Specifications for equipment for measurement of smoke opacity; test procedure. ....	162
445B.768	Components of vehicle subject to inspection for tampered or defective conditions. ....	162
445B.7685	Missing emission control label: Replacement; effect on standard of opacity.....	163
445B.769	Duties of driver of vehicle selected for inspection; duties of inspector. ....	163
445B.770	Refusal of owner or driver to submit vehicle to inspection.....	164
445B.771	Demonstration of correction of vehicle after issuance of citation; post-repair or inspection required by Director under certain circumstances. ....	164
445B.772	Removal of vehicle from service for outstanding citations; release and repair of vehicle. ....	164
445B.773	Request for administrative hearing. ....	165
445B.774	Waiver from standard of opacity. ....	165

#### GRANTS FROM POLLUTION CONTROL ACCOUNT

445B.850	Definitions. ....	165
445B.853	Advisory Committee on the Control of Emissions From Motor Vehicles: Creation; membership; Chairman. ....	166
445B.855	Advisory Committee on the Control of Emissions From Motor Vehicles: Term of Chairman; terms, salaries and removal of members. ....	166



445B.857	Advisory Committee on the Control of Emissions From Motor Vehicles: Meetings; quorum; minutes. ....	166
445B.859	Eligibility for grant.....	167
445B.861	Application for grant: Submission; contents.....	167
445B.863	Application for grant: Action by Committee. ....	167
445B.865	Application for grant: Consideration of Committee’s recommendation; submission to Interim Finance Committee; agreement concerning grant.....	167
445B.867	Period of grant; return of unexpended money; authorization to expend money for additional fiscal year. ....	168
445B.869	Quarterly reports by recipient of grant.....	168
445B.871	Termination of grant or suspension of payments; denial of or refusal to consider application for grant.....	169
445B.873	Prerequisites to award of grant.....	169

**PRACTICE BEFORE THE STATE ENVIRONMENTAL COMMISSION**

445B.875	Definitions. ....	169
445B.877	“Appellant” defined.....	170
445B.879	“Commission” defined. ....	170
445B.881	“Department” defined.....	170
445B.882	“Director” defined.....	170
445B.884	“Person” defined.....	170
445B.886	Petitions to adopt, file, amend or repeal regulations. ....	170
445B.888	Declaratory orders, advisory opinions.....	170
445B.890	Request for hearing. ....	171
445B.891	Notice of hearing.....	171
445B.8915	Intervention in certain proceedings. ....	171
445B.892	Subpoenas.....	172
445B.8925	Briefs.....	172
445B.893	Panels to conduct certain hearings; decision of panel. ....	172
445B.894	Change in time or place of hearing; informal disposition of matter. ....	172
445B.895	Appearance of parties; procedure at hearing. ....	172
445B.8953	Conduct at hearing; maintenance of order. ....	173
445B.8957	Consolidation of proceedings.....	173
445B.896	Findings of Commission.....	173
445B.897	Record of hearing. ....	173
445B.899	Petitions for reconsideration or rehearing. ....	173



## AIR POLLUTION

### Definitions

**NAC 445B.001 Definitions. (NRS 445B.210)** As used in NAC 445B.001 to 445B.3689, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, 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; R125-04, 9-24-2004; R096-05, 10-31-2005; R189-05, 5-4-2006)

**NAC 445B.002 "Act" defined. (NRS 445B.210)** "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)

**NAC 445B.003 "Adjacent properties" defined. (NRS 445B.210)** "Adjacent properties" means parcels of land that lie near each other or in close proximity.

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

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

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

**NAC 445B.004 "Administrator" defined. (NRS 445B.210)** "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)

**NAC 445B.005 "Affected facility" defined. (NRS 445B.210)** "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)

**NAC 445B.006 "Affected source" defined. (NRS 445B.210)** "Affected source" means a stationary source subject to the requirements relating to acid 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)

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

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

**NAC 445B.009 “Air-conditioning equipment” defined. (NRS 445B.210)** “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)

**NAC 445B.011 “Air pollution” defined. (NRS 445B.210)** “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)

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

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

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

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

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

**NAC 445B.015 “Alternative method” defined. (NRS 445B.210)** “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)

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

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

**NAC 445B.018 “Ambient air” defined. (NRS 445B.210)** “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)

**NAC 445B.019 “Applicable requirement” defined. (NRS 445B.210)** “Applicable requirement” means, as applied to a stationary source:

1. Any standard or other relevant requirement:
  - (a) Provided in NRS 445B.100 to 445B.640, inclusive, and NAC 445B.001 to 445B.3689, inclusive, except for the standards for ambient air established in NAC 445B.22097;

(b) Provided in the applicable implementation plan approved or adopted by the EPA pursuant to 42 U.S.C. §§ 7401 to 7515, inclusive;

(c) For a hazardous air pollutant adopted pursuant to 42 U.S.C. § 7412, including any requirement regarding the prevention of accidental releases;

(d) For a program to control acid rain adopted pursuant to 42 U.S.C. §§ 7651 to 7651o, inclusive;

(e) For enhanced monitoring or for compliance certification adopted pursuant to 42 U.S.C. § 7413(a)(3) or 7661c(b);

(f) For solid waste incineration units adopted pursuant to 42 U.S.C. § 7429;

(g) For consumer and commercial products or tank vessels adopted pursuant to 42 U.S.C. § 7511b; and

(h) For the protection of stratospheric ozone adopted pursuant to 42 U.S.C. §§ 7671 to 7671q, inclusive, unless the Administrator determines that such provisions are not required in an operating permit;

2. A new source performance standard adopted pursuant to 42 U.S.C. § 7411;

3. Any term or condition of any permit issued pursuant to the requirements of 42 U.S.C. §§ 7401 to 7515, inclusive, including provisions regarding the prevention of significant deterioration of air quality and new source review; and

4. Any national ambient air quality standard or requirement regarding increments or visibility adopted pursuant to 42 U.S.C. §§ 7470 to 7492, inclusive, as the standard applies to a temporary source for which the owner or operator has applied for and obtained an operating permit pursuant to NAC 445B.287 to 445B.3497, inclusive.

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

**NAC 445B.021 “Area source” defined. (NRS 445B.210)** “Area source” means any stationary source of hazardous air pollutants that is not a major source.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.4425)

**NAC 445B.022 “Atmosphere” defined. (NRS 445B.210)** “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)

**NAC 445B.028 “Best available control technology” defined. (NRS 445B.210)** For a stationary source that is subject to the provisions of 40 C.F.R. § 52.21, “best available control technology” has the meaning ascribed to it in 40 C.F.R. § 52.21, as incorporated by reference in NAC 445B.221.

[Environmental Comm'n, Air Quality Reg. Art. 1 part § 1, eff. 8-28-79]—(NAC A 10-22-87; 9-19-90; 3-29-94, eff. 11-15-94; 10-30-95; 5-3-96)

**NAC 445B.030 “British thermal units” defined. (NRS 445B.210)** “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)

**NAC 445B.034 “Class I-A application” defined. (NRS 445B.210)** “Class I-A application” means an application for a Class I operating permit that is required for any existing source which is subject to the requirements of 42 U.S.C. §§ 7661 to 7661f, inclusive.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 10-30-95, eff. 1-11-96)—(Substituted in revision for NAC 445.4615)

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

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

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

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

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

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

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

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

1. Which emits or has the potential to emit, individually or in combination, a total of not more than 5 tons per year of PM<sub>10</sub>, NO<sub>x</sub>, SO<sub>2</sub>, VOC and H<sub>2</sub>S;
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 is not subject to the requirements of 40 C.F.R. Part 60;
5. Which is not subject to the requirements of 40 C.F.R. Part 61;
6. Which is not a temporary source;
7. Which is not located at or a part of another stationary source;
8. Which does not operate a thermal unit that emits mercury, as defined in NAC 445B.3643;

and

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

(Added to NAC by Environmental Comm’n by R040-01, eff. 10-25-2001; A by R189-05, 5-4-2006)

**NAC 445B.041 “Clean unit” defined. (NRS 445B.210)** “Clean unit” means a clean unit as defined in 40 C.F.R. § 52.21(b)(42) that has been designated by the Director pursuant to 40 C.F.R. § 52.21(y) and authorized in an operating permit to construct pursuant to NAC 445B.001 to 445B.3689, inclusive.

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

**NAC 445B.042 “Combustible refuse” defined. (NRS 445B.210)** “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)

**NAC 445B.0425 “Commission” defined. (NRS 445B.210)** “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)

**NAC 445B.043 “Confidential information” defined. (NRS 445B.210)** “Confidential information” has the meaning ascribed to it in subsection 6 of NRS 445B.570.

[Environmental Comm’n, Air Quality Reg. §§ 1.15-1.15.3, eff. 11-7-75; A and renumbered as § 1.41, 12-4-76]—(NAC A 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.477)

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

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

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

[Environmental Comm’n, Air Quality Reg. § 1.16, eff. 11-7-75; renumbered as § 1.43, 12-4-76]—(Substituted in revision for NAC 445.479)

**NAC 445B.047 “Continuous monitoring system” defined. (NRS 445B.210)** “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 445.480)

**NAC 445B.049 “Criteria pollutant” defined. (NRS 445B.210)** “Criteria pollutant” means a regulated air pollutant for which the Administrator has established a national ambient air quality standard.

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

**NAC 445B.051 “Day” defined. (NRS 445B.210)** “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)

**NAC 445B.053 “Director” defined. (NRS 445B.210)** “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)

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

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

- (a) Using that portion of a stack which exceeds good engineering practice stack height;
- (b) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(c) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters or stack parameters, combining exhaust gases from several existing stacks into one stack or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

2. The term does not include:

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

(b) The merging of exhaust gas streams where:

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

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

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

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

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

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

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

**NAC 445B.055 “Effective date of the program” defined. (NRS 445B.210)** “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)

**NAC 445B.056 “Emergency” defined. (NRS 445B.210)** “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)

**NAC 445B.058 “Emission” defined. (NRS 445B.210)**

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)



**NAC 445B.059 “Emission unit” defined. (NRS 445B.210)** “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)

**NAC 445B.060 “Enforceable” defined. (NRS 445B.210)** “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)

**NAC 445B.061 “EPA” defined. (NRS 445B.210)** “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)

**NAC 445B.062 “Equivalent method” defined. (NRS 445B.210)** “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)

**NAC 445B.063 “Excess emissions” defined. (NRS 445B.210)** “Excess emissions” means any emission which exceeds any applicable emission limitation prescribed by NAC 445B.001 to 445B.3689, inclusive, 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; R096-05, 10-31-2005)

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

1. For sources seeking credit for stack height exceeding that established under paragraph (b) of subsection 1 of NAC 445B.083, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to 40 C.F.R. § 52.21, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations pursuant to NAC 445B.001 to 445B.3689, inclusive, must be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate must be established in consultation with the source owner or operator.

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

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

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

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

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

**NAC 445B.065 “Existing facility” defined. (NRS 445B.210)** “Existing facility” with reference to a stationary source means any apparatus of the type for which a standard is adopted in NAC 445B.001 to 445B.601, inclusive, the construction or modification of which was commenced before the date on which the standard was proposed or any apparatus which could be altered in such a way as to be of that type.

[Environmental Comm'n, Air Quality Reg. § 1.72, eff. 12-4-76]—(NAC A 10-22-87; 10-30-95)

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

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

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

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

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

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

**NAC 445B.069 “Federally enforceable” defined. (NRS 445B.210)** “Federally enforceable” means enforceable by the Administrator pursuant to any provision of 42 U.S.C. §§ 7401 to 7671q, inclusive, 40 C.F.R. §§ 52.21 and 51.160 to 51.166, inclusive, or 40 C.F.R. Part 70, or by other persons pursuant to 42 U.S.C. § 7604.

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

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

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

**NAC 445B.072 “Fuel” defined. (NRS 445B.210)** “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)

**NAC 445B.073 “Fuel-burning equipment” defined. (NRS 445B.210)** “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)

**NAC 445B.075 “Fugitive dust” defined. (NRS 445B.210)** “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)

**NAC 445B.077 “Fugitive emissions” defined. (NRS 445B.210)** “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)

**NAC 445B.080 “Garbage” defined. (NRS 445B.210)** “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)

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

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

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

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

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

(b) A height determined as follows:

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

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

(c) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air

pollutant as a result of atmospheric downwash, wakes or eddy effects created by the source itself, nearby structures or nearby terrain features.

2. For the purposes of this section:

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

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

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

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

**NAC 445B.084 “Hazardous air pollutant” defined. (NRS 445B.210)** “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)

**NAC 445B.086 “Incinerator” defined. (NRS 445B.210)** “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)

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

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

**NAC 445B.091 “Local air pollution control agency” defined. (NRS 445B.210)** “Local air pollution control agency” means any city, county or district 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)

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

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

**NAC 445B.094 “Major source” defined. (NRS 445B.210)**

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

(a) Is located on one or more contiguous or adjacent properties;

(b) Is under the common control of the same person or persons;

(c) Belongs to a single major industrial grouping as described in the *Standard Industrial Classification Manual*, as incorporated by reference in NAC 445B.221; and

(d) Meets one of the following conditions:

(1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501 to 7515, inclusive;

(2) Directly emits or has the potential to emit:

(I) One hundred tons per year or more of any regulated air pollutant, excluding particulate matter more than 10 microns in diameter; or

(II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the Commission; or

(3) Is located in a particulate matter (PM<sub>10</sub>) “serious” nonattainment area and directly emits or has the potential to emit 70 tons per year or more of PM<sub>10</sub>.

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

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

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

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

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

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

**NAC 445B.095 “Malfunction” defined. (NRS 445B.210)** “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)

**NAC 445B.096 “Maximum achievable control technology” defined. (NRS 445B.210)** “Maximum achievable control technology” means any measure, process, method, system or technique applied to a stationary source which provides the maximum degree of reduction in the emission of hazardous air pollutants as follows:

1. For new stationary sources, the maximum degree of reduction in emissions must be no less stringent than the control of emissions that is achieved in practice by the best controlled similar stationary source, as determined by the Administrator.

2. For existing stationary sources, the maximum degree of reduction in emissions must be no less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3).

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

**NAC 445B.097 “Maximum allowable throughput” defined. (NRS 445B.210)** “Maximum allowable throughput” means:

1. The maximum process weight allowed through a continuous or long-run steady-rate operation, per hour; or

2. For cyclical or batch unit operations or unit processes, the total process weight for a 1-hour period.

↪ 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.

(Added to NAC by Environmental Comm'n, eff. 10-22-87)—(Substituted in revision for NAC 445.5435)

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

1. Increases the amount of any regulated air pollutant, to which a standard applies, emitted into the atmosphere by that stationary source; or

2. Results in the emission of any regulated air pollutants, to which a standard applies, into the atmosphere if the regulated air pollutants were not previously emitted.

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

**NAC 445B.103 “Monitoring device” defined. (NRS 445B.210)** “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. 1-11-96)—(Substituted in revision for NAC 445.548)

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

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

**NAC 445B.106 “Multiple-chamber incinerator” defined. (NRS 445B.210)** “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)

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

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

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

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

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

1. For stationary sources subject to the requirements of 42 U.S.C. § 7412, a stationary source for which the owner or operator commenced construction or reconstruction after the

Administrator proposed regulations pursuant to 42 U.S.C. § 7412 which established an emission standard applicable to the stationary source.

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

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

**NAC 445B.109 “Nitrogen oxides” defined. (NRS 445B.210)** “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)

**NAC 445B.112 “Nonattainment area” defined. (NRS 445B.210)** “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)

**NAC 445B.113 “Nonroad engine” defined. (NRS 445B.210)** “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)

**NAC 445B.1135 “Nonroad vehicle” defined. (NRS 445B.210)** “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)

**NAC 445B.114 “Nuisance” defined. (NRS 445B.210)** “Nuisance” means anything which is injurious to health, offensive to the senses or an obstruction to the free use of property and which interferes with the comfortable enjoyment of life or property.

[Environmental Comm'n, Air Quality Reg. § 1.42, eff. 11-7-75; renumbered as § 1.117, 12-4-76]—(Substituted in revision for NAC 445.554)

**NAC 445B.116 “Odor” defined. (NRS 445B.210)** “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)

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

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

**NAC 445B.119 “One-hour period” defined. (NRS 445B.210)** “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)

**NAC 445B.121 “Opacity” defined. (NRS 445B.210)** “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 in shades of white to gray.

Opacity (Percent)	Ringelmann Number
20 .....	1
40 .....	2
60 .....	3
80 .....	4
100 .....	5

[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)

**NAC 445B.122 “Open burning” defined. (NRS 445B.210)** “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)

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

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

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

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

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

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

**NAC 445B.125 “Ore” defined. (NRS 445B.210)** “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)

**NAC 445B.127 “Owner or operator” defined. (NRS 445B.210)** “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)



**NAC 445B.129 “Particulate matter” defined. (NRS 445B.210)** “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)

**NAC 445B.130 “Pathological wastes” defined. (NRS 445B.210)** “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)

**NAC 445B.134 “Person” defined. (NRS 445B.210)** “Person” has the meaning ascribed to it in NRS 445B.150.

[Environmental Comm’n, Air Quality Reg. § 1.49, eff. 11-7-75; renumbered as § 1.126, 12-4-76]—(Substituted in revision for NAC 445.564)

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

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

**NAC 445B.135 “PM<sub>10</sub>” defined. (NRS 445B.210)** “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)

**NAC 445B.136 “Pollution control project” defined. (NRS 445B.210)** “Pollution control project” means a pollution control project as defined in 40 C.F.R. § 52.21(b)(32) that has been approved by the Director and authorized in an operating permit to construct pursuant to NAC 445B.001 to 445B.3689, inclusive.

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

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

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

**NAC 445B.141 “Preconstruction review” defined. (NRS 445B.210)** “Preconstruction review” means a review by the Director of all information contained in a Class I-B application, as required in NAC 445B.308 to 445B.313, inclusive, and 40 C.F.R. § 52.21.

(Added to NAC by Environmental Comm’n, 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.5775)

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

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

**NAC 445B.144 “Process equipment” defined. (NRS 445B.210)** “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)

**NAC 445B.145 “Process weight” defined. (NRS 445B.210)** “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)

**NAC 445B.147 “Program” defined. (NRS 445B.210)** “Program” means the program for issuing operating permits to Class I sources which the Administrator has approved as complying with the requirements of 40 C.F.R. Part 70.

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

**NAC 445B.148 “Proportional sampling” defined. (NRS 445B.210)** “Proportional sampling” means sampling at a rate that produces a constant ratio of sampling rate to the rate of the flow of stack gas.

[Environmental Comm’n, Air Quality Reg. § 1.146, eff. 12-4-76; A and renumbered as § 1.143, 8-28-79]—(Substituted in revision for NAC 445.587)

**NAC 445B.151 “Reference conditions” defined. (NRS 445B.210)** “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)

**NAC 445B.152 “Reference method” defined. (NRS 445B.210)** “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)

**NAC 445B.153 “Regulated air pollutant” defined. (NRS 445B.210)** “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

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; R096-05, 10-31-2005)

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

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

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

1. For a corporation:

- (a) A president;
- (b) A vice president in charge of a principal business function;
- (c) A secretary;
- (d) A treasurer; or
- (e) An authorized representative of such a person who is responsible for the overall operation of the facility and who is designated in writing by an officer of the corporation and approved in advance by the Director.

2. For a partnership or sole proprietorship, a general partner or the proprietor, respectively.

3. For a municipality or a state, federal or other public agency, a ranking elected official or a principal executive officer, including, for a federal agency, a chief executive officer who has responsibility for the overall operations of a principal geographic unit of the agency.

4. For an affected source, the designated representative or his alternate, as defined in 42 U.S.C. § 7651a(26).

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94)—(Substituted in revision for NAC 445.5925)

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

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

**NAC 445B.159 “Ringelmann Chart” defined. (NRS 445B.210)** “Ringelmann Chart” means the chart published by the United States Bureau of Mines, which illustrates graduated shades of gray to black, for use in estimating the light-obscuring capacity of smoke.

[Environmental Comm'n, Air Quality Reg. § 1.56, eff. 11-7-75; renumbered as § 1.155, 12-4-76]—(Substituted in revision for NAC 445.596)

**NAC 445B.161 “Run” defined. (NRS 445B.210)** “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)

**NAC 445B.163 “Salvage operation” defined. (NRS 445B.210)** “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)

**NAC 445B.164 “Scheduled maintenance” defined. (NRS 445B.210)** “Scheduled maintenance” means the maintenance which is planned by the management of a stationary source, or any part thereof, which is anticipated at least 1 month in advance.

(Added to NAC by Environmental Comm’n, eff. 8-22-86)—(Substituted in revision for NAC 445.6015)

**NAC 445B.165 “Scheduled repair” defined. (NRS 445B.210)** “Scheduled repair” means the repair of a stationary source, or any part thereof, which occurs within 1 month of discovery of the need for the repair and which is not a part of scheduled maintenance.

(Added to NAC by Environmental Comm’n, eff. 8-22-86)—(Substituted in revision for NAC 445.6035)

**NAC 445B.167 “Shutdown” defined. (NRS 445B.210)** “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)

**NAC 445B.168 “Single-chamber incinerator” defined. (NRS 445B.210)** “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)

**NAC 445B.172 “Six-minute period” defined. (NRS 445B.210)** “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]—(Substituted in revision for NAC 445.617)

**NAC 445B.174 “Smoke” defined. (NRS 445B.210)** “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)

**NAC 445B.176 “Solid waste” defined. (NRS 445B.210)** “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)

**NAC 445B.177 “Source” defined. (NRS 445B.210)** “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)

**NAC 445B.178 “Source reduction” defined. (NRS 445B.210)**

1. “Source reduction” means any practice which reduces:
  - (a) The amount of a regulated air pollutant or pollutants, including fugitive emissions, emitted to the ambient air before the application of control equipment; and
  - (b) The hazards to public health and the environment associated with the emission of the regulated air pollutant or pollutants.
2. The term includes modifications of equipment or technology, modifications of procedure or process, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training or control of inventory.
3. The term does not include any practice which alters the physical, chemical or biological characteristics or the volume of the regulated air pollutant through a process or activity which is not integral to and necessary for the production of a product or the provision of a service.

(Added to NAC by Environmental Comm’n, eff. 3-29-94)—(Substituted in revision for NAC 445.6235)

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

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

**NAC 445B.180 “Stack” and “chimney” defined. (NRS 445B.210)** “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)

**NAC 445B.182 “Standard” defined. (NRS 445B.210)** “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)

**NAC 445B.185 “Start-up” defined. (NRS 445B.210)** “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)

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

1. “Stationary source” means all buildings, structures, facilities and installations, including temporary sources, which:
  - (a) Belong to the same major industrial groupings described in the *Standard Industrial Classification Manual*, as incorporated by reference in NAC 445B.221;
  - (b) Are located on one or more contiguous or adjacent properties;
  - (c) Are owned or operated by the same person or by persons under common control; and
  - (d) Emit or may emit any regulated air pollutant that is regulated under 42 U.S.C. §§ 7401 to 7671q, inclusive, or NAC 445B.001 to 445B.3689, inclusive.
2. Contracted operations that support the primary operations of the stationary source are part of the stationary source, except that temporary construction activities, including, without limitation, the construction of emission units, are not part of the stationary source.
3. The term does not include motor vehicles, special mobile equipment, nonroad engines and nonroad vehicles.

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

**NAC 445B.190 “Stop order” defined. (NRS 445B.210)** “Stop order” means a written notice by the Director served on a person or persons requiring such persons to cease the activity that the Director, pursuant to NAC 445B.277, has determined is in violation of any provision of NAC 445B.001 to 445B.3689, inclusive, an applicable requirement or any condition of an operating permit.

[Environmental Comm’n, Air Quality Reg. § 1.63, eff. 11-7-75; renumbered as § 1.184, 12-4-76]—(NAC A 12-13-93)—(Substituted in revision for NAC 445.630)

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

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

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

**NAC 445B.196 “Toxic regulated air pollutant” defined. (NRS 445B.210)** “Toxic regulated air pollutant” means a substance designated as such by the Commission based upon the Commission’s determination of the extent to which the substance presents a risk to the public health.

(Added to NAC by Environmental Comm’n, eff. 12-5-84; A 11-23-92; 10-29-93; 12-13-93; 10-30-95)

**NAC 445B.198 “Uncombined water” defined. (NRS 445B.210)** “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)

**NAC 445B.200 “Violation” defined. (NRS 445B.210)** “Violation” means a failure to comply with any of the provisions of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit.

[Environmental Comm’n, Air Quality Reg. § 1.203, eff. 8-28-79]—(NAC A 10-22-87; 12-13-93)—(Substituted in revision for NAC 445.649)

**NAC 445B.202 “Volatile organic compounds” defined. (NRS 445B.210)** “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)

**NAC 445B.205 “Waste” defined. (NRS 445B.210)** “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)

**NAC 445B.207 “Wet garbage” defined. (NRS 445B.210)** “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)

**NAC 445B.209 “Year” defined. (NRS 445B.210)** “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)

**NAC 445B.211 Abbreviations. (NRS 445B.210)** The abbreviations used in NAC 445B.001 to 445B.3689, 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
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)

### General Provisions

**NAC 445B.220 Severability. (NRS 445B.210)** If any of the provisions of NAC 445B.001 to 445B.3689, 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]—(NAC A by R105-97, 3-5-98; R189-05, 5-4-2006)

**NAC 445B.2201 Hazardous air pollutants and toxic regulated air pollutants: Determination of substances. (NRS 445B.210)**

1. A substance is a hazardous air pollutant if it is on the federal list of hazardous air pollutants set forth in 42 U.S.C. § 7412(b), which is adopted pursuant to NAC 445B.221.

2. A substance is a toxic regulated air pollutant if the Commission determines that it causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, unless a federal standard for the quality of ambient air, standard for the quality of ambient air adopted by the Commission, new source performance standard or national emission standard for hazardous air pollutants applies.

(Added to NAC by Environmental Comm’n, eff. 12-5-84; A 10-18-88; 10-29-93; 12-13-93; 10-30-95; 5-3-96)—(Substituted in revision for NAC 445B.339)

**NAC 445B.22013 Hazardous air pollutants and toxic regulated air pollutants: Prohibited discharge. (NRS 445B.210)** An owner or operator shall not cause or permit the discharge into the atmosphere from any stationary source of any hazardous air pollutant or toxic regulated air pollutant that threatens the health and safety of the general public, as determined by the Director.

(Added to NAC by Environmental Comm'n, eff. 12-5-84; A 10-22-87; 12-8-89; 12-13-93; 10-30-95; 5-3-96)—(Substituted in revision for NAC 445B.349)

**NAC 445B.22017 Visible emissions: Maximum opacity; determination and monitoring of opacity. (NRS 445B.210)**

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:

(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.

(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).

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.

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).

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 & 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; R036-05, 10-31-2005, eff. 4-1-2006)

**NAC 445B.2202 Visible emissions: Exceptions for stationary sources. (NRS 445B.210)**  
The provisions of NAC 445B.22017 do not apply to:

1. Smoke from the open burning described in NAC 445B.22067;
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;
3. Emissions from an incinerator as set forth in NAC 445B.2207; or
4. Emissions of stationary diesel-powered engines during warm-up for not longer than 15 minutes to achieve operating temperatures.

[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; R036-05, 10-31-2005, eff. 4-1-2006)

**NAC 445B.22027 Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates. (NRS 445B.210)** 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.

[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)



**NAC 445B.2203 Emissions of particulate matter: Fuel-burning equipment. (NRS 445B.210)**

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:

(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.

(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:

$$Y = 1.02X^{-0.231}$$

(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:

$$Y = 17.0X^{-0.568}$$

2. For the purposes of paragraphs (b) and (c) of subsection 1:

(a) "X" means the maximum operating rate in million Btu's per hour.

(b) "Y" means the allowable rate of emission in pounds per million Btu's.

[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 NAC 445B.362)

**NAC 445B.22033 Emissions of particulate matter: Sources not otherwise limited. (NRS 445B.210)**

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.

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:

$$E = 4.10P^{0.67}$$

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:

$$E = 55P^{0.11} - 40$$

4. For the purposes of subsections 2 and 3:

(a) "E" means the maximum rate of emission in pounds per hour.

(b) "P" means the maximum allowable throughput in tons per hour.

[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)

**NAC 445B.22037 Emissions of particulate matter: Fugitive dust. (NRS 445B.210)**

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.

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.

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.

4. The provisions of subsections 2 and 3 do not apply to:

(a) Agricultural activities occurring on agricultural land; or

(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.

[Environmental Comm’n, Air Quality Reg. §§ 7.3.1 & 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)

**NAC 445B.2204 “Sulfur emission” defined. (NRS 445B.210)** 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)

**NAC 445B.22043 Sulfur emissions: Calculation of total feed sulfur. (NRS 445B.210)** 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]—(NAC A by R125-04, 9-24-2004)

**NAC 445B.22047 Sulfur emissions: Fuel-burning equipment. (NRS 445B.210)**

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         $Y = 0.6X$

Combination Fuel       $Y = \frac{L(0.4X) + S(0.6X)}{L + S}$

For the purposes of this subsection:

(a) “X” means the maximum input of the operation in millions of Btu’s per hour.

(b) “Y” means the allowable rate of emissions of sulfur in pounds per hour.

(c) “L” means the percentage of total input of heat derived from liquid fuel.

(d) “S” means the percentage of total input of heat derived from solid fuel.

[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)

**NAC 445B.2205 Sulfur emissions: Other processes which emit sulfur. (NRS 445B.210)**

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:

$$E = 0.292P^{0.904}$$

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.

2. For the purposes of subsection 1:

(a) “E” means the allowable sulfur emission in pounds per hour.

(b) “P” means the total feed sulfur, excluding hydrogen sulfide, in pounds per hour.

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.

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.2207 to 445B.22037, inclusive, and 445B.287 to 445B.3497, inclusive.

5. A person shall not cause or permit the emission of any gas containing hydrogen sulfide which is discharged to the atmosphere from any emission unit unless the emission unit is vented, incinerated or flared, or the stream is otherwise disposed of, in a manner such that the ambient sulfur dioxide standards and the ambient hydrogen sulfide standards are not exceeded. Before construction, compliance with the ambient standards must be based on the applicable models, bases and other requirements specified in 40 C.F.R. Part 51, Appendix W, *Guideline on Air Quality Models*, adopted by reference pursuant to NAC 445B.221, except that the Director may authorize the modification of a model specified in the *Guideline on Air Quality Models* or the use of a model not included in the *Guideline on Air Quality Models* if the Director determines that such modification or use is appropriate.

[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; R125-04, 9-24-2004)

**NAC 445B.22057 Allowable emissions of sulfur from specific sources: Units Numbers 1, 2 and 3 of Reid Gardner Power Station. (NRS 445B.210)** The allowable emission of sulfur from fossil fuel-fired power generating units Numbers 1, 2 and 3 of Nevada Power Company’s Reid Gardner Station, located in Air Quality Control Region 13, Basin 218, California Wash, must not be greater than 0.275 pounds per million Btu’s (0.495 kilograms per million kg-cal).

[Environmental Comm’n, Air Quality Reg. § 8.2.1.3 + § 16.1.3.5, eff. 1-1-83]—(NAC A 9-19-90; R065-03, 10-30-2003; R096-05, 10-31-2005)

**NAC 445B.2206 Allowable emissions of sulfur from specific sources: Unit Number 4 of Reid Gardner Power Station. (NRS 445B.210)** The allowable emission of sulfur from fossil fuel-fired power generating unit Number 4 of Nevada Power Company’s Reid Gardner Station, located in Air Quality Control Region 13, Basin 218, California Wash, must not be

greater than 0.145 pounds per million Btu's (0.261 kilograms per million kg-cal). The efficiency of the capture of sulfur must be maintained at a minimum of 85 percent, based on a 30-day rolling average.

(Added to NAC by Environmental Comm'n, eff. 8-22-86; A by R096-05, 10-31-2005)

**NAC 445B.22063 Allowable emissions of sulfur from specific sources: North Valmy Power Station. (NRS 445B.210)** The allowable emission of sulfur from fossil fuel-fired power generating unit Number 2 Sierra Pacific Power Company's North Valmy Station, located in Air Quality Control Region 147, Basin 64, Clovers Area, must not be greater than 0.3 pounds per million Btu's (0.540 kilograms per million kg-cal). The efficiency of the capture of sulfur must be maintained at a minimum of 70 percent, based on a 30-day rolling average.

(Added to NAC by Environmental Comm'n, eff. 8-22-86; A 9-25-87; R096-05, 10-31-2005)

**NAC 445B.22067 Open burning. (NRS 445B.210)**

1. The open burning of any combustible refuse, waste, garbage or oil, or for any salvage operations, except as specifically exempted, is prohibited.

2. Open burning:

(a) For the purpose of weed abatement, conservation, disease control, game or forest management, personnel training or elimination of hazards is allowed if:

(1) Approved in advance by the Director; or

(2) Authorized by an officer of the State of Nevada or its political subdivisions and concurred in by the Director.

(b) Of yard waste and other untreated wood waste, as described in NAC 444.640, is allowed if approved in advance by the Director.

(c) Is allowed for agricultural purposes and management except where prohibited by local ordinances or regulations.

(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.

(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:

(1) Authorized by an officer of the State of Nevada or its political subdivisions;

(2) Concurred in by the Director; and

(3) Not specifically prohibited by local ordinances or regulations.

(f) Of small wood fires is allowed for recreational, educational, ceremonial, heating or cooking purposes.

3. All open burning must be attended and controlled at all times to eliminate fire hazards.

[Environmental Comm'n, Air Quality Reg. Art. 5, eff. 11-7-75; A 5-8-77]—(NAC A by R237-03, 4-15-2004)

**NAC 445B.2207 Incinerator burning. (NRS 445B.210)**

1. Except as otherwise provided in subsection 6:

(a) Burning in any incinerator other than the multiple-chamber type is prohibited.

(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.

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.

3. The rated burning capacity, operating and maintenance procedures approved by the Director must be posted conspicuously at or near the incinerator.

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.

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:

$$E = 0.6 (40.7 \times 10^{-5}C)$$

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.

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.

[Environmental Comm’n, Air Quality Reg. §§ 6.1 & 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)

#### **NAC 445B.22073 Municipal solid waste landfills. (NRS 445B.210)**

1. Except as otherwise provided in subsections 2 and 3, a municipal solid waste landfill must:

(a) Install a system designed to collect and control the emission of nonmethane organic compounds not later than 30 months after the date on which the rate of emission of nonmethane organic compounds by the municipal solid waste landfill is equal to or greater than 55.125 tons per year. The system designed to collect and control the emission of nonmethane organic compounds must meet the requirements set forth in 40 C.F.R. § 60.752(b)(2)(ii) and must have:

(1) A flare designed and operated pursuant to 40 C.F.R. § 60.18;

(2) An enclosed combustor designed and operated to reduce the concentration of nonmethane organic compounds at the outlet to no more than 20 parts per million as hexane by volume, dry basis at 3 percent oxygen; or

(3) A system of emission control designed and operated to reduce the emission of nonmethane organic compounds by 98 weight percent.

(b) Comply with the requirements set forth in 40 C.F.R. § 60.753, 40 C.F.R. § 60.755 and 40 C.F.R. § 60.756.

(c) Maintain records and submit reports pursuant to 40 C.F.R. § 60.757 and 40 C.F.R. § 60.758, as applicable, except as otherwise provided in 40 C.F.R. § 60.24.

2. A municipal solid waste landfill is exempt from the provisions of subsection 1 if the municipal solid waste landfill is not and was not the site of construction, reconstruction or modification that commenced before May 30, 1991.

3. A municipal solid waste landfill is exempt from the provisions of paragraphs (a) and (b) of subsection 1 if the municipal solid waste landfill:

(a) Did not accept waste on or after November 8, 1987, and has a design capacity that does not allow for a deposit of waste in the future;

(b) Has a design capacity less than 2.756 million tons if the design capacity is calculated in tons, less than 3.27 million cubic yards if the design capacity is calculated in cubic yards, or less than 2.756 million tons and 3.27 million cubic yards if the design capacity is calculated in both tons and cubic yards; or

(c) Has a rate of emission of nonmethane organic compounds that is less than 55.125 tons per year.

4. For the purposes of this section:

(a) The design capacity of a municipal solid waste landfill may be calculated solely in either tons or cubic yards. A conversion of density, if any, must be documented and included with the calculation of design capacity.

(b) The rate of emission of nonmethane organic compounds must be calculated pursuant to 40 C.F.R. § 60.754, as applicable.

5. As used in this section:

(a) "Design capacity" has the meaning ascribed to it in 40 C.F.R. § 60.751.

(b) "Enclosed combustor" has the meaning ascribed to it in 40 C.F.R. § 60.751.

(c) "Flare" has the meaning ascribed to it in 40 C.F.R. § 60.751.

(d) "Municipal solid waste landfill" has the meaning ascribed to it in 40 C.F.R. § 60.31c.

(Added to NAC by Environmental Comm'n by R204-97, eff. 3-5-98; A by R022-99, 9-27-99)—(Substituted in revision for NAC 445B.383)

**NAC 445B.22077 Compliance with regulations. (NRS 445B.210)** Any portion of any affected facility not listed in NAC 445B.2208 must comply with the remaining portions of NAC 445B.001 to 445B.3689, inclusive.

[Environmental Comm'n, Air Quality Reg. Art. 16, eff. 12-4-76]—(NAC A 3-17-86; 10-18-88; 12-26-91; R189-05, 5-4-2006)

**NAC 445B.2208 Emission of hydrogen sulfide from certain facilities for generating electricity from geothermal brine. (NRS 445B.210)** The emission of hydrogen sulfide from the facilities for generating electricity from geothermal brine at the Oxbow Geothermal Corporation's geothermal power plant in Air Quality Control Region 147, Basin 128, Dixie Valley, may not exceed 249 short tons (225.9 metric tons) per year.

(Added to NAC by Environmental Comm'n, eff. 10-18-88)—(Substituted in revision for NAC 445B.387)

**NAC 445B.22083 Construction, major modification or relocation of plants to generate electricity using steam produced by burning of fossil fuels. (NRS 445B.210)**

1. Except as otherwise provided in subsections 2 and 3, a person shall not make a major modification to an existing plant or construct a new plant to generate electricity using steam produced by the burning of fossil fuels within:

(a) The Las Vegas Valley, Hydrographic Area 212;

(b) The El Dorado Valley, Hydrographic Area 167;

(c) The Ivanpah Valley, Hydrographic Areas 164 a and 164 b; or

(d) The city limits of Boulder City.

2. Fossil fuel-fired power generating units Numbers 1, 2 and 3 at Clark Station and fossil fuel-fired power generating unit Number 1 at Sunrise Station may be relocated to the Ivanpah Valley and must comply with the provisions of NAC 445B.001 to 445B.3689, inclusive.

3. If an emission unit is relocated to Ivanpah Valley:

(a) The previously used emission unit must be deactivated and removed from the previous site when the relocated unit begins operation.

(b) Any credit for reduced emission is not available as an offset credit.

4. As used in this section, "major modification" has the meaning ascribed to it in 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.

(Added to NAC by Environmental Comm'n, eff. 9-4-92; A 3-29-94; R096-05, 10-31-2005)

**NAC 445B.22087 Odors. (NRS 445B.210)**

1. No person may discharge or cause to be discharged, from any stationary source, any material or regulated air pollutant which is or tends to be offensive to the senses, injurious or detrimental to health and safety, or which in any way interferes with or prevents the comfortable enjoyment of life or property.

2. The Director shall investigate an odor when 30 percent or more of a sample of the people exposed to it believe it to be objectionable in usual places of occupancy. The sample must be at least 20 people or 75 percent of those exposed if fewer than 20 people are exposed.

3. The Director shall deem the odor to be a violation if he is able to make two odor measurements within a period of 1 hour. These measurements must be separated by at least 15 minutes. An odor measurement consists of a detectable odor after the odorous air has been diluted with eight or more volumes of odor-free air.

[Environmental Comm'n, Air Quality Reg. §§ 10.1.1-10.1.3, eff. 11-7-75]—(NAC A 10-30-95)—(Substituted in revision for NAC 445B.393)

**NAC 445B.2209 Reduction of animal matter. (NRS 445B.210)**

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:

(a) Incinerated at temperatures of not less than 1400°F (760°C) for not less than 0.3 second; or

(b) Processed in a manner determined by the Director to be equally efficient.

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)

**NAC 445B.22093 Organic solvents and other volatile compounds. (NRS 445B.210)**

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; R096-05, 10-31-2005)

**NAC 445B.22097 Standards of quality for ambient air. (NRS 445B.210)**

1. The table contained in this section lists the minimum standards of quality for ambient air.

		NEVADA STANDARDS <sup>A</sup>		NATIONAL STANDARDS <sup>B</sup>		
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> )	Nondispersive infrared photometry	9 ppm (10 mg/m <sup>3</sup> )	None	Nondispersive 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> )		35 ppm (40 mg/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>		
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	--	--	--

Notes:

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.

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.

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.

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.



Note E: National primary standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health.

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.

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)

**NAC 445B.221 Adoption by reference and applicability of certain provisions of federal law and regulations. (NRS 445B.210)**

1. Title 40 C.F.R. §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, 51.100(nn) and 51.165, and Appendix S of Title 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, 2002.

2. Appendix W of Title 40 C.F.R. Part 51 is hereby adopted by reference as it existed on July 1, 2005, and the amendments to Appendix W of Title 40 C.F.R. Part 51 as set forth in Volume 70 of the Federal Register at pages 68218 et seq., November 9, 2005, are hereby adopted by reference.

3. Title 40 C.F.R. § 52.21 is hereby adopted by reference as it existed on July 1, 2003.

4. Except as otherwise provided in subsection 5, the following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference:

(a) Subpart A, except §§ 60.4, 60.8(b)(2), 60.8(b)(3) and 60.11(e), as it existed on July 1, 2005;

(b) Subparts C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW and AAAA as they existed on July 1, 2005; and

(c) Subparts CCCC and DDDD of Title 40 C.F.R. Part 60 as set forth in Volume 70 of the Federal Register at pages 55568 et seq., September 22, 2005, are hereby adopted by reference.

5. The amendments to subpart Da of Title 40 C.F.R. Part 60 set forth in Volume 70 of the Federal Register at pages 51266 et seq., August 30, 2005, are hereby adopted by reference.

6. Subparts A, C, D, E, F, H, I, J, K, L, N, O, P, Q, R, T, V, W, Y, BB and FF of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, 2003.

7. Except as otherwise provided in subsection 8, the following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference:

(a) A, B, F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, EEEE, GGGG, HHHH, JJJJ, KKKK, MMMM, NNNN, OOOO, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ and SSSSS, as they existed on July 1, 2005; and

(b) Subpart FFFF as set forth in Volume 70 of the Federal Register at pages 38553 et seq., July 1, 2005, and pages 51269 et seq., August 30, 2005.

8. The amendments to:

(a) Subpart B of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 39662 et seq., July 11, 2005;

(b) Subpart LL of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 66280 et seq., November 2, 2005;

(c) Subpart EEE of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 59401 et seq., October 12, 2005;

(d) Subpart QQQ of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 40672 et seq., July 14, 2005;

(e) Subpart RRR of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 57513 et seq., October 3, 2005;

(f) Subpart UUUU of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 46683 et seq., August 10, 2005;

(g) Subpart WWWW of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 50117 et seq., August 25, 2005; and

(h) Subpart CCCCC of Title 40 C.F.R. Part 63 as set forth in Volume 70 of the Federal Register at pages 44285 et seq., August 2, 2005,

↪ are hereby adopted by reference.

9. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on July 1, 2003. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 72 apply.

10. Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 2003. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.3689, inclusive, the provisions of 40 C.F.R. Part 76 apply.

11. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, and the amendments to section 7412 contained in 40 C.F.R. Part 63, Subpart C, are hereby adopted by reference as they existed on July 1, 2003.

12. The *Standard Industrial Classification Manual*, 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained from the Internet at the following website: [http://www.osha.gov/pls/imis/sic\\_manual.html](http://www.osha.gov/pls/imis/sic_manual.html).

13. A copy of the publications which contain these provisions may be obtained from the:

(a) Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954. The price is:

(1) For the volume containing §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, 51.100(nn) and 51.165 and Appendices S and W of Part 51 .....	\$45
(2) For § 52.21 .....	61
(3) For Part 60 (Sections 60.1 to end) .....	58
(4) For Part 60 (Appendices).....	57
(5) For Parts 61 - 62 .....	45
(6) For Part 63 (Sections 63.1 to 63.599).....	58
(7) For Part 63 (Sections 63.600 to 63.1199).....	50
(8) For Part 63 (Sections 63.1200 to 63.1439).....	50
(9) For Part 63 (Sections 63.1440 to 63.6175).....	32
(10) For Part 63 (Sections 63.6580 to 63.8830).....	32
(11) For Part 63 (Sections 63.8980 to end) .....	35
(12) For the volume containing Parts 72 and 76 .....	62

(b) Division of State Library and Archives of the Department of Cultural Affairs for 10 cents per page.

(c) Internet at the following website: <http://www.gpoaccess.gov/nara/index.html>.

14. For the purposes of the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section, the Director may not approve alternate or equivalent test methods or alternative standards or work practices.

15. Except as otherwise provided in subsections 9 and 10, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.3689, inclusive, for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

16. For the purposes of this section, “administrator” as used in the provisions of Parts 60, 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the Director.

(Added to NAC by Environmental Comm’n, eff. 10-19-83; A 12-5-84; 10-15-85; 8-22-86; 10-22-87; 10-18-88; 9-19-90; 9-4-92; 10-29-93; 12-13-93; 3-29-94; 10-30-95; R105-97, 3-5-98; R126-98, 11-2-98; R022-99, 9-27-99; R103-02, 12-17-2002; R198-03, 4-26-2004; R125-04, 9-24-2004; R037-05, 10-31-2005; R189-05 & R206-05, 5-4-2006)

**NAC 445B.224 Public and confidential information. (NRS 445B.210, 445B.570)**

1. The Director shall maintain all public information obtained in the course of the performance of the duties set forth in NRS 445B.100 to 445B.845, inclusive, at 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

2. The content of an operating permit is public information and cannot be certified as confidential information.

3. Information concerning the emission of a regulated air pollutant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by the EPA cannot be certified as being confidential.

4. An owner or operator who submits information under a claim of confidentiality shall submit:

- (a) One copy of the information to the Director; and
- (b) One copy of the information to the Administrator.

[Environmental Comm’n, Air Quality Reg. §§ 2.7.1 & 2.7.2, eff. 11-7-75]—(NAC A 12-13-93; 10-30-95; R105-97, 3-5-98)

**NAC 445B.225 Prohibited conduct: Concealment of emissions. (NRS 445B.210)** No person may install, construct or use any device which conceals any emission without reducing the total release of regulated air pollutants to the atmosphere.

[Environmental Comm’n, Air Quality Reg. § 2.2.1, eff. 11-7-75]—(NAC A 10-22-87; 10-30-95)

**NAC 445B.227 Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of required procedure. (NRS 445B.210, 445B.300)** Except as otherwise provided in NAC 445B.001 to 445B.3689, inclusive, no person may:

1. Operate a stationary source of air pollution unless the control equipment for air pollution which is required by applicable requirements or conditions of the permit is installed and operating.

2. Disconnect, alter, modify or remove any of the control equipment for air pollution or modify any procedure required by an applicable requirement or condition of the permit.

[Environmental Comm’n, Air Quality Reg. § 2.2.2, eff. 12-15-77]—(NAC A 10-14-82; 10-15-85; 8-22-86; 10-22-87; 3-29-94, eff. 1-11-96; 10-30-95)

**NAC 445B.229 Hazardous emissions: Order for reduction or discontinuance. (NRS 445B.210, 445B.450)** Without limiting the authority of any state officer to declare or to act on an emergency, the Director or local air pollution control agency, upon determining that a generalized condition of air pollution exists or that the emission from one or more stationary sources of regulated air pollutants 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]—(NAC A 10-30-95)

**NAC 445B.230 Plan for reduction of emissions. (NRS 445B.210, 445B.560)**

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 air quality plan for the State of Nevada.

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 air quality plan for the State of Nevada.

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 *Standard Industrial Classification Manual*, 1987, 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.

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.

[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)

**NAC 445B.232 Excess emissions: Scheduled maintenance, testing or repairs; notification of Director; malfunction, upset, start-up, shutdown or human error. (NRS 445B.210)**

1. Scheduled maintenance or testing or scheduled repairs which may result in excess emissions of regulated air pollutants prohibited by NAC 445B.001 to 445B.3689, inclusive, must be approved by the Director and performed during a time designated by the Director as being favorable for atmospheric ventilation.

2. The Director must be notified in writing of the time and expected duration at least 24 hours in advance of any scheduled maintenance which may result in excess emissions of regulated air pollutants prohibited by NAC 445B.001 to 445B.3689, inclusive.

3. The Director must be notified in writing or by telephone of the time and expected duration at least 24 hours in advance of any scheduled repairs which may result in excess emissions of regulated air pollutants prohibited by NAC 445B.001 to 445B.3689, inclusive.

4. The Director must be notified of any excess emissions within 24 hours after any malfunction or upset of the process equipment or equipment for controlling pollution or during start-up or shutdown of such equipment. The telephone number for the notification is (775) 687-9350.

5. The owner or operator of an affected facility shall provide the Director, within 15 days after any malfunction, upset, start-up, shutdown or human error which results in excess emissions, sufficient information to enable the Director to determine the seriousness of the excess emissions. The information must include at least the following:

(a) The identity of the stack or other point of emission, or both, where the excess emissions occurred.

(b) The estimated magnitude of the excess emissions expressed in opacity or in the units of the applicable limitation on emission and the operating data and methods used in estimating the magnitude of the excess emissions.

(c) The time and duration of the excess emissions.

(d) The identity of the equipment causing the excess emissions.

(e) If the excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunction.

(f) The steps taken to limit the excess emissions.

(g) Documentation that the equipment for controlling air pollution, 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.

[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]—(NAC A 8-22-86; 9-19-90; 10-30-95; R065-03, 10-30-2003)

**NAC 445B.233 Excess emissions: Determination of violation. (NRS 445B.210)**

1. The Director shall determine from the submission of data and information required in subsection 5 of NAC 445B.232 or other information available to him that no violation occurred if:

(a) The excess emission was the result of a routine start-up or shutdown for purposes of controlling production;

(b) The amount and duration of the excess emissions were minimized to the extent practicable during the period of start-up or shutdown; and

(c) Any one of the following conditions existed:

(1) The effluent gas could not be passed through the equipment for controlling pollution without causing severe property damage.

(2) The effluent gas could not be passed through the equipment for controlling pollution without causing severe upset of the process.

(3) The excess emission was the result of igniter smoke which could not be controlled by the equipment for control used for normal operation.

2. If the owner or operator misrepresents facts or fails to disclose facts of which he had prior knowledge, the Director shall deem that the period of excess emissions violates NAC 445B.001 to 445B.3689, inclusive.

3. Nothing in this section limits the obligation of the owner or operator of the stationary source to attain and maintain the standards for ambient air quality promulgated in NAC 445B.22097 or the authority of the Director to institute actions under sections 113 and 303 of the Act or to exercise his authority under NRS 445B.100 to 445B.640, inclusive.

[Environmental Comm'n, Air Quality Reg. §§ 2.5.5-2.5.7, eff. 8-28-79]—(NAC A 7-2-84; 8-22-86; R 12-13-93, eff. 11-15-94; A 10-30-95)

**NAC 445B.235 Construction or modification: Determination by Director. (NRS 445B.210)**

1. When requested to do so by an owner or operator, the Director will make a determination of whether action taken or intended to be taken by the owner or operator constitutes construction, including reconstruction, or modification or the commencement thereof within the meaning of NAC 445B.236.

2. The Director will respond to any request for a determination under subsection 1 within 60 days after receipt of the request.

[Environmental Comm'n, Air Quality Reg. §§ 2.13.1 & 2.13.2, eff. 12-4-76]—(NAC A 12-13-93; R096-05, 10-31-2005)

**NAC 445B.236 Construction or modification: Review of plans. (NRS 445B.210)**

1. When requested to do so by an owner or operator, the Director will review plans for construction or modification to provide technical advice to the owner or operator. A separate request must be submitted for each construction or modification project. Each request must identify the location of such projects and be accompanied by technical information describing the proposed nature, size, design and method of operation of each affected facility involved in the project, including information on any equipment to be used for measurement or control of emissions.

2. The Director shall respond to any request for review of plans under subsection 1 within 60 days after receipt of the request.

3. Neither a request for a review of plans nor advice furnished by the Director in response to such request:

(a) Relieves an owner or operator of legal responsibility for compliance with any provision of this section or NAC 445B.235, or of any applicable state or local requirement; or

(b) Prevents the Director from carrying out or enforcing any provision of this section or NAC 445B.235, or taking any other action authorized by the Act.

[Environmental Comm'n, Air Quality Reg. §§ 2.12.1-2.12.2.2, eff. 12-4-76]—(NAC A 12-13-93; R096-05, 10-31-2005)

**NAC 445B.239 Modification: Rate of emission. (NRS 445B.210)**

1. The rate of emission must be expressed in pounds per hour of any regulated air pollutant discharged into the atmosphere for which a standard is applicable. The Director shall use the following to determine the rate of emission:

(a) Factors of emission as specified in the latest issue of *Compilation of Air Pollutant Emission Factors*, EPA Publication No. AP-42, or other factors of emission determined by the Director to be superior to those in that publication, in cases where the use of factors of emission demonstrates that the level of emission resulting from the physical or operational change will either clearly increase or clearly not increase; and

(b) Material balances, data from continuous monitors, or manual tests for emission in cases where the use of factors of emission does not demonstrate to the Director's satisfaction whether the level of emission resulting from the physical or operational change will either clearly increase or clearly not increase, or where an owner or operator demonstrates to the Director's satisfaction that there are reasonable grounds to dispute the result obtained by the Director using factors of emission.

2. When the rate of emission is based on results from manual tests for emission or systems for continuous observation, the procedures specified in Appendix C of 40 C.F.R. § 60 must be used to determine whether an increase in the rate of emission has occurred. Tests must be conducted under such conditions as the Director specifies to the owner or operator based on the representative performance of the facility. At least three valid tests must be conducted before and at least three after the physical or operational change. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for each running of a test.

[Environmental Comm'n, Air Quality Reg. §§ 2.14.2-2.14.2.2, eff. 12-4-76]—(NAC A 10-15-85; R 12-13-93, eff. 11-15-94; A 10-30-95)

**NAC 445B.242 Modification: Alterations which are not considered modifications. (NRS 445B.210)** The following are not by themselves considered modifications under NAC 445B.235 to 445B.250, inclusive:

1. Maintenance, repair and replacement which the Director determines to be routine for a source category, subject to NAC 445B.247.

2. An increase in the production rate of an existing facility, if that increase can be accomplished without a capital expenditure on the stationary source containing that facility, unless the change would be prohibited by an enforceable restriction on the permit.

3. An increase in the hours of operation, unless the change would be prohibited by an enforceable restriction on the permit.

4. Use of an alternative fuel or raw material if, before the date any standard under NAC 445B.235 to 445B.250, inclusive, becomes applicable to that source type, the existing facility was designed to accommodate that alternative use. A facility is considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications, as amended, before the change. Conversion to coal required for energy considerations, as specified in section 119(d)(5) of the Act, is not considered a modification.

5. The addition or use of any system or device whose primary function is the reduction of regulated air pollutants, except when an emission control system is removed or is replaced by a system which the Director determines to be less environmentally beneficial.

6. The relocation or change in ownership of an existing facility.

[Environmental Comm'n, Air Quality Reg. §§ 2.14.5-2.14.5.6, eff. 12-4-76]—(NAC A 9-19-90; R 12-13-93, eff. 11-15-94; A 10-30-95; R105-97, 3-5-98)

**NAC 445B.247 Reconstruction: Notice of replacement of components. (NRS 445B.210, 445B.300)**

1. As used in NAC 445B.248 and 445B.250 and this section:

(a) "Reconstruction" means the replacement of components of an existing facility to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct an entirely new comparable facility; and

(2) It is technologically and economically feasible to meet the applicable standards set forth in NAC 445B.248 and 445B.250 and this section.

(b) "Fixed capital cost" means the capital needed to provide all the depreciable components.

2. An existing facility, upon reconstruction, becomes an affected facility, irrespective of any change in emission rate. If an owner or operator of an existing facility proposes to replace components and the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct an entirely new comparable facility, he shall notify the Director of the proposed replacements. The notice must be postmarked 60 days or as soon as practicable before construction of the replacements is commenced and must include the following information:

(a) Name and address of the owner or operator.

(b) The location of the existing facility.

(c) A brief description of the existing facility and the components which are to be replaced.

(d) A description of the existing air pollution control equipment and the proposed air pollution control equipment.

(e) An estimate of the fixed capital cost of the replacements and of constructing an entirely new comparable facility.

(f) The estimated life of the existing facility after the replacements.

(g) A discussion of any economic or technical limitations the facility may have in complying with the applicable standards of performance after the proposed replacements.

[Environmental Comm'n, Air Quality Reg. §§ 2.15.1-2.15.4.7, eff. 12-4-76]—(NAC R 12-13-93, eff. 11-15-94; A 10-30-95)—(Substituted in revision for NAC 445.679)

**NAC 445B.248 Reconstruction: Determination of whether replacement constitutes reconstruction. (NRS 445B.210, 445B.300)**

1. The Director will determine, within 30 days of the receipt of the notice required by subsection 2 of NAC 445B.247 and any additional information he may reasonably require, whether the proposed replacement constitutes reconstruction.

2. The Director's determination under subsection 1 must be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct an entirely new comparable facility;

(b) The estimated life of the facility after the replacements compared to the life of an entirely new comparable facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the facility; and

(d) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

[Environmental Comm'n, Air Quality Reg. §§ 2.15.5-2.15.6.4, eff. 12-4-76]—(NAC R 12-13-93, eff. 11-15-94; A 10-30-95)—(Substituted in revision for NAC 445.680)

**NAC 445B.250 Notification of planned construction or reconstruction. (NRS 445B.210, 445B.300)** Any owner or operator subject to the provisions of NAC 445B.001 to 445B.3689, inclusive, shall furnish the Director written notification of:

1. The date that construction or reconstruction of an affected facility is commenced, postmarked no later than 30 days after such date. This requirement does not apply in the case of mass-produced facilities which are purchased in completed form.

2. The anticipated date of initial start-up of an affected facility, postmarked not more than 60 days and not less than 30 days before such date.

3. The actual date of initial start-up of an affected facility, postmarked within 15 days after such date.

4. The date upon which demonstration of the continuous monitoring system performance commences in accordance with NAC 445B.256 to 445B.267, inclusive. Notification must be postmarked not less than 30 days before such date.

[Environmental Comm'n, Air Quality Reg. §§ 2.16.1-2.16.1.5, eff. 12-4-76]—(NAC R 12-13-93, eff. 11-15-94; A 10-30-95; R105-97, 3-5-98; R096-05, 10-31-2005)

**NAC 445B.252 Testing and sampling. (NRS 445B.210, 445B.225, 445B.300)**

1. To determine compliance with NAC 445B.001 to 445B.3689, inclusive, before the approval or the continuance of an operating permit or similar class of permits, the Director may either conduct or order the owner of any stationary 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 and the results submitted to the Director within 60 days after achieving the maximum rate of production at which the affected facility will be operated, but not later than 180 days after initial start-up of the facility and at such other times as may be required by the Director.

2. Tests of performance must be conducted and data reduced in accordance with the methods and procedures of the test contained in each applicable subsection of this section unless the Director:

(a) Specifies or approves, in specific cases, the use of a method of reference with minor changes in methodology;

(b) Approves the use of an equivalent method;

(c) Approves the use of an alternative method, the results of which he has determined to be adequate for indicating whether a specific stationary source is in compliance; or

(d) Waives the requirement for tests of performance because the owner or operator of a stationary source has demonstrated by other means to the Director's satisfaction that the affected facility is in compliance with the standard.

3. Tests of performance must be conducted under such conditions as the Director specifies to the operator of the plant 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 test of performance. Operations during periods of start-up, shutdown and malfunction must not constitute representative conditions of a test of performance unless otherwise specified in the applicable standard.

4. The owner or operator of an affected facility shall give notice to the Director 30 days before the test of performance to allow the Director to have an observer present. A written testing procedure for the test of performance must be submitted to the Director at least 30 days before the test of performance to allow the Director to review the proposed testing procedures.

5. Each test of performance must consist of at least three separate runs using the applicable method for that test. 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 three valid samples being obtained, compliance may be determined using the arithmetic mean of the results of the other two runs upon the Director's approval.

6. All testing and sampling will be performed in accordance with recognized methods and as specified by the Director.

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 stationary source.

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 the Director no later than 60 days after the testing or sampling, or both.



9. Notwithstanding the provisions of subsection 2, the Director shall not approve an alternative method or equivalent 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:

(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

(b) An affected source.

[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]—(NAC A 10-15-85; 10-22-87; 10-30-95; R065-03, 10-30-2003)

**NAC 445B.254 Collection of data concerning air quality in affected area of exceptional event. (NRS 445B.210)**

1. The Commission will review the data concerning air quality collected during the period and in the affected area of the exceptional event to determine whether a person or government, governmental agency or political subdivision of a government has complied with the provisions of NAC 445B.001 to 445B.3689, inclusive.

2. The Commission hereby adopts by reference sections 2, 3, 4.2 and 4.4 of the *Guideline on the Identification and Use of Air Quality Data Affected by Exceptional Events*, EPA-450/4-86-007, published by the Environmental Protection Agency, July 1986. A copy of the publication may be obtained from the National Technical Information Service, United States Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, for the price of \$20.

3. The Commission may declare an event an exceptional event if the event complies with any of the following requirements:

(a) For a high wind, an hourly speed equal to or greater than 30 miles per hour or gusts equal to or greater than 40 miles per hour with no precipitation or only a trace of precipitation observed as scattered drops that do not completely wet or cover an exposed area at a rate of not more than 0.01 inch per hour.

(b) For a forest or wildland fire, an uncontrolled fire in vegetation or related flammable material that is destructive to natural resources if the fire burns an area:

(1) Equal to or greater than 9 acres and is within 3 miles upwind of a device to monitor air quality; or

(2) Greater than 9 acres and receptor or dispersion modeling demonstrates that air quality in the monitored area was affected by the fire.

(c) For a prescribed burning, a controlled fire of vegetative material that is used to improve range or forestry resources. Prescribed burning must be limited to those days when the meteorological conditions are conducive to maximum dispersion.

(d) For a structural fire, any accidental fire involving a building that is at least 600 square feet in size and located within 500 meters of a device to monitor air quality.

(e) For a high pollen count, a pollen count index above 25 grains/cm<sup>2</sup> or 1,000 grains/m<sup>3</sup>.

(f) For a rerouting of traffic, a temporary deviation or detour of vehicular traffic because of an accident, construction or demolition, if the detour lasts for not more than 1 week and the rerouted traffic is within 500 meters of a device to monitor air quality.

(g) For unusual traffic congestion, a condition resulting from a major accident, or an obstruction for a short period, such as demolition or construction, if the congestion is not a regular occurrence and is located within 500 meters of a monitoring site.

(h) For a large gathering of persons, a gathering of more than 10,000 persons and 5,000 cars at any one time and at a single location, if the:

(1) Unusual traffic congestion is associated with the event;

(2) Event occurs less than once a year; and

(3) Event is held in a location which is not regularly used for those purposes.

(i) For a chemical spill or an industrial accident, emissions that result from accidents such as a fire, explosion, power outage, train derailment, vehicular accident, or any combination thereof, if the spill or accident is not a regular occurrence.

(j) For a stratospheric ozone intrusion, a parcel of air originating in the stratosphere at an average height of 12.4 miles entrained directly to the surface of the earth.

(k) For a volcanic eruption, the emission or ejection of volcanic materials at the earth's surface from a crater or fissure.

(l) For any activity relating to cleanup after a major natural disaster, if the Governor or Legislature declares an emergency because of the natural disaster or the area affected by the natural disaster has been designated as being eligible for federal assistance.

4. If the Commission determines that an event is exceptional, the air quality data collected within the period and affected area of the event must be treated in a consistent manner.

5. As used in this section, "exceptional event" means an event which is uncontrollable or is not expected to occur regularly at a given location.

(Added to NAC by Environmental Comm'n, eff. 12-26-91)—(Substituted in revision for NAC 445.6823)

**NAC 445B.255 Monitoring guidelines. (NRS 445B.210, 445B.225)** The Division may establish guidelines for monitoring a stationary source.

(Added to NAC by Environmental Comm'n by R019-99, eff. 9-27-99)

**NAC 445B.256 Monitoring systems: Calibration, operation and maintenance of equipment. (NRS 445B.210, 445B.225)** 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.).

[Environmental Comm'n, Air Quality Reg. §§ 2.17.10 & 2.17.10.1, eff. 4-4-77]—(NAC A 10-30-95)

**NAC 445B.257 Monitoring systems: Location. (NRS 445B.210, 445B.225)**

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.

2. When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems for each effluent or for the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems must be installed for each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the Director.

[Environmental Comm'n, Air Quality Reg. §§ 2.17.6 & 2.17.7, eff. 12-4-76]—(Substituted in revision for NAC 445.684)

**NAC 445B.258 Monitoring systems: Verification of operational status. (NRS 445B.210, 445B.225)**

1. Unless otherwise approved by the Director or specified in NAC 445B.001 to 445B.3689, inclusive, the requirements of this section apply to all continuous monitoring systems required under applicable provisions of those sections.

2. All continuous monitoring systems and monitoring devices must be installed and operational prior to conducting performance tests under NAC 445B.252. Verification of operational status must, as a minimum, consist of the following:

(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. § 60.

(b) For continuous monitoring systems referred to in NAC 445B.260, completion of 7 days of operation.

(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.

[Environmental Comm'n, Air Quality Reg. §§ 2.17.1-2.17.2.3, eff. 12-4-76]—(Substituted in revision for NAC 445.685)

**NAC 445B.259 Monitoring systems: Performance evaluations. (NRS 445B.210, 445B.225)**

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.

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. § 60. Continuous monitoring systems for measuring:

(a) Opacity of emissions must comply with Performance Specification 1.

(b) Nitrogen oxide emissions must comply with Performance Specification 2.

(c) Sulfur dioxide emissions must comply with Performance Specification 2.

(d) The oxygen content of carbon dioxide content of effluent gases must comply with Performance Specification 3.

[Environmental Comm'n, Air Quality Reg. §§ 2.17.3 & 2.17.3.1, eff. 12-4-76]—(Substituted in revision for NAC 445.686)

**NAC 445B.260 Monitoring systems: Components contracted for before September 11, 1974. (NRS 445B.210, 445B.225)**

1. Except as provided in subsection 2, an owner or operator who, prior to 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 emission levels within  $\pm 20$  percent with a confidence level of 95 percent. The Calibration Error Test and associated calculation procedures set forth in Performance Specification 1 in Appendix B of 40 C.F.R. § 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 emission levels within  $\pm 20$  percent with a confidence level of 95 percent. The Calibration Error Test, the Field Test for Accuracy (Relative), and associated operating and calculation procedures set forth in Performance Specification 2 in Appendix B of 40 C.F.R. § 60 must be used for demonstrating compliance with this specification.

2. Owners or operators of all continuous monitoring systems installed on an affected facility prior to 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.

[Environmental Comm'n, Air Quality Reg. §§ 2.17.3.2 & 2.17.3.3, eff. 12-4-76; A 12-4-77]—(Substituted in revision for NAC 445.687)

**NAC 445B.261 Monitoring systems: Adjustments. (NRS 445B.210, 445B.225)**

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.

[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)

**NAC 445B.262 Monitoring systems: Measurement of opacity. (NRS 445B.210, 445B.225)**

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:

(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 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.

(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.

(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.

2. Notwithstanding the provisions of subsection 1, the Director shall not approve an alternative method or equivalent 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:

(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

(b) An affected source.

[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 & 2.17.4.3, eff. 12-4-76]—(NAC A by R065-03, 10-30-2003)

**NAC 445B.263 Monitoring systems: Frequency of operation. (NRS 445B.210, 445B.225)** 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:

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.

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.

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.

[Environmental Comm'n, Air Quality Reg. §§ 2.17.5-2.17.5.3, eff. 12-4-76]—(Substituted in revision for NAC 445.690)

**NAC 445B.264 Monitoring systems: Recordation of data. (NRS 445B.210, 445B.225)**

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 averages.

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.

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.

4. All excess emissions must be converted into units of the standard using the applicable conversion procedures specified in NAC 445B.001 to 445B.3689, 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.

5. As used in this section, “calibrated data” means data which is precise and accurate within a stated acceptance criteria for the instrument.

[Environmental Comm'n, Air Quality Reg. § 2.17.8, eff. 12-4-76]—(NAC A 10-22-87; R118-00, 9-25-2000)

**NAC 445B.265 Monitoring systems: Records; reports. (NRS 445B.210, 445B.225)**

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.

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:

(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.

(b) Specific identification of each period of excess emissions that occurs during start-ups, shutdowns and malfunctions of the affected facility.

(c) The nature and cause of any malfunction, if known, the corrective action taken or preventative measures adopted.

(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.

↳ 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.

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:

(a) Continuous monitoring systems, monitoring devices and performance testing measurements;

(b) All continuous monitoring system performance evaluations;

(c) All continuous monitoring systems or monitoring device calibration checks;

(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)

**NAC 445B.267 Alternative monitoring procedures or requirements. (NRS 445B.210, 445B.225)**

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:

(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.

(b) Alternative monitoring requirements when the affected facility is infrequently operated.

(c) Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

(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.

(e) Alternative methods of converting regulated air pollutant concentration measurements to units of the standards.

(f) Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

(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.

(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.

(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.

2. Notwithstanding the provisions of subsection 1, the Director shall not approve an alternative method or equivalent 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:

(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

(b) An affected source.

[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]—(NAC A 10-30-95; R065-03, 10-30-2003)

**NAC 445B.271 Use of alternative method or equivalent method to determine compliance with permit. (NRS 445B.210)** An alternative method or an equivalent method may be used to determine compliance with a standard, requirement or condition for a permit that is required pursuant to 42 U.S.C. §§ 7401 to 7671q, inclusive, if it is first approved by the Administrator.

(Added to NAC by Environmental Comm'n, 3-29-94, eff. 1-11-96; A 10-30-95, eff. 1-11-96)—(Substituted in revision for NAC 445.6945)

**NAC 445B.273 Schedules for compliance. (NRS 445B.210)**

1. All new and existing stationary sources must comply with NAC 445B.001 to 445B.3689, inclusive. Existing stationary sources are in compliance with those sections and may continue to operate under the provisions of their approved compliance schedules, which may be amended from time to time.

2. Compliance schedules must contain specific progress steps that will be taken toward achieving compliance.

3. The Commission may require periodic reports on each phase of progress under approved compliance schedules. Failure at any phase to make diligent and reasonable progress toward compliance with the approved compliance schedule is an unreasonable delay and subjects the operator of the stationary source to administrative fines as provided in NAC 445B.281.

4. In approving compliance schedules, the Commission will take into consideration the social and economic effect of the schedule, including, but not limited to, its effect on the availability of fuels, energy, transportation and employment.

[Environmental Comm'n, Air Quality Reg. §§ 2.9.1-2.9.4, eff. 11-7-75]—(NAC R 12-13-93, eff. 11-15-94; A 10-30-95)

**NAC 445B.275 Violations: Acts constituting; notice. (NRS 445B.210, 445B.300, 445B.450)**

1. Failure to comply with any requirement of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of an operating permit constitutes a violation. As required by NRS 445B.450, the Director shall issue a written notice of an alleged violation to any owner or operator for any violation, including, but not limited to:

- (a) Failure to apply for and obtain an operating permit;
- (b) Failure to construct a stationary source in accordance with the application for an operating permit as approved by the Director;
- (c) Failure to construct or operate a stationary source in accordance with any condition of an operating permit;

(d) Commencing construction or modification of a stationary source without applying for and receiving an operating permit or a modification of an operating permit as required by NAC 445B.001 to 445B.3497, inclusive, or a mercury operating permit to construct as required by NAC 445B.3611 to 445B.3689, inclusive;

(e) Failure to comply with any requirement for recordkeeping, monitoring, reporting or compliance certification contained in an operating permit; or

(f) Failure to pay fees as required by NAC 445B.327 or 445B.3689.

2. The written notice must specify the provision of NAC 445B.001 to 445B.3689, inclusive, the condition of the operating permit or the applicable requirement that is being violated.

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.

[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]—(NAC A 8-22-86; 10-22-87; 12-8-89; 12-13-93; 10-30-95; R103-02, 12-17-2002; R189-05, 5-4-2006)

**NAC 445B.277 Stop orders. (NRS 445B.210, 445B.300)**

1. The Director shall issue a stop order 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 as part of the application for an operating permit and approved by the Director as a condition of the operating permit; or

(b) The design material or the construction itself is of such a nature that it patently cannot bring the stationary source into compliance with NAC 445B.001 to 445B.3689, inclusive.

2. A stop order may be issued at any time by the Director upon his determination that there has been a violation of any of the provisions of NAC 445B.001 to 445B.3689, inclusive, any applicable requirement or any condition of the operating permit.

3. A person served with a stop order:

(a) Shall immediately stop all activities specified in the stop order.

(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.

[Environmental Comm'n, Air Quality Reg. §§ 3.3.1-3.3.5, eff. 11-7-75]—(NAC A 10-22-87; 9-19-90; 12-13-93; 10-30-95; R189-05, 5-4-2006)

**NAC 445B.279 Appeal of Director's decision: Application forms. (NRS 445B.210, 445B.360)** Application forms for an appeal under NRS 445B.360 must be obtained from the Director.

[Environmental Comm'n, Air Quality Reg. § 2.10.4, eff. 11-7-75]—(Substituted in revision for NAC 445.698)

**NAC 445B.281 Violations: Classification; administrative fines. (NRS 445B.210, 445B.470, 445B.640)**

1. Except as otherwise provided in NAC 445B.001 to 445B.3689, inclusive, any violation of the provisions of those sections is classified as a major violation, and a fine up to \$10,000 per day per violation may be levied.

2. For Class II and Class III sources:

(a) Violations of NAC 445B.22067, 445B.2207, 445B.22087, subsections 3 and 4 of NAC 445B.232, subsection 8 of NAC 445B.252, subsection 2 of NAC 445B.265, paragraph (e) of subsection 1 of NAC 445B.275 and NAC 445B.331 are classified as minor or lesser violations, unless there are four or more violations of any one of those sections by a person, occurring within a period of 60 consecutive months.

(b) The first violation of NAC 445B.22037 is classified as a minor violation. A subsequent violation of NAC 445B.22037 is classified as a major violation.

3. The schedule of fines for minor violations is as follows:

	First Offense	Second Offense	Third Offense
NAC 445B.22037, fugitive dust .....	\$250	Major violation	Major violation
NAC 445B.22067, open burning .....	250	500	500
NAC 445B.2207, incinerator burning .....	250	500	500
NAC 445B.22087, odors .....	250	500	500
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions.....	250	500	500



	First Offense	Second Offense	Third Offense
Subsection 8 of NAC 445B.252, testing and sampling reporting.....	\$250	\$500	\$500
Subsection 2 of NAC 445B.265, reporting of monitoring systems.....	250	500	500
Paragraph (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	250	500	500
NAC 445B.331, change of location.....	250	500	500

4. All minor violations become major violations upon the occurrence of the fourth violation of the same section within a period of 60 consecutive months.

[Environmental Comm'n, Air Quality Reg. §§ 2.8.1-2.8.4, eff. 11-7-75; A 12-4-76]—(NAC A 10-22-87; 12-8-89; 12-13-93; R040-01, 10-25-2001; R103-02, 12-17-2002; R064-03, 10-30-2003; R198-03, 4-26-2004; R189-05, 5-4-2006)

**NAC 445B.283 Violations: Manner of paying fines. (NRS 445B.210, 445B.640)**

1. The amount of the specified fine, in accordance with the schedule of fines for minor violations, must be submitted within 10 days after service of the notice upon the violator.

2. Cashier's checks, certified checks, money orders or personal checks must be made payable to the State of Nevada and must be sent to the State Environmental Commission, 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

[Environmental Comm'n, Air Quality Reg. §§ 2.8.5.1 & 2.8.5.2, eff. 11-7-75; A 12-4-76]—(NAC A 10-22-87; 9-19-90; 11-23-92)—(Substituted in revision for NAC 445.700)

**Operating Permits Generally**

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

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

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

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

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

↳ as appropriate.

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

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

(d) If a stationary source maintains one or more thermal units that emit mercury, the owner or operator of a thermal unit that emits mercury shall comply with the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive.

2. A Class I source is not subject to the provisions of subparagraph (1) of paragraph (a) of subsection 1 if the source is not a major source, an affected source or a solid waste incineration unit required to obtain a permit pursuant to 42 U.S.C. § 7429(e). For a Class I source which is not a major source and which subsequently becomes subject to a standard or other requirement

under 42 U.S.C. § 7411 or 7412, the Administrator will determine whether to exempt the source from the requirement to obtain a Class I operating permit at the time that the new standard is adopted.

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

4. As used in this section:

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

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

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

(b) "Thermal unit that emits mercury" has the meaning ascribed to it in NAC 445B.3643.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Less than 500 horsepower; or

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

- (g) A stationary internal combustion engine that has a rating for output which is:
  - (1) Less than 250 horsepower; or
  - (2) Equal to or greater than 250 horsepower if the engine operates less than 100 hours per calendar year.

(h) An emergency generator. Except as otherwise provided in this paragraph, an emergency generator qualifies as an insignificant activity pursuant to this paragraph only if the emergency generator is an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages. An emergency generator that is owned or operated by a Class II source and whose potential to emit is calculated on the basis of less than 500 hours of operation does not qualify as an insignificant activity.

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

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

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

- (1) Emissions of a hazardous air pollutant that exceed 1 pound per hour or 1,000 pounds per year, as appropriate;
- (2) Emissions of regulated air pollutants that exceed 4,000 pounds per year;
- (3) Emissions of regulated air pollutants that exceed any other limitation on emissions pursuant to any other applicable requirement; or
- (4) Emissions of regulated air pollutants that adversely impact public health or safety, or exceed any ambient air quality standards; and

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

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

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

6. A stationary source is not required to obtain an operating permit pursuant to NAC 445B.001 to 445B.3689, inclusive, for any emission unit determined to be an insignificant activity in accordance with this section, as long as the stationary source is not otherwise subject to any other requirement to obtain an operating permit under Title V of the Act. Such an exclusion from the requirements relating to permitting is not an exclusion or exemption from any other requirement set forth in NAC 445B.001 to 445B.3689, inclusive, relating to the operation of the emission unit determined to be an insignificant activity.

7. A stationary source which consists solely of insignificant activities as determined pursuant to this section and which is not otherwise subject to any other requirement to obtain an operating permit under Title V of the Act is not required to obtain an operating permit to operate as a stationary source. Such an exclusion from the requirements relating to permitting is not an exclusion or exemption from any other requirement set forth in NAC 445B.001 to 445B.3689, inclusive, relating to the operation of the stationary source or any insignificant activity that is a part of the stationary source.

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

9. As used in this section, "thermal unit that emits mercury" has the meaning ascribed to it in NAC 445B.3643.

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

**NAC 445B.295 Application: General requirements. (NRS 445B.210, 445B.300)**

Except as otherwise provided in NAC 445B.33633, 445B.33635 and 445B.33637, an application for an operating permit must include:

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

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

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

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

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

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

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

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

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

**NAC 445B.296 Application: Requests for inclusion of additional provisions. (NRS 445B.210, 445B.300)** If an applicant for an operating permit requests the inclusion of:

1. Provisions for alternative operating scenarios, the application must:

(a) Define each scenario;

(b) Demonstrate that each scenario will comply with each applicable requirement or relevant requirement of NAC 445B.001 to 445B.3689, inclusive;

(c) Contain proposed conditions of the permit which will ensure compliance with any applicable requirements, including a requirement for contemporaneous log entries each time the stationary source changes from one scenario to another; and

(d) Contain any additional information that the Director determines is necessary to process the application.

2. A federally enforceable emissions cap, the application must:

(a) State each applicable requirement that the applicant seeks to avoid;

(b) Demonstrate that the applicant will comply with any applicable requirements that the applicant does not avoid with the federally enforceable emissions cap;

(c) Contain proposed conditions of the operating permit which will ensure compliance with any applicable requirement; and

(d) Contain any additional information that the Director determines is necessary to process the application.

3. A provision regarding trading increases and decreases of emissions pursuant to a federally enforceable emissions cap, as set forth in subsection 2, the application must contain:

(a) Proposed replicable procedures and conditions of the operating permit that ensure that the trades of emissions are quantifiable and enforceable; and

(b) Any additional information that the Director determines is necessary to process the application.

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

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

1. An applicant for an operating permit must:

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

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

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

2. In addition to the requirements set forth in subsection 1, an applicant for a Class I operating permit must submit a copy of the application directly to the Administrator. The provisions of this subsection do not apply to applications for operating permits to construct that are subject to NAC 445B.33633, 445B.33635 and 445B.33637.

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

**NAC 445B.298 Application: Official date of submittal. (NRS 445B.210, 445B.300)**  
Except as otherwise provided in NAC 445B.3364, 445B.3395, 445B.3457 or 445B.3487, the official date of submittal of an application for:

1. An operating permit;

2. An operating permit to construct;

3. A revision of an existing operating permit; or

4. A revision of an existing operating permit to construct,

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

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

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

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

**NAC 445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with control strategy. (NRS 445B.210, 445B.300)**

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

(a) For a new or modified stationary source;

(b) For a pollution control project;

(c) For a plantwide applicability limitation; or

(d) To allow a plantwide applicability limitation to expire and not be renewed,

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

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

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

(b) Will cause a violation of the applicable control strategy contained in the approved air quality plan.

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

(d) Will not comply with subsection 4.

3. The Director shall not issue an operating permit or a revision of an operating permit for any stationary source if the Director determines that the degree of emission limitation required for control of an air pollutant under this section is affected by that amount of the stack height of any source as exceeds good engineering practice stack height, or any other dispersion technique.

4. Except as otherwise provided in subsection 5, to be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, who proposes to construct in an area designated nonattainment for the regulated air pollutant or pollutants for which the stationary source or modification is major must:

(a) Comply with the provisions of 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.

(b) Adopt as an emission limitation for the stationary source the lowest achievable emission rate for each nonattainment regulated air pollutant from the stationary source.

(c) Demonstrate that all other stationary sources within this State which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3689, inclusive, and all other applicable requirements and conditions of the permit.

(d) Conduct an analysis of any anticipated impact on visibility in any federal Class I area which may be caused by emissions from the stationary source.

(e) Conduct an analysis of alternative sites, sizes, processes of production and techniques for environmental control for the proposed stationary source. Except as otherwise provided in this paragraph, the analysis must demonstrate that the benefits of the proposed stationary source significantly outweigh the detrimental environmental and social effects that will result from its location, construction or modification. If the major stationary source or major modification proposes to locate in an area designated as marginal nonattainment for ozone, the analysis must demonstrate an offset ratio of 1.2 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source which is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if the proposed location of the major stationary source or major modification is in an area designated as nonattainment for ozone.

(f) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area which have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area which have received their respective permits before the proposed stationary source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the Administrator as one to be targeted for economic development, the owner or operator must demonstrate that the emission from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

↳ For the purposes of this paragraph, offsets must comply with the provisions of Appendix S of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

5. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221, who proposes to construct in an area designated as basic nonattainment for ozone must:

(a) Comply with the provisions of 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.

(b) Adopt as an emission limitation for the stationary source the best available control technology for volatile organic compounds and nitrogen oxides from the stationary source.

(c) Demonstrate that all other stationary sources within this State that are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.3689, inclusive, and all other applicable requirements and conditions of the permit.

(d) Demonstrate an offset ratio of 1 to 1 for volatile organic compounds and nitrogen oxides. For the purposes of this paragraph, a stationary source that is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if the proposed location of the major stationary source or major modification is located in an area designated as basic nonattainment for ozone.

(e) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area that have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area that received their respective permits before the proposed stationary source applies for its operating permit or a revision of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the Administrator as one to be targeted for economic development, the owner or operator must demonstrate that the emissions from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

↳ For the purposes of this paragraph, offsets must comply with the provisions of Appendix S of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

6. To be issued an operating permit or a revision of an operating permit, the owner or operator of a major stationary source or major modification who proposes to construct in any area designated as attainment or unclassifiable under 42 U.S.C. § 7407(d) must comply with the provisions of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221.

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

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

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

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

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

10. As used in this section:

(a) “Lowest achievable emission rate” has the meaning ascribed to it in 40 C.F.R. § 51.165, as adopted by reference in NAC 445B.221.

(b) “Offset ratio” means the percentage by which a reduction in an emission must exceed the corresponding increase in that emission.

(c) “Reasonable further progress” means the annual incremental reductions in emissions of the relevant regulated air pollutant that are required by 42 U.S.C. §§ 7501 to 7515, inclusive, or are required by the Administrator to ensure attainment of the applicable standard for national ambient air quality by the applicable date.

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

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

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

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

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

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

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

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

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

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

[Environmental Comm’n, Air Quality Reg. § 13.3, eff. 11-7-75; A 12-15-77; renumbered as § 13.2, 8-28-79; § 13.3.1, eff. 11-7-75; A 12-15-77; renumbered as § 3.2.1, 8-28-79; § 13.3.2, eff. 11-7-75; A 12-15-77; renumbered as § 13.2.2, 8-28-79; § 13.3.3, eff. 11-7-75; renumbered as § 13.2.3, 8-28-79]—(NAC A 9-19-90; R 12-13-93, eff. 11-15-94; A 10-30-95; R105-97, 3-5-98; R125-04, 9-24-2004; R096-05, 10-31-2005)

**NAC 445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height. (NRS 445B.210, 445B.300)** Except as otherwise provided in paragraph (c) of subsection 4:

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

(a) The name and address of the applicant;

(b) The name, address and location of the stationary source;



(c) A description of the proposed stationary source, including the normal hours of operation of the facility and the general types of activities to be performed;

(d) A map showing the location of the stationary source and the topography of the area, including existing principal streets, roads and highways within 3 miles of the stationary source;

(e) A site plan showing the location and height of buildings on the site;

(f) Any additional information or documentation which the Director deems necessary to determine the effect of the stationary source on the quality of the ambient air, including measured data on the quality of the ambient air and meteorological conditions at the proposed site before construction or modification; and

(g) A dispersion analysis of each regulated air pollutant.

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

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

(a) Notify the public of the availability of the demonstration study performed pursuant to paragraph (c) of subsection 1 of NAC 445B.083; and

(b) Provide an opportunity for a public hearing on the demonstration study in accordance with the requirements for a Class I operating permit set forth in subsections 7, 9 and 10 of NAC 445B.3395.

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

(a) A dispersion model based on the applicable models, bases and other requirements specified in the "Guideline on Air Quality Models," which is Appendix W of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, except that the Director may authorize the modification of a model specified in the "Guideline on Air Quality Models" or the use of a model not included in the "Guideline on Air Quality Models" if the Director determines that the modification or use is appropriate;

(b) A narrative report describing:

(1) If applicable, assumptions and premises used in the analysis, including, without limitation:

(I) Model options chosen;

(II) Urban versus rural selection;

(III) Background concentrations;

(IV) Characterization of emission sources as point, area or volume;

(V) Emission discharge points; and

(VI) Rate of emission from each emission unit; and

(2) The geographic area considered in the analysis, including, without limitation, information concerning:

(I) The nearest significant terrain features;

(II) The receptor grid or grids; and

(III) Restrictions on public access to the stationary source; and

(c) Valid meteorological information pursuant to the provisions of Appendix W of 40 C.F.R. Part 51, as adopted by reference in NAC 445B.221, which:

(1) For sources that are not subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221:

(I) Is site specific, if the information exists pursuant to subsection 1 of this section or subsection 7 of NAC 445B.308, and which covers a period of not less than 1 year;

(II) Has been obtained from an off-site location representative of the proposed site and which covers a period of not less than 1 year;

(III) Represents the worst-case meteorological conditions, as approved by the Director for synthetic data; or

(IV) Has been obtained over the last 5 years at the nearest National Weather Service site; or

(2) For sources that are subject to the permitting requirements of 40 C.F.R. § 52.21, as adopted by reference in NAC 445B.221, is representative of the source site location and source emissions and which covers a period of not less than 1 year.

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

**NAC 445B.313 Method for determining heat input: Class I sources. (NRS 445B.210, 445B.300)** For the purposes of determining the effects of Class I sources on the quality of ambient air and determining the applicability of a federally enforceable standard or requirement to an emission unit, the heat input will be determined by using the appropriate method of the American Society for Testing and Materials (ASTM) contained in 40 C.F.R. Parts 51, 52, 60 and 61.

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

**NAC 445B.3135 Method for determining heat input: Class II sources. (NRS 445B.210, 445B.300)** For the purposes of determining the effects of a Class II source on the quality of ambient air pursuant to NAC 445B.308, 445B.310 and 445B.311, the heat input is the aggregate heat content of all combusted fuels, or the guaranteed maximum input of the manufacturer or designer of the equipment, whichever is greater. The total heat input of all fuel-burning units in a plant or on the premises must be used to determine the maximum amount of a regulated air pollutant which may be emitted.

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

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

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

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

1. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to operating permits to construct.

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

3. An operating permit must contain the following conditions:

(a) The term of the operating permit is 5 years.

(b) The holder of the operating permit shall retain records of all required monitoring data and supporting information for 5 years after the date of the sample collection, measurement, report or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.

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

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

(1) An action for noncompliance;

(2) Revising, revoking, reopening and revising, or terminating the operating permit by the Director; or

(3) Denial of an application for a renewal of the operating permit by the Director.

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

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

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

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

(i) The holder of the operating permit shall pay fees to the Director in accordance with the provisions set forth in NAC 445B.327 and 445B.331.

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

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

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

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

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

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

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

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

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

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

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

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

3. An operating permit must be granted if the Director finds from a stack emission test or other appropriate test and other relevant information that use of the stationary source will not result in any violation of the air quality regulations or the provisions of 40 C.F.R. § 52.21 or 40 C.F.R. Parts 60 and 61, Prevention of Significant Deterioration, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants adopted by reference in NAC 445B.221.

4. A denial of an application for an operating permit must be accompanied by a statement of the reasons 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.

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

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

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

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

- (a) Correct typographical errors;
- (b) Identify a change in the name, address or telephone number of any person identified in the operating permit, or provide a similar minor administrative change at the stationary source;
- (c) Require more frequent monitoring or reporting by the holder of the operating permit;
- (d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or revision of the operating permit; or
- (e) Allow for a change in ownership or operational control of a stationary source if the Director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the Director a written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

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

3. The Director shall:

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

(b) If the administrative amendment is for a Class I operating permit, send a copy of the administrative amendment to the Administrator.

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

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

1. A Class I operating permit must be reopened and revised to incorporate any additional applicable requirement adopted pursuant to the Act if, on the effective date of the applicable requirement, the operating permit has a remaining term of 3 or more years. The reopening must be completed no later than 18 months after the effective date of the applicable requirement.

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

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

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

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

3. The Director shall notify the holder of the operating permit at least 30 days before he terminates, reopens and revises, revises, or revokes and reissues the operating permit. The notice must be made by certified mail and must contain the legal authority, the jurisdiction and the reasons for the action taken.

4. If the Administrator notifies the Director and the holder of the operating permit that cause exists to reopen the operating permit, the Director shall forward to the Administrator a proposed determination of the reopening and revision, the revision of, or the revocation and reissuance of the operating permit within 90 days after receipt of the notice from the Administrator.

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

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

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

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

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

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

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

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

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

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

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

**NAC 445B.3265 Operating permits: Revocation and reissuance. (NRS 445B.210, 445B.300)**

1. An operating permit may be revoked if the control equipment is not operating.

2. An operating permit may be revoked by the Director upon determining that there has been a violation of NAC 445B.001 to 445B.3689, inclusive, or the provisions of 40 C.F.R. § 52.21, or 40 C.F.R. Part 60 or 61, Prevention of Significant Deterioration, New Source Performance Standards, and National Emission Standards for Hazardous Air Pollutants, adopted by reference in NAC 445B.221.

3. The revocation is effective 10 days after the service of a written notice, unless a hearing is requested.

4. To reissue a revoked operating permit, the holder of the revoked permit must file a new application with the Director, accompanied by the fee for an initial operating permit as specified in NAC 445B.327. An environmental review of the stationary source must be conducted as though construction had not yet commenced.

[Environmental Comm'n, Air Quality Reg. § 3.4.10, eff. 11-7-75; A 8-28-79; §§ 3.4.13 & 3.4.14, eff. 11-7-75]—(NAC A 12-15-88; 9-19-90; R 12-13-93, eff. 11-15-94; A 10-30-95)—(Substituted in revision for NAC 445B.333)

**NAC 445B.327 Fees; late penalty. (NRS 445B.210, 445B.300)**

1. Except as otherwise provided in this section, if a stationary source is not subject to the permitting requirements of 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the fees for an operating permit are as follows:

(a) Class I operating permit to construct.....	\$20,000
(b) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....	5,000
(c) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000
(d) Modification to an operating permit to construct.....	5,000
(e) Revision of an operating permit to construct.....	5,000
(f) Class I operating permit.....	30,000
(g) Significant revision of a Class I operating permit.....	20,000
(h) Minor revision of a Class I operating permit.....	5,000
(i) Renewal of a Class I operating permit.....	5,000
(j) Class II operating permit.....	3,000
(k) Revision of a Class II operating permit.....	2,000
(l) Renewal of a Class II operating permit.....	2,000
(m) Class II general permit.....	400
(n) Class III operating permit.....	300
(o) Revision of a Class III operating permit.....	200
(p) Renewal of a Class III operating permit.....	250
(q) Surface area disturbance permit.....	400
(r) Revision of a surface area disturbance permit.....	200
(s) Administrative amendment of an operating permit.....	200
(t) Replacement of a lost or damaged operating permit to construct or an operating permit.....	200
(u) Request for change of location of an emission unit.....	100
(v) Administrative revision to a Class I operating permit.....	500
(w) For each designation of a clean unit listed in a Class I operating permit to construct for the designation of a clean unit.....	5,000
(x) For each approval of a pollution control project listed in a Class I operating permit to construct for the approval of a pollution control project.....	7,500
(y) Class I operating permit to construct for the approval of a plantwide applicability limitation.....	20,000

↳ An applicant must pay the entire fee when he submits an application to the Director.

2. The fee to revise an operating permit so that the operating permit is consistent with any guidelines established by the Division of Environmental Protection of the State Department of Conservation and Natural Resources pursuant to NAC 445B.255 is \$1,000. An applicant must pay the entire fee when he submits an application to the Director.

3. Except as otherwise provided in this section, if a stationary source is subject to the permitting requirements of 40 C.F.R. § 52.21, as incorporated by reference by NAC 445B.221, the owner or operator of that stationary source must obtain an operating permit. The fees for such an operating permit are as follows:

(a) Operating permit for a stationary source subject to the program for the prevention of significant deterioration of air quality.....	\$50,000
(b) Revision of an operating permit for a stationary source subject to the permitting requirements of 40 C.F.R. § 52.21 to authorize a major modification of the stationary source.....	50,000
(c) Class I operating permit to construct.....	50,000
(d) Conversion of an operating permit to construct into a Class I operating permit involving only one phase.....	5,000
(e) Conversion of an operating permit to construct into a Class I operating permit involving two or more phases (per phase).....	5,000

- (f) Revision of an operating permit to construct..... \$5,000
- (g) Administrative amendment of an operating permit or operating permit to construct..... 200
- (h) Replacement of a lost or damaged operating permit to construct or an operating permit ..... 200
- (i) Request for the change of location of an emission unit..... 100
- (j) Administrative revision to a Class I operating permit ..... 500

↳ An applicant must pay the entire fee when he submits an application to the Director.

4. If no changes need to be made to convert an operating permit to construct into a Class I operating permit, no fee will be assessed.

5. Except as otherwise provided in this subsection, the annual fee based on emissions for a stationary source is \$5.60 per ton times the total tons of each regulated pollutant emitted during the preceding calendar year. The annual fee based on emissions does not apply to:

- (a) Emissions of carbon monoxide; or
- (b) Class III stationary sources.

6. To determine the fee set forth in subsection 5:

- (a) Emissions must be calculated using:
  - (1) The emission unit's actual operating hours, rates of production and in-place control equipment;
  - (2) The types of materials processed, stored or combusted; and
  - (3) Data from:
    - (I) A test for emission compliance;
    - (II) A continuous emission monitor;
    - (III) The most recently published issue of *Compilation of Air Pollutant Emission Factors*, EPA Publication No. AP-42; or
    - (IV) Other emission factors or methods which the Director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

7. The annual fee for maintenance of a stationary source is:

- (a) For a Class I source..... \$12,500
- (b) For a Class II source that has the potential to emit 50 tons or more per year of any one regulated air pollutant except carbon monoxide ..... 3,000
- (c) For a Class II source that has the potential to emit 25 tons or more per year but less than 50 tons per year of any one regulated air pollutant except carbon monoxide..... 1,000
- (d) For a Class II source that has the potential to emit less than 25 tons per year of any one regulated air pollutant except carbon monoxide ..... 250
- (e) For a Class III source ..... 250
- (f) For a surface area disturbance..... 250

8. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to subsections 5 and 7 not later than July 1 of each year.

9. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late fee must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his annual fees.

(Added to NAC by Environmental Comm'n, eff. 12-15-88; A 9-13-91; 11-23-92; 12-13-93, eff. 7-1-94; 7-1-94; 10-30-95; 5-3-95; R105-97, 3-5-98; R019-99, 9-27-99; R040-01, 10-25-2001; R103-02, 12-17-2002; R125-04, 9-24-2004)

**NAC 445B.331 Request for change of location of emission unit. (NRS 445B.210, 445B.300)** A request for a change of the location of an emission unit must be made in writing to the Director and submitted with the fee for each operating permit as follows:

1. For a Class I source, at least 10 days in advance of each change of location.
2. For a Class II source, at least 10 days before the commencement of the operation of the emission unit at the new location. An owner or operator must not operate the emission unit at the new location until the Director approves the location.

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

### **Class I Operating Permits**

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

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

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

- (1) Operating permit to construct pursuant to NAC 445B.001 to 445B.3689, inclusive; or
- (2) Class I operating permit pursuant to NAC 445B.001 to 445B.3689, inclusive; and

(b) If the owner or operator of the Class I stationary source operates a thermal unit that emits mercury, apply for and obtain a new or revised mercury operating permit to construct for the thermal unit that emits mercury and comply with the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive.

2. To obtain a designation for an emission unit as a clean unit, the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the designation of a clean unit pursuant to NAC 445B.001 to 445B.3689, inclusive.

3. To obtain the approval of a pollution control project as specified in 40 C.F.R. § 52.21(z)(1), the owner or operator of a Class I stationary source must apply for and obtain a Class I operating permit to construct for the approval of a pollution control project pursuant to NAC 445B.001 to 445B.3689, inclusive, before the owner or operator begins actual construction of the pollution control project.

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

5. Except as otherwise provided in subsection 7, if an owner or operator obtains an operating permit to construct, the owner or operator is not required to obtain an operating permit or revised operating permit before commencing initial construction, start-up and operation of the proposed new Class I stationary source or the modification to the existing Class I stationary source.

6. Except as otherwise provided in this subsection and subsections 7 and 8, if an owner or operator has a valid operating permit to construct, the owner or operator may continue to operate a new Class I stationary source or modifications to an existing Class I stationary source under that operating permit to construct if the owner or operator submits a complete application for a Class I operating permit within 12 months after the date of initial start-up of the new Class I stationary source or modifications to the existing Class I stationary source. The provisions of this subsection do not apply to:

(a) A Class I operating permit to construct for the designation of a clean unit. A Class I operating permit to construct for the designation of a clean unit must be incorporated into the Class I operating permit pursuant to 40 C.F.R. § 52.21(y)(8).



- (b) A Class I operating permit for the approval of a pollution control project.
- (c) A Class I operating permit to construct for the approval of a plantwide applicability limitation.

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

- (a) For the construction or change in operation of the existing Class I stationary source:
  - (1) Obtain a Class I operating permit to construct; or
  - (2) If the construction or change in operation involves mercury emissions from a thermal unit that emits mercury, obtain a mercury operating permit to construct pursuant to NAC 445B.3611 to 445B.3689, inclusive; and
- (b) Obtain an administrative revision to an operating permit to incorporate the conditions of the Class I operating permit to construct into the existing Class I operating permit pursuant to NAC 445B.3441 before commencing with the construction or change in operation of the existing Class I stationary source.

8. If an owner or operator has a valid mercury operating permit to construct, the owner or operator may continue to operate the thermal unit that emits mercury which is located at an existing Class I stationary source if the owner or operator submits a complete application to revise the existing Class I operating permit within 12 months after the determination of the NvMACT contained in the mercury operating permit to construct by the Director.

9. As used in this section:

- (a) "Mercury emissions" has the meaning ascribed to it in NAC 445B.3623.
- (b) "Mercury operating permit to construct" has the meaning ascribed to it in NAC 445B.3625.
- (c) "NvMACT" has the meaning ascribed to it in NAC 445B.3629.
- (d) "Thermal unit that emits mercury" has the meaning ascribed to it in NAC 445B.3643.

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

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

1. Except as otherwise provided in NAC 445B.33633, 445B.33635 and 445B.33637, in addition to the information required pursuant to NAC 445B.295, an application for a Class I operating permit to construct or for a revision of a Class I operating permit to construct must include:

- (a) Descriptions of all emissions of any regulated pollutants for which the source is defined as a major source.
- (b) A description of all emissions of regulated air pollutants from all emission units.
- (c) An identification and a description of all points of emissions and all activities which may generate emissions of the regulated air pollutants described pursuant to paragraph (a) in sufficient detail to establish the basis for the applicability of standards and fees.
- (d) The emission rates of all regulated air pollutants that are subject to an emissions limitation pursuant to an applicable requirement. The emission rates must be described in tons per year and in such terms as are necessary to establish compliance using the applicable standard reference test method.
- (e) Any other information required by any applicable requirement.
- (f) The calculations on which the information described in this subsection are based.
- (g) Citations to and a description of all applicable requirements.
- (h) A reference to any applicable test method used for determining compliance with each applicable requirement.

2. Except as otherwise provided in NAC 445B.33633, 445B.33635 and 445B.33637, in addition to the information required pursuant to NAC 445B.295 and 445B.3368, an application for a Class I operating permit to construct must contain:

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

- (1) All information required pursuant to 40 C.F.R. § 52.21;
- (2) A description of all emissions of each regulated pollutant for which the source is a major stationary source or that will increase by a significant amount as a result of the major modification;
- (3) A description of all emissions of each regulated pollutant associated with the major modification;
- (4) A description of each hydrographic area that may be triggered for increment consumption; and
- (5) Any other information that the Director determines is necessary to process the application.

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

- (1) All information required by NAC 445B.308 to 445B.313, inclusive;
- (2) Any other information that the Director determines is necessary to process the application; and
- (3) For stationary sources subject to the provisions regarding new source review set forth in 42 U.S.C. §§ 7501 to 7515, inclusive, all information required by 42 U.S.C. § 7503.

3. Except as otherwise provided in NAC 445B.33633, 445B.33635, 445B.33637, in addition to the information required in subsections 1 and 2, an application for a Class I operating permit to construct for a modification at an existing major stationary source that is not a major modification must contain:

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

4. Except as otherwise provided in NAC 445B.33633, in addition to the information required pursuant to subsections 1, 2 and 3, an application for an operating permit to construct must include an environmental evaluation pursuant to NAC 445B.308, 445B.310 and 445B.311.

5. In addition to the information required pursuant to NAC 445B.33633, an application for a Class I operating permit to construct for a modification or project at an emission unit that has been designated as a clean unit must contain a demonstration that the modification or project will not cause the unit to lose its designation as a clean unit pursuant to 40 C.F.R. § 52.21(y)(9).

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

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

**NAC 445B.33633 Operating permit to construct for designation of clean unit: Application. (NRS 445B.210, 445B.300)**

1. In addition to the requirements set forth in subsection 1 of NAC 445B.297, an application for a Class I operating permit to construct for the designation of a clean unit must contain:

(a) A description of the air pollution control technology used to meet the emissions levels that are comparable to the BACT level of emissions reduction;

(b) A demonstration that the control technology qualifies or requalifies as an air pollution control technology and that an investment to install the control technology was made under the criteria established in 40 C.F.R. § 52.21(y)(3);

(c) A demonstration and analysis that the control technology used is comparable to the BACT in accordance with 40 C.F.R. § 52.21(y)(4);

(d) The date on which the air pollution control technology was installed for the emission unit;

(e) The date on which the air pollution control technology for the emission unit was placed into service, if known; and

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

2. Unless the Director determines otherwise, an application for a Class I operating permit to construct for the designation of a clean unit does not require an environmental evaluation pursuant to NAC 445B.308 to 445B.314, inclusive.

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

**NAC 445B.33635 Operating permit to construct for approval of pollution control project: Application. (NRS 445B.210, 445B.300)** In addition to the requirements set forth in subsection 1 of NAC 445B.297, an application for a Class I operating permit to construct for the approval of a pollution control project must contain:

1. All the information required pursuant to 40 C.F.R. § 52.21(z)(3); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. For the submittal of an application for a Class I operating permit to construct for the designation of a clean unit or a Class I operating permit to construct for the approval of a pollution control project, within 10 days after the date of receipt of such an application, the Director shall determine if the application is complete. If substantial additional information is

required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 10 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 11th day after the date of receipt, whichever is earlier. Within 60 days after the official date of submittal, the Director shall make a preliminary determination to issue or deny the Class I operating permit to construct for the designation of a clean unit or Class I operating permit to construct for the approval of a pollution control project.

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

5. If, after the official date of submittal, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

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

7. The Director shall:

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

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

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

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

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

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

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

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

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

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

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

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

(f) If applicable, a description of any revisions to a Class I operating permit resulting from an administrative revision to the Class I operating permit.

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

10. Except as otherwise provided in subsections 11, 12 and 13, within 180 days after the official date of submittal of an application for an operating permit to construct or for the revision of an operating permit to construct, the Director shall issue or deny the new Class I operating permit to construct or the new revision of a Class I operating permit to construct. The Director shall make his decision by taking into account:

(a) Written comments from the public;

(b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;

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

(d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the control strategy contained in the air quality plan.

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

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

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

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

15. If, on his own or pursuant to a request by a person pursuant to subsection 14, the Administrator objects to the issuance of an administrative revision to a Class I operating permit, the Director shall submit revised proposed conditions for the Class I operating permit in response to the objection within 90 days after the date on which he is notified of the objection.

(Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002; A by R198-03, 4-26-2004; R125-04, 9-24-2004)

**NAC 445B.3365 Operating permit to construct: Required conditions and information.**  
(NRS 445B.210, 445B.300) Except as otherwise provided in NAC 445B.33653 and 445B.33656:

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

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

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

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

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

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

(1) An action for noncompliance;

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

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

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

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

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

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

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

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

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

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

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

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

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

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

3. An operating permit to construct must contain:

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

(b) Monitoring methods adequate to show compliance;

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

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

4. In addition to the requirements established in subsections 1, 2 and 3, if the operating permit to construct is a Class I operating permit to construct for the approval of a pollution control project, the Class I operating permit to construct must contain the information set forth in 40 C.F.R. § 52.21(z)(6).

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

**NAC 445B.33653 Operating permit to construct for designation of clean unit: Required conditions and information. (NRS 445B.210, 445B.300)**

1. The Director shall cite the legal authority for each condition contained in a Class I operating permit to construct for the designation of a clean unit.

2. A Class I operating permit to construct for the designation of a clean unit must contain the following conditions:

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

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

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

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

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

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

3. In addition to the requirements set forth in subsections 1 and 2, a Class I operating permit to construct for the designation of a clean unit must contain:

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

(b) Monitoring methods adequate to show compliance;

(c) Adequate recordkeeping and reporting requirements determined necessary by the Director; and

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

4. In addition to the requirements established in subsections 1, 2 and 3, a Class I operating permit to construct for the designation of a clean unit must contain the information set forth in 40 C.F.R. § 52.21(y)(8).

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

**NAC 445B.33656 Operating permit to construct for approval of plantwide applicability limitation: Required conditions and information. (NRS 445B.210, 445B.300)**

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

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

(a) The expiration date of the Class I operating permit to construct must be determined in accordance with subsection 6 of NAC 445B.3366.

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



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

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

(1) An action for noncompliance;

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

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

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

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

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

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

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

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

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) A Class I operating permit to construct for the designation of a clean unit;
- (b) A Class I operating permit for the approval of a pollution control project; or
- (c) A Class I operating permit to construct for the approval of a plantwide applicability limitation.

5. An operating permit to construct for the designation of a clean unit expires pursuant to the expiration provision in 40 C.F.R. § 52.21(y)(6) or if the designation of the clean unit is lost for failing to comply with the provisions of 40 C.F.R. § 52.21(y)(9).

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

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

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

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

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

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

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

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

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

- (e) The calculations on which the information in this subsection and subsection 1 are based.
  - (f) Citations to and a description of all applicable requirements.
  - (g) A reference to any applicable test method used for determining compliance with each applicable requirement.
  - (h) A compliance plan that contains the following:
    - (1) A description of the compliance status of the stationary source with respect to all applicable requirements.
    - (2) A description that includes the following:
      - (I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.
      - (II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis.
      - (III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a narrative description of how the stationary source will achieve compliance with each such requirement.
    - (3) Schedules of compliance as follows:
      - (I) For the applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with those requirements.
      - (II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis, unless the applicable requirement expressly requires a more detailed schedule for compliance.
      - (III) For each applicable requirement with which the stationary source will not be in compliance at the time that a permit will be issued, a schedule of compliance for each applicable requirement. Such a schedule must include a schedule of remedial measures, including, without limitation, an enforceable sequence of actions with milestones, leading to compliance with the applicable requirements with which the stationary source is not in compliance. If the stationary source is subject to a judicial consent decree or an administrative order regarding its noncompliance, the schedule must resemble and be at least as stringent as any schedule contained in the decree or order. Such a schedule of compliance must be supplemental to, and must not sanction noncompliance with, the applicable requirements on which it is based.
    - (4) A schedule for the submission of certified progress reports at least once every 6 months for a schedule of compliance to remedy a violation. Such progress reports must contain the following:
      - (I) Dates for performing activities or achieving milestones or compliance required in the schedule of compliance, and the dates when the activities, milestones or compliance occurred or were achieved; and
      - (II) An explanation as to why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measures adopted.
- ↪ The content requirements of the compliance plan specified in this paragraph apply and must be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations adopted pursuant to Title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the emissions limitations relating to acid rain.
- (i) Requirements for compliance certification, including:
    - (1) A certification of compliance with all applicable requirements by a responsible official, consistent with this section and 42 U.S.C. § 7414(a)(3);
    - (2) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping and reporting requirements, and methods of testing;
    - (3) A schedule for submission of certifications of compliance during the term of the permit to be submitted not less frequently than annually, or more frequently if so specified by the underlying applicable requirement or the permitting authority; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

↪ In lieu of subparagraphs (4), (5) and (6), the application must contain information on the potential of the unit to emit in accordance with 40 C.F.R. § 52.21(b)(41)(ii)(d).

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

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

**NAC 445B.337 Class I-A application: Filing requirement. (NRS 445B.210, 445B.300)**

1. An owner or operator of a stationary source must file a Class I-A application, on a form provided by the Director, and obtain a Class I operating permit for:

- (a) A Class I existing stationary source;
- (b) A Class I existing stationary source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the stationary source is subject only to the requirements of 42 U.S.C. § 7412(r);
- (c) A Class I existing stationary source in a category of sources designated by the Administrator pursuant to 42 U.S.C. § 7661a(a);
- (d) An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e); or
- (e) An affected source.

2. If an existing stationary source becomes subject to the requirements of a Class I stationary source, the owner or operator of the existing source must submit a Class I-A application to the Director within 12 months after the date on which the stationary source becomes subject to the requirements for Class I sources.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R117-00, 6-1-2001)—(Substituted in revision for NAC 445B.289)

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

1. Except as otherwise provided in subsection 7 of NAC 445B.3361, an owner or operator of a stationary source must file a Class I-B application, on a form provided by the Director, and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

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

2. If a new stationary source becomes subject to the requirements of a Class I stationary source, the owner or operator of the new stationary source must submit a Class I-B application to the Director within 12 months after the date on which the new stationary source becomes subject to the requirements for Class I sources.

3. An affected source that is not a major source and is not otherwise subject to the requirements of paragraph (f) of subsection 1 may apply for a Class II operating permit. If an affected source obtains a Class II operating permit pursuant to this subsection, the affected source must file with the Director:

- (a) A completed application for an acid rain permit before the source commences operation; and
- (b) A Class I-B application within 12 months after the date on which the Class II operating permit was issued to the affected source.

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

**NAC 445B.338 Class I-A application: Period for filing; effect of application and previous permits. (NRS 445B.210, 445B.300)**

1. An owner or operator subject to the provisions of NAC 445B.337 shall file a Class I-A application in accordance with the schedule established by the Director pursuant to NAC 445B.3385.

2. All permits to construct and operating permits issued to existing sources which are in effect before the effective date of the program remain in effect until the Director issues or denies the applicant's Class I operating permit as provided in NAC 445B.001 to 445B.3689, inclusive.

3. Except as otherwise provided in this subsection, if the owner or operator subject to the provisions of NAC 445B.337 submits a completed Class I-A application for an operating permit or a renewal of a permit in a timely manner, he shall not be deemed to be in violation of the requirement for an operating permit during the time the Director considers the application. The owner or operator shall be deemed to violate the requirement for an operating permit if the Director requests additional information in writing following a determination that the application is complete and the owner or operator fails to submit the requested information within a reasonable time as specified in the Director's request.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 11-15-94; A 3-29-94, eff. 11-15-94; 10-30-95; R103-02, 12-17-2002)

**NAC 445B.3385 Class I-A application: Schedule for filing. (NRS 445B.210, 445B.300)**

1. Within 30 days after the approval of the program by the Administrator, the Director shall:

(a) Establish a schedule for filing a Class I-A application to obtain a Class I operating permit for:

(1) An existing major source;

(2) An existing major source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the source is subject only to the requirements of 42 U.S.C. § 7412(r);

(3) An existing major source in a category of sources designated by the Administrator pursuant to 42 U.S.C. § 7661a(a); or

(4) An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e).

(b) Notify the owners and operators of the sources listed in paragraph (a) regarding the schedule established by the Director.

2. The schedule established by the Director pursuant to subsection 1:

(a) Must require the submission of Class I-A applications within 12 months after the effective date of the program.

(b) May require the early submission of Class I-A applications by specified stationary sources if early submission is necessary for the State Department of Conservation and Natural Resources to process all Class I-A applications pursuant to NAC 445B.3395.

(c) Must be based upon the number of emission units to be addressed in the Class I operating permit for each stationary source so that the stationary sources with the least number of emission units will submit applications first and those sources with the largest number of emission units will submit applications last.

(Added to NAC by Environmental Comm'n, eff. 10-30-95; NAC A by R103-02, 12-17-2002)

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

1. Except for sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21 and as otherwise provided in this subsection, within 60 days after the date on which an application for a Class I operating permit or for the significant revision of a Class I operating permit is received, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine that the application is complete. Unless the Director determines that the application is incomplete within 60 days after the date of receipt, the official date of submittal shall be deemed to be the date on which the Director determines that the application is complete or 61 days after the date of receipt, whichever is earlier.

2. For sources subject to the permitting requirements set forth in 40 C.F.R. § 52.21, within 30 days after the date of receipt of an application for a Class I operating permit or for the

revision of a Class I operating permit, the Director shall determine whether the application contains adequate information to process the application. The official date of submittal of the application shall be deemed to be 31 days after the date of receipt, unless the Director determines before that date that substantial additional information is required. If the Director determines that substantial additional information is required, the Director shall return the application to the applicant. The Director shall require the applicant to submit a new application or the applicant may formally withdraw the application.

3. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request such additional information that is necessary to determine whether the proposed operation will comply with all the requirements set forth in NAC 445B.001 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director pursuant to subsection 1 or 2.

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

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

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

7. The Director shall:

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

(b) Provide written notice to:

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

(2) Any affected state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Written comments from the public, affected states and the Administrator;

(b) Comments made during public hearings concerning the application and the Director's preliminary determination for issuance or denial;

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

(d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the control strategy contained in the air quality plan.

↳ The Director shall send a copy of the final Class I-B operating permit to the Administrator.

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

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

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

15. If the Administrator objects to the issuance of a Class I operating permit or a revision of a Class I operating permit of his own accord or in response to a public petition, the Director shall



submit revised proposed conditions for the Class I operating permit or the revision of a Class I operating permit in response to the objection within 90 days after the date on which he is notified of the objection.

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

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

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

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

1. The Director has:
  - (a) Received a complete application for a Class I operating permit or for a revision of or a renewal of a Class I operating permit;
  - (b) Completed all requirements regarding public participation and comment pursuant to NAC 445B.3395; and
  - (c) Notified and responded to all comments from affected states;
2. The conditions of the operating permit provide for compliance with the requirements of NAC 445B.001 to 445B.3689, inclusive, and any other applicable requirements; and
3. The Administrator has received a copy of the proposed operating permit, any necessary supporting information, and any notices to the public and affected states required pursuant to NAC 445B.3395, and has not objected to the issuance of the operating permit within 45 days after receipt of the proposed operating permit.

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

**NAC 445B.3405 Required contents of permit. (NRS 445B.210, 445B.300)**

1. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit must include all applicable requirements and:
  - (a) Include emission limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of the issuance of the operating permit.
  - (b) Specify the origin of and authority for each term or condition of the operating permit and explain any difference in form between a term or condition of the operating permit and the applicable requirement upon which the term or condition is based.
  - (c) Contain requirements for monitoring that are sufficient to ensure compliance with the conditions of the operating permit, including:

(1) All procedures or test methods for monitoring and analyzing emissions required pursuant to the applicable requirements or adopted pursuant to 42 U.S.C. § 7414(a)(3) or 7661c(b).

(2) If the applicable requirement does not require periodic testing or monitoring, periodic monitoring that is sufficient to yield reliable data from the relevant period which is representative of the stationary source's compliance with the conditions of the operating permit. Such monitoring requirements must use terms, test methods, units, averaging periods and other statistical conventions consistent with the applicable requirement.

(3) As necessary, requirements concerning the use, maintenance and the installation of equipment, or methods for monitoring.

(d) Incorporate all applicable requirements for recordkeeping and require, where applicable:

(1) Records of monitoring information required by the conditions of the permit, including the date, the location, and the time of the sampling or the measurements and the operating conditions at the time of the sampling or measurements; and

(2) The date on which the analyses were performed, the company that performed them, the analytical techniques that the company used and the results of such analyses.

(e) Incorporate all applicable reporting requirements and require:

(1) Submittal of reports of any required monitoring every 6 months, within 8 weeks after the end of the reporting period;

(2) Prompt reporting of all deviations from the requirements of the operating permit; and

(3) The probable cause of all deviations and any action taken to correct the deviations to be reported.

(f) Contain the terms and conditions for any reasonably anticipated alternative operating scenarios identified by the owner or operator of the stationary source in his application and approved by the Director. Such terms and conditions must ensure that all applicable requirements are met, and must require the owner or operator to keep a contemporaneous log of changes from one alternative operating scenario to another.

(g) If the applicant for the permit requests the trading of emissions increases and decreases, contain the terms and conditions for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading increases and decreases without a case-by-case approval of each such trade. The terms and conditions:

(1) Must include all terms required by this section to determine compliance;

(2) May extend the permit shield described in subsection 2 to all terms and conditions that allow such increases and decreases in emissions; and

(3) Must meet all applicable requirements and requirements set forth in NAC 445B.001 to 445B.3689, inclusive, for a Class I source.

(h) Contain terms and conditions requested by the applicant and approved by the Director, including all terms required by this section to determine compliance, which allow for the trading of emissions increases and decreases within the permitted facility without requiring a revision of the permit, solely to comply with a federally enforceable emissions cap that is established in the permit independent of any applicable requirements that would otherwise apply. Provisions relating to the trading of emissions for any emission units for which emissions are not quantifiable or for which there are not replicable procedures to enforce the emissions trades will not be allowed. Any requests for the trading of emissions must be made pursuant to NAC 445B.342. The permit must also require compliance with all applicable requirements, and contain the replicable procedures and terms of the permit which ensure that the trade of emissions is quantifiable and enforceable. The permit shield described in subsection 2 may, upon request, be extended to the terms and conditions that allow such increases and decreases in emissions.

(i) Contain a schedule of compliance for the stationary source that contains all the elements required in the schedule for compliance provided in the application pursuant to paragraph (h) of subsection 2 of NAC 445B.3368.

(j) Contain requirements for compliance certification with any applicable requirement that reflect the terms and conditions of the operating permit. The permit must contain the approved deadlines for the submittal of the compliance certification. The compliance certification must be submitted annually, or more frequently if required by an applicable requirement, to the Director. A copy of the compliance certification must be submitted to the Administrator. A compliance certification must include:

- (1) An identification of each term or condition of the operating permit that is the basis of the certification;
- (2) The status of the stationary source's compliance with any applicable requirement;
- (3) A statement of whether compliance was continuous or intermittent;
- (4) The method used for determining compliance; and
- (5) Any other facts the Director determines to be necessary to determine compliance.

2. In addition to the conditions set forth in NAC 445B.315, a Class I operating permit may provide a permit shield within the Class I permit that must include a statement that compliance with the conditions of the operating permit shall be deemed to be compliance with any applicable requirements as of the date of the issuance of the operating permit, if:

(a) Such applicable requirements are included and are specifically identified in the operating permit; or

(b) The Director, in acting on the application for or the revision of an operating permit, determines in writing that other requirements specifically identified are not applicable to the stationary source and the operating permit includes the determination or a concise summary of the determination.

↳ A Class I permit that does not expressly state that a permit shield exists is presumed not to provide such a shield. A permit shield authorized pursuant to this subsection does not and may not apply to a minor revision to a Class I operating permit.

3. All provisions of a Class I operating permit or the modification of such a permit regarding the prevention of significant deterioration of air quality must be contained in a clearly identified and separate portion of the operating permit. This portion of the operating permit must state that:

(a) The operating permit will expire if construction is:

- (1) Not commenced within 18 months after the issuance of the operating permit; or
- (2) Delayed for 18 months after it is commenced;

(b) The operating permit becomes effective 30 days after the issuance of the Director's final determination; and

(c) The provisions of the operating permit regarding the prevention of significant deterioration of air quality are subject to the requirements of 40 C.F.R. Part 124, Subparts A and C.

(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R117-00, 6-1-2001; R103-02, 12-17-2002)

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

1. The owner or operator of a stationary source operating in compliance with an operating permit may make changes which contravene an express term of the operating permit without a revision of the operating permit if the changes do not:

(a) Constitute modifications pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive, or constitute a modification as that term is defined in NAC 445B.099;

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

(c) Exceed the allowable emissions set forth in the operating permit for any emissions unit.

2. Any conditions of an operating permit that are requirements for monitoring, methods of testing, recordkeeping, reporting or compliance certification may not be changed pursuant to this section.

3. For each change made pursuant to this section, the holder of the operating permit shall provide a written notification to the Director and the Administrator at least 7 days before making the change. This notification must include:

- (a) A detailed description of the change;
- (b) The date on which the change will occur;
- (c) Any change in emissions, as determined in accordance with NAC 445B.001 to 445B.3689, inclusive;
- (d) Any condition of the operating permit which will no longer apply because of the change; and
- (e) For a change that includes the trading of emissions made pursuant to paragraph (h) of subsection 1 of NAC 445B.3405, a detailed description of how the increase or decrease in emissions, or both, resulting from the change complies with the terms and conditions of the operating permit.

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

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

**NAC 445B.3425 Minor revision of permit. (NRS 445B.210, 445B.300)**

1. A minor revision may be made to a Class I operating permit if the revision:
  - (a) Does not violate any applicable requirement;
  - (b) Does not involve significant changes to the existing requirements for monitoring, reporting or recordkeeping;
  - (c) Does not require or change:
    - (1) A determination of an emission limitation or other standard on a case-by-case basis;
    - (2) A determination of the ambient impact for any temporary source; or
    - (3) A visibility or increment analysis;
  - (d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:
    - (1) A federally enforceable emissions cap; or
    - (2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5);
  - (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive;
  - (f) Does not result in an increase in allowable emissions that exceeds any of the following specified thresholds:
    - (1) Carbon monoxide, 100 tons per year;
    - (2) Nitrogen oxides, 40 tons per year;
    - (3) Sulfur dioxide, 40 tons per year;
    - (4) PM<sub>10</sub>, 15 tons per year;
    - (5) Ozone, 40 tons per year of volatile organic compounds;
    - (6) Sulfuric acid mist, 7 tons per year; and
    - (7) Hydrogen sulfide (H<sub>2</sub>S), 10 tons per year; and
  - (g) Is not a major modification at an existing major stationary source.
2. An owner or operator must request a minor revision on an application form provided by the Director. The application must include:
  - (a) A description of the modification;
  - (b) A description of the emissions resulting from the modification;
  - (c) An identification of any new applicable requirements that will apply because of the modification;
  - (d) Suggested conditions of the operating permit;
  - (e) Certification by a responsible official of the stationary source that the proposed modification complies with the criteria for a minor revision set forth in subsection 1; and
  - (f) Any relevant information concerning the proposed change which is required by NAC 445B.295 and 445B.3368.

3. The Director shall:

(a) Determine, in accordance with subsection 5 of NAC 445B.3395, whether the application for a minor revision is complete.

(b) Transmit the application to the Administrator within 10 working days after the official date of submittal of the application.

(c) Provide notice to any affected state within 10 working days after the official date of submittal of the application for a minor revision.

(d) Unless the application is for a minor revision described in subsection 8 of NAC 445B.3395, enable public participation and comment and provide notice to the public concerning the application for a minor revision in the manner set forth in subsections 6 and 7 of NAC 445B.3395.

(e) Provide a 30-day period for comment by any affected state and the public, if applicable, concerning the application.

(f) Within 45 days after the official date of submittal of the application:

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

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

(3) If the Director determines that the proposed modification does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant and the Administrator.

(g) If the Director determines that the applicant's proposed conditions of the operating permit are not adequate, draft appropriate conditions for the operating permit. Proposed conditions drafted by the Director must be submitted to the Administrator for review.

(h) Notify the Administrator of any recommendations from an affected state which the Director does not accept.

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

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

(a) Deny the application for the minor revision;

(b) Determine whether the minor revision should be reviewed under the procedures for a significant revision; or

(c) Revise the proposed revision of the operating permit and forward it to the Administrator for review.

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

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

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

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

(a) Of an existing condition of the operating permit relating to monitoring or making the requirements for reporting or recordkeeping less stringent;

(b) Which requires or changes:

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

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

(3) A visibility or increment analysis;

(c) Which would establish or change a condition of the operating permit and which is requested or assumed by the owner or operator of the stationary source in order to avoid any applicable requirement;

(d) Subject to 40 C.F.R. § 52.21 or 40 C.F.R. Part 60, as adopted pursuant to NAC 445B.221; or

(e) Subject to 42 U.S.C. § 7412.

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

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

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

**NAC 445B.3441 Administrative revision of permit to incorporate conditions of certain permits to construct. (NRS 445B.210, 445B.300)**

1. To modify a Class I stationary source in accordance with subsection 7 of NAC 445B.3361, the owner or operator of the Class I stationary source must submit an application for an administrative revision to a Class I operating permit to incorporate the conditions of a Class I operating permit to construct into the existing Class I operating permit for the Class I stationary source.

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

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

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

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

**NAC 445B.3443 Renewal of permit. (NRS 445B.210, 445B.300)**

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

2. A complete application for the renewal of a Class I operating permit must be submitted to the Director on the form provided by the Director with the appropriate fee at least 240 days, but no earlier than 18 months, before the expiration date of the current Class I operating permit for stationary sources.

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

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

5. The fee for the renewal of a Class I operating permit is as specified in NAC 445B.327.

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

**NAC 445B.3447 Class I general permit. (NRS 445B.210, 445B.300)**

1. The Director may issue a Class I general permit covering numerous similar stationary sources.
2. A Class I general permit must set forth the criteria by which stationary sources may qualify for the Class I general permit.
3. A Class I general permit which covers stationary sources that would otherwise be required to be covered by a Class I operating permit must:
  - (a) Ensure compliance with all applicable requirements; and
  - (b) Not be granted until the requirements for public participation and comment and a review by any affected states and the Administrator pursuant to NAC 445B.3395 have been completed.
4. If the Administrator does not object within 45 days after receiving a proposed Class I general permit which covers stationary sources that would otherwise be required to apply for a Class I operating permit, the general permit becomes effective at the end of the 45-day period. If the Administrator objects to the Class I general permit, the Class I general permit becomes effective when the objection is resolved.
5. After the effective date of a Class I general permit, the owner or operator of any stationary source that meets the criteria set forth in the Class I general permit may request authority to operate under the Class I general permit. The request must be in writing and must include all the information required by the Class I general permit.
6. The Director shall grant or deny authority to operate under a Class I general permit within 30 days after his receipt of a request for such authority. The Director's decision to grant or deny an application for authority to operate under the terms of a Class I general permit is not subject to the requirements of NAC 445B.3395.
7. A person may challenge the provisions of a Class I general permit only at the time the Class I general permit is issued. The Director's grant or denial of authority to operate under a Class I general permit to a stationary source or stationary sources does not provide an opportunity for an administrative review or a judicial review of the Class I general permit.
8. The Director shall not grant authority to operate under a Class I general permit to an affected source.
9. The term of a Class I general permit is 5 years.
10. The authority to operate under a Class I general permit expires after 5 years. An owner or operator of a stationary source operating under the authority of a Class I general permit shall apply to renew his authority to operate under the Class I general permit at least 30 days before his authorization expires.
11. A stationary source which obtains authorization to operate under a Class I general permit but is later determined not to qualify under the conditions of the Class I general permit may be subject to an action enforcing the prohibition against operating without a permit.  
(Added to NAC by Environmental Comm'n, 12-13-93, eff. 1-11-96; A 3-29-94, eff. 1-11-96; 10-30-95, eff. 1-11-96; R103-02, 12-17-2002)—(Substituted in revision for NAC 445B.335)

**Class II Operating Permits**

**NAC 445B.3453 Application: General requirements. (NRS 445B.210, 445B.300)**

1. Except as otherwise provided in subsection 3, an owner or operator of any stationary source that is not subject to the requirements of NAC 445B.337 or 445B.3375 must submit an application for and obtain a Class II operating permit or, if applicable, a Class III operating permit pursuant to NAC 445B.3485.
2. For a proposed stationary source or a proposed modification to a stationary source that is not subject to the requirements of NAC 445B.337 or 445B.3375, an owner or operator must file an application and obtain a Class II operating permit or a revision to an existing Class II operating permit or, if applicable, a Class III operating permit or a revision to an existing Class III operating permit pursuant to NAC 445B.3485, before commencing construction of the proposed stationary source or the proposed modification.

3. The owner or operator of a thermal unit that emits mercury which is located at a Class II stationary source shall comply with the provisions of NAC 445B.3611 to 445B.3689, inclusive. As used in this subsection, "thermal unit that emits mercury" has the meaning ascribed to it in NAC 445B.3643.

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

**NAC 445B.3457 Application: Action by Director; notice; public comment and hearing. (NRS 445B.210, 445B.300)**

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

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

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

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

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

(b) Take such action as is necessary to ensure compliance with the provisions of subsections 5, 6 and 7, as applicable; and

(c) Issue or deny the Class II operating permit or the revision of the Class II operating permit within the period set forth in subsection 8.

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

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

(b) The Director shall:

(1) Cause to be published a notice in a newspaper of general circulation in the area in which the Class II source is located;

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



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

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

6. The notice required pursuant to paragraph (b) of subsection 5 must include:

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

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

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

(1) The application;

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

(3) All relevant supporting materials; and

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

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

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

(f) A summary of the impact of the proposed new Class II source or the proposed modification to the existing Class II source on the quality of air; and

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

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

8. If an application for a Class II operating permit or for the revision of a Class II operating permit is submitted for a Class II source that is subject to the notice requirements set forth in subsection 5, the Director shall issue or deny the Class II operating permit or the revision of the Class II operating permit within 30 days after the close of the period for public participation or 30 days after the hearing if a hearing is scheduled pursuant to this section, whichever occurs later. The Director shall make his decision by taking into account:

(a) Written comments from the public;

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

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

(d) The effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445B.22097 and the control strategy contained in the air quality plan.

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

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

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

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

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

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

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

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

6. Requirements for compliance certification which reflect the terms and conditions of the operating permit. A compliance certification must include:

(a) An identification of each term or condition of the operating permit that is the basis of the certification;

- (b) The status of the stationary source's compliance with any applicable requirement;
- (c) A statement of whether compliance was continuous or intermittent;
- (d) The method used for determining compliance; and
- (e) Any other facts that the Director deems necessary to determine compliance.

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

**NAC 445B.3465 Application for revision. (NRS 445B.210, 445B.300)**

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

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

- (a) The name and address of the owner or operator of the stationary source;
- (b) The location of the stationary source;
- (c) A description of:
  - (1) The existing emission units undergoing the modification and the applicable control systems; and
  - (2) The proposed modification to such emission units;
- (d) The emission rates from the existing emission units of each regulated air pollutant to which a standard applies which exist at the time of the application before the modification and which would exist after the modification takes place;
- (e) A description of any proposed new emission units and applicable control systems;
- (f) The potential to emit of the proposed new emission units for each regulated air pollutant to which a standard applies;
- (g) A description of the procedures and methods used to determine the emission rates;
- (h) A discussion of all applicable requirements to which the new or modified operations will be subject;
- (i) An explanation of any proposed exemption from any applicable requirement;
- (j) An environmental evaluation conducted in accordance with NAC 445B.308, 445B.310, 445B.311 and 445B.3135; and
- (k) Any other information that the Director determines is necessary to process the application and issue a Class II operating permit pursuant to NAC 445B.001 to 445B.3689, inclusive.

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

**NAC 445B.3473 Renewal of permit. (NRS 445B.210, 445B.300)**

- 1. All Class II operating permits must be renewed 5 years after the date of issuance.
- 2. A complete application for renewal of a Class II operating permit must be submitted to the Director on the form provided by the Director with the appropriate fee at least 70 days before the expiration date of the current Class II operating permit.

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

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

5. The fee for the renewal of a Class II operating permit is as specified in NAC 445B.327.

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

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

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

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

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

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

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

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

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

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

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

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

**Class III Operating Permits**

**NAC 445B.3485 Application: General requirements. (NRS 445B.210, 445B.300)**

1. If a stationary source operating under a Class II operating permit is a Class III source, as defined in NAC 445B.038, the owner or operator of the stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the stationary source.

2. If a new stationary source is a Class III source, as defined in NAC 445B.038, the owner or operator of the new stationary source may submit an application with the appropriate fee and obtain a Class III operating permit for the new stationary source. An operating permit must be obtained before commencing construction on a new stationary source.

3. An owner or operator of a proposed modification to a stationary source that meets the requirements for a Class III source, as that term is defined in NAC 445B.038, may submit an application for and obtain a Class III operating permit for the stationary source, proposed stationary source or proposed modification to a stationary source. Such an owner or operator shall not commence construction of the proposed modification to the stationary source before filing an application for and obtaining a Class III operating permit.

(Added to NAC by Environmental Comm'n by R040-01, eff. 10-25-2001; NAC A by R103-02, 12-17-2002)

**NAC 445B.3487 Application: Action by Director. (NRS 445B.210, 445B.300)**

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

2. If, after the official date of submittal, the Director discovers that additional information is required to act on the application, the Director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

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

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

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

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

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

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

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

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

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

(c) Any preventive or corrective measures taken.

6. Requirements for compliance certification which reflect the terms and conditions of the Class III operating permit. A compliance certification must include:

(a) An identification of each term or condition of the Class III operating permit that is the basis of the certification;

(b) The status of the stationary source's compliance with any applicable requirement;

- (c) A statement of whether compliance was continuous or intermittent;
  - (d) The method used for determining compliance; and
  - (e) Any other facts that the Director deems necessary to determine compliance.
- (Added to NAC by Environmental Comm'n by R103-02, eff. 12-17-2002)

**NAC 445B.3493 Application for revision. (NRS 445B.210, 445B.300)**

1. The owner or operator of a stationary source with a Class III operating permit may apply, on a form provided by the Director, for a revision of the operating permit.
2. An application for a revision of a Class III operating permit for a stationary source must include:
  - (a) The name and address of the owner or operator of the stationary source;
  - (b) The location of the stationary source;
  - (c) A description of:
    - (1) The existing emission units undergoing modification and the applicable control systems; and
    - (2) The proposed modifications to those emission units;
  - (d) A description of any proposed new emission units and applicable control systems;
  - (e) The potential to emit for each proposed new and existing emission unit for each regulated air pollutant to which a standard applies; and
  - (f) Any other information that the Director determines is necessary to process the application and issue a revised Class III operating permit in accordance with NAC 445B.001 to 445B.3689, inclusive.

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

**NAC 445B.3497 Renewal of permit. (NRS 445B.210, 445B.300)**

1. All Class III operating permits must be renewed 5 years after the date of issuance.
2. A complete application for renewal of a Class III operating permit must be submitted to the Director on the form provided by the Director with the appropriate fee at least 40 days before the expiration date of the current permit for the Class III source.
3. An application for the renewal of a Class III operating permit must comply with all requirements for the issuance of an initial Class III operating permit as specified in NAC 445B.3487.
4. If an application for the renewal of a Class III operating permit is submitted in accordance with subsection 2, the stationary source may continue to operate under the conditions of the existing Class III operating permit until the permit is renewed or the application for the renewal of the Class III operating permit is denied. If an application is not submitted in accordance with subsection 2, the stationary source may be required to cease operation when the Class III operating permit expires and may not recommence the operation until the Class III operating permit is renewed.
5. The fee for the renewal of a Class III operating permit is as specified in NAC 445B.327.

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

**Nevada Mercury Air Emissions Control Program**

**NAC 445B.3611 Definitions. (NRS 445B.210, 445B.300)** As used in NAC 445B.3611 to 445B.3689, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.3613 to 445B.3649, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3613 “De minimis mercury emissions” defined. (NRS 445B.210, 445B.300)** “De minimis mercury emissions” means mercury emissions from a thermal unit that emits mercury which are determined by the Director pursuant to NAC 445B.3657 to be insufficient to

require compliance with the requirements for a mercury operating permit or the application of NvMACT as set forth in the Nevada Mercury Air Emissions Control Program established pursuant to NAC 445B.3655.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3615 “Existing thermal unit that emits mercury” defined. (NRS 445B.210, 445B.300)** “Existing thermal unit that emits mercury” means a thermal unit that emits mercury which was constructed before March 8, 2006.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3617 “Mercury” defined. (NRS 445B.210, 445B.300)** “Mercury” means elemental mercury and all compounds of mercury.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3619 “Mercury co-product” defined. (NRS 445B.210, 445B.300)** “Mercury co-product” means any mercury which is collected from the site of a stationary source that conducts precious metals mining for shipment to another location to be sold or recycled.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3621 “Mercury early reduction credit” defined. (NRS 445B.210, 445B.300)** “Mercury early reduction credit” means an extension of the time required to apply NvMACT pursuant to NAC 445B.3611 to 445B.3689, inclusive, which may be granted by the Director in his taking final action concerning the proposed conditions for the mercury operating permit to construct pursuant to NAC 445B.3677 if the owner or operator of an existing thermal unit that emits mercury has installed additional controls for mercury emissions.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3623 “Mercury emissions” defined. (NRS 445B.210, 445B.300)** “Mercury emissions” means mercury which is released into the atmosphere.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3625 “Mercury operating permit to construct” defined. (NRS 445B.210, 445B.300)** “Mercury operating permit to construct” means a permit signed and issued by the Director for the operation, construction or modification of a thermal unit that emits mercury, which includes, without limitation:

1. For an existing thermal unit that emits mercury, the conditions of operation that apply to the existing thermal unit that emits mercury.
2. For a new thermal unit that emits mercury:
  - (a) Authorization for:
    - (1) The construction of the new thermal unit that emits mercury; and
    - (2) An initial period of operation of the new thermal unit that emits mercury.
  - (b) The conditions which apply to the construction and operation of the new thermal unit that emits mercury.
3. For a modified thermal unit that emits mercury:
  - (a) Authorization for:
    - (1) The construction of a physical modification to or a change in the method of operation of a thermal unit that emits mercury; and
    - (2) An initial period of operation of the modified thermal unit that emits mercury.
  - (b) The conditions which apply to the modified thermal unit that emits mercury.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3627 “Modified thermal unit that emits mercury” defined. (NRS 445B.210, 445B.300)** “Modified thermal unit that emits mercury” means a thermal unit that emits mercury for which an application is submitted on or after May 4, 2006, to change the method of

operation of or to physically change the thermal unit that emits mercury in a manner which results in an increase in the amount of mercury that will be or has the potential to be emitted into the atmosphere.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3629 “Nevada maximum achievable control technology” and “NvMACT” defined. (NRS 445B.210, 445B.300)** “Nevada maximum achievable control technology,” abbreviated as “NvMACT,” means a standard, method of control or any other limitation which is applied to an existing thermal unit that emits mercury, a new thermal unit that emits mercury or a modified thermal unit that emits mercury, and which is:

1. Designed to reduce the level of mercury emissions; and
2. Determined by the Director to be the maximum degree of reduction of mercury emissions that is achievable for the thermal unit that emits mercury.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3631 “New thermal unit that emits mercury” defined. (NRS 445B.210, 445B.300)** “New thermal unit that emits mercury” means a thermal unit that emits mercury which has obtained, on or after May 4, 2006, an operating permit pursuant to NAC 445B.001 to 445B.3689, inclusive, that authorizes the construction of the thermal unit that emits mercury.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3633 “Phase-1 application” defined. (NRS 445B.210, 445B.300)** “Phase-1 application” means an application for a mercury operating permit to construct for an existing thermal unit that emits mercury which is submitted in accordance with NAC 445B.3673.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3637 “Precious metals mining” defined. (NRS 445B.210, 445B.300)** “Precious metals mining” means the mining of gold or silver ore by the owner or operator of a stationary source that belongs to Industry Group 104, Gold and Silver Ores, of Major Group 10, Metal Mining, of the *Standard Industrial Classification Manual*, which is adopted by reference pursuant to subsection 12 of NAC 445B.221.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3639 “Presumptive Nevada maximum achievable control technology” and “presumptive NvMACT” defined. (NRS 445B.210, 445B.300)** “Presumptive Nevada maximum achievable control technology,” abbreviated as “presumptive NvMACT,” means the technologies to control mercury emissions which:

1. Have been implemented before May 4, 2006; and
2. Are associated with the system or process units of the tier-1 thermal units that emit mercury which are described and set forth in NAC 445B.3651.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3641 “Thermal unit” defined. (NRS 445B.210, 445B.300)** “Thermal unit” means an emission unit which:

1. Is located at a stationary source that conducts precious metals mining; and
2. Uses direct or indirect sources of heat energy.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3643 “Thermal unit that emits mercury” defined. (NRS 445B.210, 445B.300)** “Thermal unit that emits mercury” means an emission unit which:

1. Is located at a stationary source that conducts precious metals mining; and
2. Emits or has the potential to emit mercury that:
  - (a) Does not constitute a fugitive emission; and
  - (b) Is generated by direct or indirect sources of heat energy.

(Added to NAC by Environmental Comm’n by R189-05, eff. 5-4-2006)

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

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

(Added to NAC by Environmental Comm’n by R189-05, eff. 5-4-2006)

**NAC 445B.3647 “Tier-2 thermal unit that emits mercury” defined. (NRS 445B.210, 445B.300)** “Tier-2 thermal unit that emits mercury” means an existing thermal unit that emits mercury which:

1. Emits or has the potential to emit mercury at a level that is greater than de minimis mercury emissions; and
2. Is not a tier-1 thermal unit that emits mercury.

(Added to NAC by Environmental Comm’n by R189-05, eff. 5-4-2006)

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

1. Without any controls for mercury emissions, is not capable of and does not have the potential to emit mercury into the atmosphere;
2. Obtains an operating permit pursuant to NAC 445B.001 to 445B.3689, inclusive, that includes the appropriate conditions to limit the potential to emit mercury, without any controls for mercury emissions, to an amount not to exceed de minimis mercury emissions; or
3. Has de minimis mercury emissions.

(Added to NAC by Environmental Comm’n by R189-05, eff. 5-4-2006)

**NAC 445B.3651 Identification of technologies that constitute presumptive NvMACT. (NRS 445B.210, 445B.300)** The technologies to control mercury emissions which are set forth in this section by the associated system or process unit of the tier-1 thermal unit that emits mercury, and none other, are presumptive NvMACT:

1. For Goldstrike Mining Operations of Barrick Gold Corporation:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
Ore roasting circuits	Gas quenching, wet gas condenser, wet electrostatic precipitator, mercury adsorption tower
Carbon reactivation kiln, unit 2 (Drum)	Wet venturi scrubber, sulfur-impregnated carbon filtration unit
Autoclave circuits (Units 1, 2, 2-3, 4 and 5-6)	Four wet venturi scrubbers (Units 1, 2-3, 4 and 5-6)
Retorts	Mercury condensers and scrubbers with carbon filtration canisters



SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
Retort room exhaust	Sulfur-impregnated carbon scrubber unit (Stack combined with retort stack)
Electric induction furnaces	Cyclone and baghouse, sulfur-impregnated carbon filtration scrubber unit
Electrowinning cells	Sulfur-impregnated carbon filtration scrubber unit (Stack combined with electrowinning furnace)

2. For Newmont Mining Corporation:  
(a) For the Gold Quarry Operations Area:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
North and south CFB ore preheaters	Baghouses, SO <sub>2</sub> scrubber
North and south CFB ore roasters	Roaster off-gas quench, wet scrubber, electrostatic precipitator, wash tower, SO <sub>2</sub> scrubber, mercurous chloride scrubber
Carbon regeneration kilns, 1 and 2 (Drum)	Carbon adsorption unit, wet scrubber
Mercury retort furnaces	Carbon filter pack
Electric induction furnaces	Carbon filter pack, baghouse
Pregnant and barren solution tanks	Carbon adsorption unit, wet scrubber

- (b) For the Twin Creeks Mine:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
Juniper mill carbon kiln (Drum)	Wet scrubber, mercury scrubber
Pinon mill carbon regeneration kiln (Drum)	Wet scrubber
Sage mill autoclaves	Venturi scrubber
Mercury retort furnaces	Carbon adsorption
Juniper induction furnaces	Baghouse

3. For the Pipeline Mining Operation of Cortez Gold Mines of Placer Dome, Inc.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
Electric carbon reactivation kilns, 1 and 2	Chemical treatment, added wet scrubber 10/05
Electric induction refinery furnaces, 1 and 2	Chemical treatment, baghouse
Electrowinning cells	Chemical treatment

4. For the Jerritt Canyon Mine of Queenstake Resources, Ltd.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	TECHNOLOGIES FOR CONTROL OF MERCURY EMISSIONS
East and west roasters	Gas quench scrubber, venturi dust scrubber, SO <sub>2</sub> scrubber, mercury scrubber, tail gas scrubber, sodium hypochlorite injection system
Refinery and carbon regeneration kiln	Venturi mercury wet-scrubbing/carbon-polishing system

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3653 Identification of tier-1 thermal units that emit mercury. (NRS 445B.210, 445B.300)** The existing thermal units that emit mercury which are set forth in this section, and none other, are tier-1 thermal units that emit mercury:

1. For Goldstrike Mining Operations of Barrick Gold Corporation:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Ore roasting circuits	2	S2.209.1 and S2.209.2 from Air Permit 1041-0739
Carbon reactivation kiln, unit 2 (Drum)	1	Lockheed Haggerty, serial number 119-122
Autoclave circuits (units 1, 2, 2-3, 4 and 5-6)	6	Eaton Metals
Retorts	3	EnviroCare Systems
Retort room exhaust	1	Vented through controls on the retorts
Electric induction furnaces	2	Inductotherm Corporation: East: Model number 125 KW PowerTrak and serial number 91-50165-246-11 West: Model number 75 KW PowerTrak and serial number 87-77730-246-11
Electrowinning cells	16	Located on the second floor of the secured refinery building

2. For Newmont Mining Corporation:

(a) For the Gold Quarry Operations Area:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
North and south CFB ore preheaters	2	Thermal Transfer, custom-made
North and south CFB ore roasters	2	Mark Steel, custom-made
Carbon regeneration kilns, 1 and 2 (Drum)	2	Boliden-Allis, custom-made

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Mercury retort furnaces	7	Saracco Manufacturing Corporation, custom-made
Electric induction furnaces	3	Inductotherm Corporation
Pregnant and barren solution tanks	3	Two tanks located inside and one tank located immediately outside the refinery building

(b) For the Twin Creeks Mine:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Juniper mill carbon kiln (Drum)	1	Lockheed Haggerty
Pinon mill carbon regeneration kiln (Drum)	1	Lockheed Haggerty, Serial number 171-63
Sage mill autoclaves	2	Eaton Metals
Mercury retort furnaces, A, B, C and D	4	Lockheed Haggerty: Retorts A-D: Model number 13053 Retort A: Serial number 171-64a Retort B: Serial number 171-64b Retort C: Serial number 16082, equipment number 370-514-103 Retort D: Serial number 16082, equipment number 370-514-104
Juniper induction furnaces, east and west	2	Inductotherm Corporation: East: New furnace located in smelting area West: Serial number 750-72010-3-87

3. For the Pipeline Mining Operation of Cortez Gold Mines of Placer Dome, Inc.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Electric carbon reactivation kilns, 1 and 2	2	Lockheed Haggerty, 48X40
Electric induction refinery furnaces, 1 and 2	2	Inductotherm Corporation, VIP PowerTrak-R; serial numbers 80354 and 59585
Electrowinning cells	6	Summit Valley, 125CF

4. For the Jerritt Canyon Mine of Queenstake Resources, Ltd.:

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
East and west roasters	2	Keeler/Dorr-Oliver: East: Serial number 46DD 3250 West: Serial number 46DD 3050

SYSTEM OR PROCESS UNITS OF TIER-1 THERMAL UNITS THAT EMIT MERCURY	NUMBER OF UNITS	MANUFACTURER, MODEL NUMBER, SERIAL NUMBER OR OTHER DESCRIPTION
Refinery and carbon regeneration kiln	1	Elmco Technologies, serial number 44DD 3071

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3655 Establishment and implementation of Nevada Mercury Air Emissions Control Program. (NRS 445B.210, 445B.300)** The Commission will establish and the Director shall implement the Nevada Mercury Air Emissions Control Program in accordance with the provisions set forth in NAC 445B.3611 to 445B.3689, inclusive, to require a mercury operating permit to construct and the application of NvMACT for thermal units that emit mercury.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3657 Determination by Director of de minimis mercury emissions. (NRS 445B.210, 445B.300)**

1. The Director shall make an initial determination of the de minimis mercury emissions for thermal units that emit mercury not later than July 3, 2006.

2. The Director may, upon written request and satisfactory demonstration by the owner or operator of a thermal unit that emits mercury, determine that the mercury emissions from the thermal unit that emits mercury are de minimis mercury emissions. Within 60 days after receiving a written request pursuant to this subsection, the Director shall make an initial determination of the mercury emissions from the thermal unit that emits mercury to determine whether the mercury emissions are de minimis mercury emissions.

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

4. An initial evaluation of de minimis mercury emissions determined pursuant to subsection 1, 2 or 3 must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

5. The Director shall:

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

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

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

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

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3659 Application of NvMACT required for control of mercury emissions. (NRS 445B.210, 445B.300)** No owner or operator of a tier-1 thermal unit that emits mercury, tier-2 thermal unit that emits mercury, new thermal unit that emits mercury or modified thermal unit that emits mercury may cause or permit the discharge of mercury into the atmosphere without applying NvMACT for the control of mercury emissions pursuant to the provisions of NAC 445B.3611 to 445B.3689, inclusive.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3661 Mercury operating permits to construct: General requirements; restrictions on transfers. (NRS 445B.210, 445B.300)**

1. A mercury operating permit to construct is required for each:

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

(b) New thermal unit that emits mercury or modified thermal unit that emits mercury pursuant to the schedules and requirements set forth in NAC 445B.3681 to 445B.3687, inclusive.

2. The owner or operator of a new thermal unit that emits mercury or a modified thermal unit that emits mercury must apply for and obtain a new or revised mercury operating permit to construct before the construction of or modification to the thermal unit that emits mercury may commence.

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3663 Mercury operating permits to construct: Duties of owner or operator of stationary source which conducts precious metals mining; form of application. (NRS 445B.210, 445B.300)**

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

(a) A tier-1 thermal unit that emits mercury;

(b) A tier-2 thermal unit that emits mercury;

(c) A new thermal unit that emits mercury; and

(d) A modified thermal unit that emits mercury.

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3665 Duties of owner or operator of tier-3 thermal unit. (NRS 445B.210, 445B.300)**

1. An owner or operator of a tier-3 thermal unit:

(a) Must have an operating permit issued pursuant to NAC 445B.001 to 445B.3689, inclusive, to operate the thermal unit;

(b) Shall submit documentation to the Director on an annual basis which certifies that the thermal unit satisfies the criteria to be a tier-3 thermal unit; and

(c) Is not required to submit an application for or obtain a mercury operating permit to construct.

2. Within 90 days after the date of final notification of the determination of de minimis mercury emissions by the Director pursuant to NAC 445B.3657, an owner or operator of a tier-3 thermal unit shall:

(a) Submit an application to revise the conditions of the operating permit of the stationary source that was issued pursuant to NAC 445B.001 to 445B.3689, inclusive, to limit the potential to emit mercury, without any controls for mercury emissions, to an amount not to exceed de minimis mercury emissions; or

(b) If the owner or operator of the tier-3 thermal unit has a Class III operating permit, submit an application to convert the Class III operating permit of the stationary source to a Class II operating permit which includes conditions to limit the potential to emit mercury, without any controls for mercury emissions, to an amount not to exceed de minimis mercury emissions.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

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

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

2. Except as otherwise provided in NAC 445B.3669, an owner or operator of a tier-2 thermal unit that emits mercury shall submit a phase-1 application to the Director not later than October 31, 2006.

3. An owner or operator of a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury shall submit a phase-2 application to the Director not later than February 4, 2008.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3669 Existing thermal unit that emits mercury: Submission of phase-1 application following determination of de minimis mercury emissions. (NRS 445B.210, 445B.300)** Within 90 days after the date of final notification of the determination of de minimis mercury emissions pursuant to NAC 445B.3657:

1. If the owner or operator of an existing thermal unit that emits mercury determines that the thermal unit that emits mercury does or has the potential to emit mercury at a level which is greater than de minimis mercury emissions and has not yet submitted an application pursuant to subsection 1 or 2 of NAC 445B.3667, the owner or operator must submit a phase-1 application to the Director to obtain a mercury operating permit to construct for the thermal unit that emits mercury; or

2. If the owner or operator of a stationary source has a mercury operating permit to construct which was issued pursuant to a phase-1 application for one or more thermal units that emit mercury and determines that any of the thermal units that emit mercury emits or has the potential to emit mercury at a level which is greater than the de minimis mercury emissions, the owner or operator must submit an application to revise the mercury operating permit to construct to authorize the operation of the thermal unit that emits mercury at a level which is greater than de minimis mercury emissions.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3671 Existing thermal unit that emits mercury: Contents of required applications. (NRS 445B.210, 445B.300)** A phase-1 application, a phase-2 application and an application for a revision of a mercury operating permit to construct for an existing thermal unit that emits mercury must include:

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

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

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

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

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

6. Additional controls which will be implemented by a tier-1 thermal unit that emits mercury or tier-2 thermal unit that emits mercury to reduce the level of mercury emissions for which the owner or operator is requesting mercury early reduction credit; and

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3673 Existing thermal unit that emits mercury: Contents of phase-1 application; sampling and testing for tier-1 thermal unit. (NRS 445B.210, 445B.225, 445B.300)** A phase-1 application or an application for a revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application for an existing thermal unit that emits mercury must include:

1. An identification and a description of any equipment for the control of mercury emissions, including, without limitation, any controls that are presumptive NvMACT; and

2. A proposed monitoring plan which must be complied with by the applicant until a mercury operating permit to construct is issued pursuant to the phase-1 application and which includes, without limitation:

(a) For a tier-1 thermal unit that emits mercury:

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

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

(3) A proposed schedule for sampling and testing of mercury emissions and tests of performance to be conducted on an annual basis in accordance with the procedures set forth in NAC 445B.252. The owner or operator of the thermal unit that emits mercury must conduct the initial sampling and testing of mercury emissions and tests of performance and submit the results of the initial sampling and testing and tests of performance to the Director not later than December 31, 2006. After the owner or operator of the thermal unit has submitted the results of the initial sampling and testing of mercury emissions and tests of performance, the owner or operator may submit a request to the Director to waive the requirement for annual sampling and testing of mercury emissions or consider other schedules for the frequency with which such sampling and testing and tests of performance must be conducted.

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

(5) A requirement to report any mercury co-product on an annual basis.

(b) For a tier-2 thermal unit that emits mercury:

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

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

(3) A proposed schedule for sampling and testing of mercury emissions and tests of performance for the thermal unit that emits mercury.

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

(5) A requirement to report any mercury co-product on an annual basis.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3675 Existing thermal unit that emits mercury: Contents of phase-2 application. (NRS 445B.210, 445B.300)** A phase-2 application for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury, or an application for a revision of a

mercury operating permit to construct which was issued pursuant to a phase-2 application for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury must include:

1. An analysis conducted by the applicant which:
    - (a) Determines the standards, methods of control or other limitations to be applied to the thermal unit for the reduction of mercury emissions that the applicant deems sufficient for the Director to determine to be NvMACT for the thermal unit that emits mercury; and
    - (b) Sets forth a list of similar thermal units that emit mercury which are used for precious metal mining that includes, without limitation:
      - (1) Any methods or technologies to control mercury emissions which are associated with the thermal units that emit mercury;
      - (2) The level of mercury emissions associated with each method or technology to control mercury emissions from the thermal units that emit mercury;
      - (3) The design for each method or technology to control mercury emissions from the thermal units that emit mercury;
      - (4) Costs associated with reductions of mercury emissions as a result of each method or technology to control mercury emissions from the thermal units that emit mercury;
      - (5) Costs associated with energy for each method or technology to control mercury emissions from the thermal units that emit mercury; and
      - (6) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury.
  2. A proposed monitoring plan which includes, without limitation:
    - (a) Procedures for the operation and maintenance of the thermal unit.
    - (b) Methods of the monitoring of and recordkeeping for any controls for mercury processes and emissions.
    - (c) A proposed schedule for sampling and testing of mercury emissions and tests of performance for the thermal unit that emits mercury which must be conducted on an annual basis in accordance with NAC 445B.252.
    - (d) A requirement to report the level of mercury emissions on an annual basis which must be based on mercury emissions test data.
    - (e) A requirement to report any mercury co-product on an annual basis.
- (Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

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

1. For a phase-1 application, phase-2 application or an application for the revision of a mercury operating permit to construct for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury, within 30 days after the date of receipt of the application, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If an incomplete application is returned to the applicant, the applicant must resubmit a complete application within 15 days after the applicant receives the returned incomplete application. If substantial additional information is not required, the Director shall determine the application to be complete. The official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt of the most recently submitted application, whichever is earlier.
2. For a phase-1 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-1 application for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury, within 180 days after the official date of submittal, the Director shall:
  - (a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury;



- (b) Include the presumptive NvMACT for the tier-1 thermal unit that emits mercury; and
  - (c) If the applicant requests mercury early reduction credit, consider the following for each thermal unit that emits mercury:
    - (1) The best controls available for mercury emissions.
    - (2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.
    - (3) The enclosure of systems or processes to eliminate mercury emissions.
    - (4) The collection, capture or treatment of mercury emissions.
    - (5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.
    - (6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.
    - (7) Any combination of subparagraphs (1) to (6), inclusive.
3. For a phase-2 application or an application for the revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application for a tier-1 thermal unit that emits mercury or a tier-2 thermal unit that emits mercury, within 9 months after the official date of submittal, the Director shall:
- (a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury; and
  - (b) Make a determination of NvMACT for the thermal unit that emits mercury in which the Director shall consider the following for each thermal unit that emits mercury:
    - (1) The maximum degree of reduction of mercury emissions that is achievable for the thermal unit after considering:
      - (I) The cost of achieving such a reduction; and
      - (II) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury to implement NvMACT.
    - (2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.
    - (3) The enclosure of systems or processes to eliminate mercury emissions.
    - (4) The collection, capture or treatment of mercury emissions.
    - (5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.
    - (6) The differences in the age, remaining operating life and configurations of similar thermal units that emit mercury. The Director may also consider the differences in the concentration of mercury in the ore, size and any other relevant factors of the similar thermal units that emit mercury.
    - (7) Any combination of subparagraphs (1) to (6), inclusive.
4. If, after the official date of submittal of an application pursuant to subsection 1, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed construction or operation will comply with all of the requirements set forth in NAC 445B.3611 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.
5. The Director's review and the proposed conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701, and at a location to be determined by the Director in the

air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

6. The Director shall:

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

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

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

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

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

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

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

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

(d) The presumptive NvMACT or the determination of NvMACT, as appropriate;

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

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

8. All comments concerning the Director's review and the conditions proposed by the Director concerning the phase-1 application or phase-2 application for a mercury operating permit to construct or of a revision of a mercury operating permit to construct must be submitted in writing to the Director within 30 days after the public notice required to be provided pursuant to subsection 6. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

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

(a) Written comments from the public;

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

(c) Information submitted by proponents of the project.

10. Within 16 months after the official date of submittal of a phase-2 application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct which was issued pursuant to a phase-2 application, the Director shall take final action concerning the proposed conditions for the mercury operating permit to construct or the proposed revision of a mercury operating permit to construct. The Director shall make his decision by taking into account:

- (a) Written comments from the public;
  - (b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and
  - (c) Information submitted by proponents of the project.
- (Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

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

For each tier-1 thermal unit that emits mercury and tier-2 thermal unit that emits mercury:

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

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

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

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

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

- (1) An action for noncompliance;
- (2) The revoking and reissuing, or the terminating, of the mercury operating permit to construct by the Director; or
- (3) The reopening or revising of the mercury operating permit to construct by the holder of the mercury operating permit to construct as directed by the Director.

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

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

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

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

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

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

- (I) The thermal unit that emits mercury is located;
- (II) Activity related to mercury emissions is conducted; or
- (III) Records are kept pursuant to the conditions of the mercury operating permit to construct;

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

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

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

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

3. The mercury operating permit to construct must contain:

(a) All applicable requirements concerning controls for mercury emissions, emission limits and standards, including, without limitation:

(1) For a mercury operating permit to construct that is issued pursuant to a phase-1 application:

(I) The applicable presumptive NvMACT for the tier-1 thermal unit that emits mercury as set forth in NAC 445B.3651; and

(II) If the owner or operator of the thermal unit that emits mercury applied for mercury early reduction credit which was granted by the Director, the additional controls which will be implemented to reduce the level of mercury emissions before the date required to submit a phase-2 application pursuant to subsection 3 of NAC 445B.3667; and

(2) For a mercury operating permit to construct that is issued pursuant to a phase-2 application:

(I) The NvMACT for the thermal unit that emits mercury which must, except as otherwise provided in sub-subparagraph (II), be implemented not later than 24 months after the date the mercury operating permit to construct is issued pursuant to the phase-2 application; and

(II) If the owner or operator of the thermal unit that emits mercury has been issued mercury early reduction credit by the Director, the additional controls which will be implemented to reduce the level of mercury emissions required to satisfy the NvMACT not later than 48 months after the date the mercury operating permit to construct is issued pursuant to the phase-2 application;

(b) Monitoring methods adequate to show compliance;

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

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

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3681 New or modified thermal unit that emits mercury: Contents of required application. (NRS 445B.210, 445B.300)** An application for a mercury operating permit to construct or an application for a revision of a mercury operating permit to construct for a new thermal unit that emits mercury or a modified thermal unit that emits mercury must include, without limitation:

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

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

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

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

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

6. An analysis conducted by the applicant which:
  - (a) Determines the standards, methods of control or other limitations to be applied to the thermal unit for the reduction of mercury emissions that the applicant deems sufficient for the Director to determine to be NvMACT for the thermal unit that emits mercury; and
  - (b) Sets forth a list of similar thermal units that emit mercury which are used for precious metal mining that includes, without limitation:
    - (1) Any methods or technologies to control mercury emissions which are associated with the thermal units that emit mercury;
    - (2) The level of mercury emissions associated with each method or technology to control mercury emissions from the thermal units that emit mercury;
    - (3) The design for each method or technology to control mercury emissions from the thermal units that emit mercury;
    - (4) Costs associated with reductions of mercury emissions as a result of each method or technology to control mercury emissions from the thermal units that emit mercury;
    - (5) Costs associated with energy for each method or technology to control mercury emissions from the thermal units that emit mercury; and
    - (6) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal units that emit mercury; and
7. Other specific information that the Director determines is necessary to carry out, enforce and determine the applicability of all legal requirements.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3683 Review of and action on application for new or modified thermal unit that emits mercury. (NRS 445B.210, 445B.300)** For each new or modified thermal unit that emits mercury:

1. Within 30 days after the date of receipt of an application for a mercury operating permit to construct or for the revision of a mercury operating permit to construct, the Director shall determine whether the application is complete. If substantial additional information is required, the Director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Director shall determine the application to be complete. Unless the Director determines that the application is incomplete within 30 days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Director determines that the application is complete or the 31st day after the date of receipt of the most recently submitted application, whichever is earlier.
2. Within 180 days after the official date of submittal, the Director shall:
  - (a) Propose the conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct for the thermal unit that emits mercury.
  - (b) Make a determination of NvMACT for the thermal unit that emits mercury in which the Director shall consider the following for each thermal unit that emits mercury:
    - (1) The maximum degree of reduction of mercury emissions that is achievable for the thermal unit after considering:
      - (I) The cost of achieving such a reduction; and
      - (II) Consistent with section 112(d)(2) of the Act, any nonair quality health and environmental impacts and energy requirements for each method or technology to control mercury emissions from the thermal unit that emits mercury to implement the NvMACT.
    - (2) The measures that reduce the volume or eliminate mercury emissions through process changes, substitution of materials or any other modifications.
    - (3) The enclosure of systems or processes to eliminate mercury emissions.
    - (4) The collection, capture or treatment of mercury emissions.
    - (5) The design, equipment, work practice or operational standards of the thermal unit that emits mercury, including, without limitation, the requirements for training and certification of operators of the thermal unit that emits mercury.

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

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

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

3. If, after the official date of submittal, the Director discovers that additional information is required to act on an application, the Director may request additional information necessary to determine whether the proposed construction or operation will comply with all of the requirements set forth in NAC 445B.3611 to 445B.3689, inclusive. The applicant must provide in writing any additional information that the Director requests within the time specified in the request of the Director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the Director on the application submitted to the Director.

4. The Director's review, the proposed conditions for the mercury operating permit to construct and the preliminary intent to issue or deny a mercury operating permit to construct or a revision of a mercury operating permit to construct must be made public and maintained on file with the Director during normal business hours at 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701, and at a location to be determined by the Director in the air quality region where the source is located, for 30 days to enable public participation and comment. The Director shall provide public notice of the location in the air quality region in which the initial evaluation will be made public and maintained on file.

5. The Director shall:

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

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

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

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

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

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

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

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

(d) The determination of NvMACT;

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

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

7. All comments concerning the Director's review, the proposed conditions for the mercury operating permit to construct and the preliminary intent for the issuance or denial of a mercury operating permit to construct or of a revision of a mercury operating permit to construct must be submitted in writing to the Director within 30 days after the public notice required to be provided

pursuant to subsection 5. The Director shall give notice of any public hearing at least 30 days before the date of the hearing. The Director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

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

- (a) Written comments from the public;
  - (b) Comments made during public hearings concerning the Director's review and the conditions proposed by the Director for the mercury operating permit to construct; and
  - (c) Information submitted by proponents of the project.
- (Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3685 Mercury operating permit to construct for new or modified thermal unit that emits mercury: Required conditions and information. (NRS 445B.210, 445B.300)**  
For each new thermal unit that emits mercury or modified thermal unit that emits mercury:

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

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

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

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

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

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

- (1) An action for noncompliance;
- (2) The revoking and reissuing, or the terminating, of the mercury operating permit to construct by the Director; or
- (3) The reopening or revising of the mercury operating permit to construct by the holder of the mercury operating permit to construct as directed by the Director.

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

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

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

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

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

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

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

(II) Activity related to emissions is conducted; or

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

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

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

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

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

3. A mercury operating permit to construct must contain:

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

(b) Monitoring methods adequate to show compliance;

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

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

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3687 Mercury operating permit to construct for new or modified thermal unit that emits mercury: Expiration and extension. (NRS 445B.210, 445B.300)** For a new thermal unit that emits mercury or a modified thermal unit that emits mercury:

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

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

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

**NAC 445B.3689 Fees: Determination, payment and collection; late penalty. (NRS 445B.210, 445B.300)**

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

(a) For a mercury operating permit to construct pursuant to a phase-1 application, the fee must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 50,000 by the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury which submit a phase-1 application. The Director shall determine the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury to be charged pursuant to this paragraph on



or before August 16, 2006. Upon the determination of the total number of stationary sources that conduct precious metals mining and operate one or more thermal units that emit mercury, the Director shall notify the applicant of the amount of the application fee. An applicant must pay the entire fee when he submits the application to the Director or within 30 days after receipt of the notification by the Director of the amount of the application fee, whichever occurs later.

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

2. For a thermal unit that emits mercury which is a roaster, autoclave, carbon reactivation kiln, mercury retort or induction furnace, including a refining furnace or mill furnace and excluding an analytical laboratory furnace, or that uses the process of electrowinning in which mercury is recovered from a solution involving cathodes, anodes and direct currents, the owner or operator of a stationary source that conducts precious metals mining and operates one or more of such thermal units that emit mercury must submit an annual maintenance fee for each thermal unit that emits mercury. The annual maintenance fee must be determined as follows:

(a) For the fiscal year ending on June 30, 2007, the fee for each thermal unit that emits mercury must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 250,000 by the total number of thermal units that emit mercury, as described in this subsection. The Director shall determine the total number of thermal units that emit mercury to be charged pursuant to this paragraph on or before May 1, 2006.

(b) For each fiscal year after the fiscal year ending on June 30, 2007, the fee for each thermal unit that emits mercury must be determined in an amount, in dollars, that is equal to the amount calculated by dividing 250,000 by the total number of thermal units that emit mercury, as described in this subsection, which have previously obtained a mercury operating permit to construct. The Director shall determine the total number of thermal units that emit mercury to be charged pursuant to this paragraph each year on or before May 1 of the immediately preceding fiscal year.

3. The State Department of Conservation and Natural Resources shall collect all fees required pursuant to this section not later than July 1 of each year.

4. Except as otherwise provided in this subsection, the owner or operator of a source who does not pay his annual fee installments within 30 days after the date on which payment becomes due will be assessed a late penalty in the amount of 25 percent of the amount of the fees due. The late penalty must be paid in addition to the annual fees. The late penalty set forth in this subsection does not apply if, at the time that the late fee would otherwise be assessed, the owner or operator is in negotiations with the Director concerning his annual fees.

(Added to NAC by Environmental Comm'n by R189-05, eff. 5-4-2006)

## **EMISSIONS FROM ENGINES**

### **General Provisions**

**NAC 445B.400 Scope. (NRS 445B.210, 445B.760, 445B.785, 445B.790)** The provisions of NAC 445B.400 to 445B.735, inclusive, provide the standards for controlling engine emissions.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 9-28-88; A 11-10-92; A by Environmental Comm'n, 7-5-94; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; R079-98, 9-25-98; A by Dep't of Motor Veh. by R003-04, 2-3-2005)

**NAC 445B.401 Definitions. (NRS 445B.210, 445B.785)** As used in NAC 445B.400 to 445B.735, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.403 to 445B.4556, inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification; A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85, eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; 11-10-92; 11-23-92; 7-1-94; A by Environmental Comm'n, 7-5-94; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; A by Environmental Comm'n by R205-97, 3-5-98; A by Dep't of Motor Veh. & Pub. Safety by R079-98, 9-25-98; A by Dep't of Motor Veh. by R178-01, 8-21-2002)

**NAC 445B.403 "Approved inspector" defined. (NRS 445B.210, 445B.785)** "Approved inspector" has the meaning ascribed to it in NRS 445B.705.

[Environmental Comm'n & Dep't of Motor Veh. Reg. § 1.2, eff. 1-10-78]—(NAC A 10-1-83; 11-23-87, eff. 1-1-88; 8-19-94)

**NAC 445B.4045 "Authorized inspection station" defined. (NRS 445B.785)** "Authorized inspection station" has the meaning ascribed to it in NRS 445B.710.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 8-19-94)

**NAC 445B.405 "Authorized station" defined. (NRS 445B.210, 445B.785)** "Authorized station" has the meaning ascribed to it in NRS 445B.720.

[Environmental Comm'n & Dep't of Motor Veh. Reg. § 1.3, eff. 1-10-78]—(Substituted in revision for NAC 445.854)

**NAC 445B.408 "Carbon monoxide" defined. (NRS 445B.210, 445B.785)** "Carbon monoxide" (CO) means a colorless, odorless, highly toxic gas that is a normal by-product of incomplete fossil fuel combustion.

[Environmental Comm'n & Dep't of Motor Veh. Reg. § 1.4, eff. 1-10-78]—(Substituted in revision for NAC 445.855)

**NAC 445B.409 "Certificate of compliance" defined. (NRS 445B.210, 445B.785)** "Certificate of compliance" means a certificate printed by an emissions analyzer and issued by an approved inspector in a test station.

[Environmental Comm'n & Dep't of Motor Veh. Reg. § 1.5, eff. 1-10-78]—(NAC A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; 9-13-95)

**NAC 445B.4092 "Certified on-board diagnostic system" defined. (NRS 445B.785)** "Certified on-board diagnostic system" means a computer system which is contained within the vehicle and which is certified by the United States Environmental Protection Agency to be fully capable of monitoring all the sensors and actuators in the drivetrain of the vehicle to determine whether the sensors and actuators are working as intended.

(Added to NAC by Dep't of Motor Veh. by R178-01, eff. 8-21-2002)

**NAC 445B.4096 "Class 1 approved inspector" defined. (NRS 445B.785)** "Class 1 approved inspector" means an approved inspector who is licensed by the Department only to test exhaust emissions.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 9-13-95)

**NAC 445B.4097 "Class 1 fleet station" defined. (NRS 445B.785)** "Class 1 fleet station" means a fleet station which is licensed by the Department only to test exhaust emissions.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 9-13-95)

**NAC 445B.4098 “Class 2 approved inspector” defined. (NRS 445B.785)** “Class 2 approved inspector” means an approved inspector who is licensed by the Department to test exhaust emissions and to diagnose, repair and service devices for the control of exhaust emissions.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 9-13-95)

**NAC 445B.4099 “Class 2 fleet station” defined. (NRS 445B.785)** “Class 2 fleet station” means a fleet station which is licensed by the Department to test exhaust emissions and to diagnose, repair and service devices for the control of exhaust emissions.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 9-13-95)

**NAC 445B.410 “CO<sub>2</sub>” defined. (NRS 445B.785)** “CO<sub>2</sub>” means carbon dioxide.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 9-28-88)—(Substituted in revision for NAC 445.8565)

**NAC 445B.411 “Commission” defined. (NRS 445B.210, 445B.785)** “Commission” means the State Environmental Commission.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.6, eff. 1-10-78]—(Substituted in revision for NAC 445.857)

**NAC 445B.413 “Department” defined. (NRS 445B.210, 445B.785)** “Department” means the Department of Motor Vehicles.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.8, eff. 1-10-78]—(NAC A 11-19-85, eff. 1-1-86)—(Substituted in revision for NAC 445.859)

**NAC 445B.415 “Director” defined. (NRS 445B.785)** “Director” means the Director of the Department.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 8-19-94)

**NAC 445B.416 “Emission” defined. (NRS 445B.210, 445B.785)** “Emission” means the act of passing into the atmosphere an air contaminant or a gas stream which contains or may contain an air contaminant or the material passed to the atmosphere.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.10, eff. 1-10-78]—(Substituted in revision for NAC 445.861)

**NAC 445B.418 “EPA” defined. (NRS 445B.785)** “EPA” means Environmental Protection Agency.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 9-28-88)—(Substituted in revision for NAC 445.8615)

**NAC 445B.419 “Established place of business” defined. (NRS 445B.210, 445B.785)** “Established place of business” means a permanent structure:

1. Owned either in fee or leased with sufficient space to test, inspect or adjust, if needed, one or more motor vehicles for which evidence of compliance may be issued; and
2. Large enough to accommodate the office or offices of a test station to provide a safe place to keep the books, evidence of compliance and all other records of the station.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.11, eff. 1-10-78]—(NAC A by Dep’t of Motor Veh. & Pub. Safety, 9-13-95; R079-98, 9-25-98)

**NAC 445B.420 “Evidence of compliance” defined. (NRS 445B.210, 445B.785)** “Evidence of compliance” has the meaning ascribed to it in NRS 445B.730, and includes, without limitation, a certificate of compliance and a vehicle inspection report.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.12, eff. 1-10-78]—(NAC A 10-1-83; A by Dep’t of Motor Veh. & Pub. Safety by R079-98, 9-25-98)

**NAC 445B.421 “Exhaust emissions” defined. (NRS 445B.210, 445B.785)** “Exhaust emissions” means air contaminants emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.13, eff. 1-10-78]—(Substituted in revision for NAC 445.864)

**NAC 445B.422 “Exhaust gas analyzer” defined. (NRS 445B.210, 445B.785)** “Exhaust gas analyzer” means a device for sensing the amount of air contaminants in the exhaust emissions of a motor vehicle.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.14, eff. 1-10-78]—(Substituted in revision for NAC 445.865)

**NAC 445B.424 “Fleet station” defined. (NRS 445B.210, 445B.785)** “Fleet station” has the meaning ascribed to it in NRS 445B.735.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.16, eff. 1-10-78]—(NAC A by Dep’t of Motor Veh. & Pub. Safety, 8-19-94)

**NAC 445B.4247 “Gross vehicle weight rating” defined. (NRS 445B.785)** “Gross vehicle weight rating” means the maximum weight at which a motor vehicle can be operated safely, as specified in pounds by the manufacturer on the certification label of the motor vehicle, as described in 49 C.F.R. Part 567.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 8-19-94)

**NAC 445B.426 “Heavy-duty motor vehicle” defined. (NRS 445B.210, 445B.785)** “Heavy-duty motor vehicle” means:

1. A truck which has a gross vehicle weight rating of 8,500 pounds or more;
2. A motor vehicle which is designed for the transportation of persons and has a capacity of more than 15 persons; or
3. A motor home, mini motor home or a camper mounted on a chassis.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.18, eff. 1-10-78; A 12-20-79]—(NAC A 10-1-83; 11-19-85, eff. 1-1-86; A by Dep’t of Motor Veh. & Pub. Safety by R079-98, 9-25-98)

**NAC 445B.427 “Hydrocarbon” defined. (NRS 445B.210, 445B.785)** “Hydrocarbon” (HC) means any compound containing hydrogen and carbon as hexane.

(Added to NAC by Environmental Comm’n & Dep’t of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep’t of Motor Veh. & Pub. Safety, 9-28-88)—(Substituted in revision for NAC 445.8695)

**NAC 445B.428 “Hz” defined. (NRS 445B.785)** “Hz” means hertz, a unit of frequency equal to one cycle per second.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 9-28-88)—(Substituted in revision for NAC 445.8697)

**NAC 445B.432 “Light-duty motor vehicle” defined. (NRS 445B.210, 445B.785)** “Light-duty motor vehicle” means:

1. A truck which has a gross vehicle weight rating of less than 8,500 pounds;
2. A motor vehicle which is subject to the laws of this State requiring registration, is capable of transporting persons and has a capacity of 15 persons or less;
3. A van conversion; or
4. Any other motor vehicle which is powered by gasoline, except a heavy-duty motor vehicle.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.21, eff. 1-10-78; A 12-20-79]—(NAC A 10-1-83; 11-19-85, eff. 1-1-86; A by Dep’t of Motor Veh. & Pub. Safety by R079-98, 9-25-98)

**NAC 445B.433 “Mini motor home” defined. (NRS 445B.210, 445B.785)** “Mini motor home” has the meaning ascribed to it in NRS 482.066.

(Added to NAC by Environmental Comm’n & Dep’t of Motor Veh., eff. 10-1-83)—  
(Substituted in revision for NAC 445.8725)

**NAC 445B.434 “Motor home” defined. (NRS 445B.210, 445B.785)** “Motor home” has the meaning ascribed to it in NRS 482.071.

(Added to NAC by Environmental Comm’n & Dep’t of Motor Veh., eff. 10-1-83)—  
(Substituted in revision for NAC 445.8735)

**NAC 445B.435 “Motor vehicle” defined. (NRS 445B.210, 445B.785)** “Motor vehicle” has the meaning ascribed to it in NRS 445B.745.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.24, eff. 1-10-78]—(Substituted in revision for NAC 445.874)

**NAC 445B.440 “New motor vehicle” defined. (NRS 445B.210, 445B.785)** “New motor vehicle” means a motor vehicle that has never been registered with the Department and has never been registered with the appropriate agency or authority of any other state, the District of Columbia, any territory or possession of the United States, or foreign state, province or country.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.25, eff. 1-10-78]—(Substituted in revision for NAC 445.875)

**NAC 445B.442 “Opacity” defined. (NRS 445B.210, 445B.785)** “Opacity” means the property of a substance tending to obscure vision and measured in terms of percent obscuration.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.27, eff. 1-10-78; renumbered as § 1.28, 12-20-79]—(NAC A 11-23-87, eff. 1-1-88)—(Substituted in revision for NAC 445.878)

**NAC 445B.443 “Person” defined. (NRS 445B.210, 445B.785)** “Person” includes the Federal Government, the State of Nevada, or any of its political subdivisions and any other administrative agency, public or quasi-public corporation, or other legal entity.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.28, eff. 1-10-78; renumbered as § 1.29, 12-20-79]—(NAC A 11-23-87, eff. 1-1-88)—(Substituted in revision for NAC 445.879)

**NAC 445B.444 “ppm” defined. (NRS 445B.785)** “ppm” means part per million.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 9-28-88)—(Substituted in revision for NAC 445.8795)

**NAC 445B.449 “Smoke” defined. (NRS 445B.210, 445B.785)** “Smoke” means a stream of visible emissions of exhaust from a vehicle.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.31, eff. 1-10-78; renumbered as § 1.33, 12-20-79]—(NAC A 11-19-85, eff. 1-1-86; 11-23-87, eff. 1-1-88)—(Substituted in revision for NAC 445.883)

**NAC 445B.450 “Special mobile equipment” defined. (NRS 445B.210, 445B.785)** “Special mobile equipment” means every motor vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved upon a paved roadway.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.32, eff. 1-10-78; renumbered as § 1.34, 12-20-79]—(Substituted in revision for NAC 445.884)

**NAC 445B.451 “Standard” defined. (NRS 445B.210, 445B.785)** “Standard” means a standard of performance adopted pursuant to NAC 445B.400 to 445B.735, inclusive.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.33, eff. 1-10-78; renumbered as § 1.35, 12-20-79]—(NAC A by Environmental Comm’n, 7-5-94; A by Dep’t of Motor Veh. & Pub. Safety, 8-19-94; R079-98, 9-25-98)

**NAC 445B.4515 “State electronic data transmission system” defined. (NRS 445B.785)** “State electronic data transmission system” means the system that provides the transfer of data between individual exhaust gas analyzers in test stations and the Department.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety by R079-98, eff. 9-25-98)

**NAC 445B.452 “Tampering” defined. (NRS 445B.210, 445B.785)** “Tampering” means rendering inoperative or intentional misadjustment of any motor vehicle device or element of design intended to control exhaust emissions.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.34, eff. 1-10-78; renumbered as § 1.36, 12-20-79]—(Substituted in revision for NAC 445.886)

**NAC 445B.4525 “Test station” defined. (NRS 445B.785)** “Test station” means an authorized station, authorized inspection station or a fleet station.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety, eff. 8-19-94; A by R079-98, 9-25-98)

**NAC 445B.453 “Truck” defined. (NRS 445B.210, 445B.785)** “Truck” means a motor vehicle:

1. Which is used for the transportation of property; and
2. Whose body has been designed and built for that purpose.

(Added to NAC by Environmental Comm’n & Dep’t of Motor Veh., eff. 10-1-83)—(Substituted in revision for NAC 445.8863)

**NAC 445B.454 “Used motor vehicle” defined. (NRS 445B.210, 445B.785)** “Used motor vehicle” means a motor vehicle that has been registered with the Department or registered with the appropriate agency or authority of any other state, the District of Columbia, or any territory or possession of the United States or foreign state, province or country.

[Environmental Comm’n & Dep’t of Motor Veh. Reg. § 1.36, eff. 1-10-78; renumbered as § 1.38, 12-20-79]—(Substituted in revision for NAC 445.887)

**NAC 445B.455 “Van conversion” defined. (NRS 445B.210, 445B.785)** “Van conversion” has the meaning ascribed to it in NRS 482.1345.

(Added to NAC by Environmental Comm’n & Dep’t of Motor Veh., eff. 10-1-83)—(Substituted in revision for NAC 445.8875)

**NAC 445B.4553 “Vehicle inspection report” defined. (NRS 445B.785)** “Vehicle inspection report” means a certificate that:

1. Is issued by an approved inspector in a test station; and
2. If the vehicle inspection report concerns a motor vehicle subject to the provisions of NAC 445B.580, is printed by an exhaust gas analyzer connected to the state electronic data transmission system.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety by R079-98, eff. 9-25-98; A by Dep’t of Motor Veh. by R178-01, 8-21-2002)

**NAC 445B.4556 “Vehicle inspection report number” defined. (NRS 445B.785)** “Vehicle inspection report number” means the number assigned to the vehicle inspection report by the Department.

(Added to NAC by Dep’t of Motor Veh. & Pub. Safety by R079-98, eff. 9-25-98)

**NAC 445B.456 Severability. (NRS 445B.210, 445B.785)** If any of the provisions of NAC 445B.400 to 445B.735, inclusive, or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity will not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

[Environmental Comm'n & Dep't of Motor Veh. Red. § 2.1.1, eff. 1-10-78]—(NAC A by Environmental Comm'n, 7-5-94; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; R079-98, 9-25-98)

### **Facilities for Inspection and Maintenance**

**NAC 445B.460 Test station: License required to operate; expiration of license; ratings; prohibited acts; location; servicing of fuel injection system. (NRS 445B.210, 445B.770, 445B.785)**

1. No person may engage in the business of issuing evidence of compliance unless he holds a current license to operate a test station at an established place of business and holds one or both of the ratings set forth in subsection 3.

2. A license that:

(a) Was issued for a test station before September 25, 1998, expires on September 30 of each calendar year.

(b) Is issued on or after September 25, 1998, expires 1 year after the last day of the month in which the license was originally issued.

3. A test station must obtain from the Department:

(a) A "G" rating if it will be testing the exhaust emissions of gasoline-powered motor vehicles. A test station with a "G" rating shall, when conducting inspections of motor vehicles subject to the provisions of NAC 445B.580, use an exhaust gas analyzer that complies with the equipment specifications published by the Department for this rating and at least one approved inspector who has a "G" rating to perform the exhaust emissions tests.

(b) A "D" rating if it will be testing the exhaust emissions of light-duty diesel motor vehicles. A test station with a "D" rating shall, when conducting inspections of motor vehicles subject to the provisions of NAC 445B.589, use an exhaust gas analyzer that complies with the requirements of NAC 445B.587 and at least one approved inspector who has a "D" rating to perform the exhaust emissions tests.

4. A facility which holds a license as an authorized inspection station or class 1 fleet station may test exhaust emissions but shall not perform any installation, repair, diagnosis or adjustment to devices that affect exhaust emissions, except:

(a) The changing of oil;

(b) The replacement of an oil filter, air filter, fuel filter, belt or hose; and

(c) With regard to a vehicle with a model year of 1980 or older which has not failed its most recent exhaust emissions test administered in this State:

(1) The replacement of the spark plugs, secondary cables for the spark plugs, distributor cap, rotor, points or condenser of the vehicle; and

(2) The adjustment of the dwell and initial ignition timing of the engine of the vehicle, and the settings for idle speed if those settings are accessible.

5. An authorized inspection station shall not advertise any services which it provides for the testing of exhaust emissions with any services described in paragraph (c) of subsection 4 that the authorized inspection station also provides.

6. A person licensed to operate a test station shall not own or hold any ownership interest whatsoever in any business which manufactures, sells, repairs, rents or leases any exhaust gas analyzers approved by the Department for the testing of exhaust emissions.

7. A person or business which manufactures, sells, repairs, rents or leases any exhaust gas analyzers approved by the Department for the testing of exhaust emissions shall not own or hold any ownership interest whatsoever in any business licensed to operate a test station.

8. An authorized inspection station or class 1 fleet station must not be located immediately adjacent to any business which services or repairs motor vehicles unless:

- (a) The facility for the station is physically separated from the adjacent facility;
- (b) The facility for the station and the adjacent facility have separate entrances for customers and do not share any common doors or entries between the facilities;
- (c) The adjacent facility has no access to the physical space in which testing occurs at the facility for the station;
- (d) No employee of the adjacent facility is employed by the station; and
- (e) The facility for the station and the adjacent facility have separate mailing addresses.

9. A facility that holds a license as an authorized inspection station or class 1 fleet station may perform the servicing of a fuel injection system only by using a method that:

- (a) Utilizes a cleaning solvent for the fuel system that is registered as a fuel additive with the United States Environmental Protection Agency in accordance with the requirements of 40 C.F.R. Part 79;
- (b) Introduces the cleaning solvent into the fuel tank and no other portion of the vehicle's fuel system or air intake system; and
- (c) Does not involve the dismantling, removal or adjustment of any portion of the fuel system or air intake system other than the fuel inlet cap.

[Environmental Comm'n, Engine Emission Control Reg. § 3.10.1, eff. 1-10-78; A 12-20-79; § 3.11.2, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; 8-19-94; 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R178-01, 8-21-2002; A by Environmental Comm'n by R023-02, 9-20-2002; R106-05, 10-31-2005)

**NAC 445B.461 Compliance by Federal Government, state agencies and political subdivisions. (NRS 445B.210, 445B.770, 445B.785)**

1. A license may be issued to the Federal Government or any state agency or political subdivision of the State to inspect motor vehicles owned by the State or political subdivision for the purpose of compliance with NAC 445B.400 to 445B.735, inclusive.

2. The Federal Government or any state agency or political subdivision, in complying with NAC 445B.400 to 445B.735, inclusive, shall submit to the Department annually a list, in a form prescribed by the Department, of those motor vehicles which are assigned license plates issued by the Department as described in NRS 482.368.

3. The holder of a license issued pursuant to subsection 1 is exempt from the requirements set forth in the following sections for the limited purposes indicated:

- (a) Bond, NAC 445B.465;
- (b) Evidence of compliance, NAC 445B.583 to 445B.586, inclusive;
- (c) Sign, NAC 445B.469; and
- (d) Use of waiver, NAC 445B.590.

[Environmental Comm'n, Engine Emission Control Reg. §§ 3.14.1-3.14.3, eff. 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; A by Environmental Comm'n, 12-26-89; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98)

**NAC 445B.462 Test station: Application for license to operate; inspection of premises; issuance of license. (NRS 445B.210, 445B.770, 445B.785, 445B.790)**

1. An application for a license to operate a test station must be filed on a form supplied by the Department. The applicant must:

- (a) Specify in writing the type of license and, if applicable, the class of license and the rating or ratings for which he is applying; and
- (b) Furnish such proof as the Director deems necessary to determine whether the applicant is qualified to operate a test station, including, without limitation, proof that he is at least 18 years of age and has an established place of business in this State.



2. Before an application is approved, an authorized representative of the Department will inspect the premises. The Department will determine whether the premises and equipment comply with the requirements of the Department and whether the persons employed by the applicant are adequately trained to perform the duties for which they are licensed or rated, as appropriate.

3. A license for:

(a) An authorized inspection station or class 1 fleet station will not be issued to an applicant unless he is a class 1 approved inspector or class 2 approved inspector, or he employs at least one class 1 approved inspector or class 2 approved inspector, with the rating or ratings for which the applicant is applying.

(b) An authorized station or class 2 fleet station will not be issued to an applicant unless he is a class 2 approved inspector, or he employs at least one class 2 approved inspector, with the rating or ratings for which the applicant is applying.

4. If the Department is satisfied that the applicant for a license to operate a test station is entitled to a license, it will issue him a license to operate a test station. The license will set forth the:

- (a) Name of the station;
- (b) Type and, if applicable, class of station;
- (c) Rating or ratings approved for the station;
- (d) Address of the established place of business of the licensee; and
- (e) Date on which the license expires.

[Environmental Comm'n, Engine Emission Control Reg. §§ 3.10.2, 3.10.3, 3.11.1-3.11.1.2 & 3.11.3, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98)

**NAC 445B.463 Test station: Grounds for denial, revocation or suspension of license; reapplication; permanent revocation of license. (NRS 445B.210, 445B.770, 445B.785, 445B.790)**

1. Each of the following acts, omissions and conditions may constitute a ground for the denial of an application for a license to operate a test station or for the revocation or suspension of such a license:

- (a) Failure of the applicant or licensee to have an established place of business in this State.
- (b) Material misstatement on the application.
- (c) Unfitness of the applicant or licensee, which includes, without limitation, a pattern of payment to the Department with checks that are returned because of insufficient funds.
- (d) The conviction of the applicant or licensee of a felony in this or any other state, any territory of the United States or in any other nation.
- (e) The conviction of the applicant or licensee for violating any provision of NAC 445B.400 to 445B.735, inclusive.
- (f) The conviction of the applicant or licensee for violating any provisions of chapter 598 of NRS relating to deceptive trade practices.
- (g) Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files of the test station which are kept within this State. The Department will treat the financial records and information obtained from an investigation as confidential and will reveal such records or information only to persons involved in the enforcement or administration of the regulations of the Department, or as otherwise required by law.
- (h) Commission of any fraudulent act, including, without limitation:
  - (1) Misrepresentation of a material fact in any manner, whether intentional or grossly negligent; and
  - (2) An intentional failure to disclose a material fact.
- (i) Willful failure to comply with any regulation of the Department.

2. In addition to the acts, omissions and conditions set forth in subsection 1, any attempt to alter the readings obtained during a test of exhaust emissions or to modify or remove the data obtained by an exhaust gas analyzer or a certified on-board diagnostic system may constitute a ground for the revocation or suspension of a license to operate a test station.

3. An applicant or licensee may not reapply for a license after its denial, revocation or suspension by the Department:

(a) Until he has taken an action which removes the ground for the denial, revocation or suspension; or

(b) Within 1 year after the denial, revocation or suspension,  
→ whichever occurs first.

4. When the Department determines that a licensee has engaged in conduct which is egregious or poses a serious risk to the public safety, the Department may, in its discretion, permanently revoke the license of that licensee.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.9.1, eff. 1-10-78; A 12-20-79; §§ 4.9.1.1 & 4.9.1.2, eff. 1-10-78; § 4.9.1.3, eff. 1-10-78; A 12-20-79; § 4.9.1.4, eff. 1-10-78; A and renumbered as § 4.9.1.5, 12-20-79; § 4.9.1.4, eff. 12-20-79; § 4.9.1.5, eff. 1-10-78; renumbered as § 4.9.1.6, 12-20-79; §§ 4.9.1.6 & 4.9.1.7, eff. 1-10-78; § 4.9.1.8, eff. 1-10-78; renumbered as § 4.9.1.9, 12-20-79; §§ 4.9.1.10-4.9.1.13, eff. 12-20-79; § 4.9.3, eff. 1-10-78; A 12-20-79; § 5.7, eff. 6-19-80]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85, eff. 1-1-86; A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; 8-19-94; 9-13-95; A by Environmental Comm'n by R205-97, 3-5-98; A by Dep't of Motor Veh. & Pub. Safety by R079-98, 9-25-98; A by Dep't of Motor Veh. by R178-01, 8-21-2002)

**NAC 445B.464 Test station: Hearing concerning denial, suspension or revocation of license. (NRS 445B.785)**

1. The applicant or licensee may, within 30 days after the receipt of the notice of denial or suspension or revocation, petition the Director in writing for a hearing which will be conducted by the Director or his authorized representative.

2. Upon filing the petition, a date for the hearing will be fixed no longer than 20 days after the receipt of the request for hearing. The applicant or licensee is entitled to be present at the hearing, testify in his own behalf and have such other persons as he desires to be present to testify at the hearing.

3. Failure of the applicant or licensee to petition the Director in writing for a hearing within the 30-day period constitutes an automatic denial of the application or suspension or revocation of the license of the test station.

4. Within 10 days after the hearing, the Director or his authorized representative will:

(a) Grant or finally deny the application; or

(b) Suspend or revoke the license.

5. Notwithstanding the provisions of subsections 1 to 4, inclusive, the Department may, if the Director finds that the action is necessary and in the public interest, upon notice to the licensee, temporarily suspend or refuse to renew the license for a period not to exceed 30 days. For good cause, the Director or his designee may extend the period of suspension of the license or continue to refuse to renew the license if he deems such action to be necessary and in the public interest. In any such case, a hearing must be held and a final decision rendered within 30 days after notice of the temporary suspension.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.10.1, eff. 1-10-78; A 12-20-79; § 4.10.2, eff. 1-10-78; § 4.10.2.1, eff. 12-20-79; § 4.10.3, eff. 1-10-78; A 12-20-79; § 4.10.4, eff. 1-10-78]—(NAC A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; R079-98, 9-25-98)

**NAC 445B.465 Authorized station or authorized inspection station: Requirements for bond or deposit. (NRS 445B.210, 445B.770, 445B.785)**

1. Before a license for an authorized station or authorized inspection station is furnished to any person, the Department will require that the applicant procure and file with the Department a good and sufficient bond in the amount of \$1,000 for an authorized station or authorized

inspection station. Each bond must have a corporate surety thereon that is licensed to do business within this State and must be approved as to form by the Attorney General. In lieu of the foregoing, an applicant may place on deposit with the Department:

- (a) Cash;
- (b) A bond issued by the United States; or
- (c) A savings certificate in an amount equal to the bond requirement for the applicant and conditioned that the applicant conducts his business as an authorized station or authorized inspection station without fraud or fraudulent representation and without violation of the provisions of chapters 445A, 445B and 598 of NRS or NAC 445B.400 to 445B.735, inclusive.

2. The Department may require an increase in the amount of the bond or deposit of a particular licensee if the Department deems it to be necessary and in the public interest.

3. The undertaking in the bond or deposit must include, without limitation, any fraud or fraudulent representation or violation of any of the provisions of chapters 445A, 445B and 598 of NRS and NAC 445B.400 to 445B.735, inclusive, by any approved inspector or employed agent for or on behalf of the authorized station or authorized inspection station.

4. The bond or deposit must provide that any person injured by the action of the licensee or employee acting on behalf of the licensee in violation of any provisions of chapters 445A, 445B and 598 of NRS and NAC 445B.400 to 445B.735, inclusive, may bring an action on the bond.

5. Any money received by the Department pursuant to this section will be deposited with the State Treasurer for credit to the Pollution Control Account.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.6.1, eff. 1-10-78; A 12-20-79; §§ 4.6.2 & 4.6.3, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98)

**NAC 445B.466 Authorized station or authorized inspection station: Liability under bond or deposit; suspension and reinstatement of licenses. (NRS 445B.210, 445B.770, 445B.785)**

1. Liability under a bond which is filed or a deposit which is made with the Department pursuant to NAC 445B.465 will be in an amount prescribed by the Department.

2. The license of an authorized station or authorized inspection station is automatically suspended if:

- (a) The amount of the bond filed or the deposit made is reduced below the amount required by the Department pursuant to NAC 445B.465; or
- (b) There is an outstanding judgment for which the authorized station or authorized inspection station is liable under the bond or deposit.

3. A license which is suspended pursuant to subsection 2 will be reinstated if the authorized station or authorized inspection station:

- (a) Files an additional bond pursuant to subsection 1 of NAC 445B.465;
- (b) Restores the deposit to its original amount; or
- (c) Satisfies the outstanding judgment for which it is liable.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98)

**NAC 445B.467 Authorized station or authorized inspection station: Disbursement, release or refund of bond or deposit. (NRS 445B.210, 445B.770, 445B.785)** A bond which is filed or a deposit which is made with the Department pursuant to NAC 445B.465 may be:

1. Disbursed by the Director, for good cause shown and after notice and hearing, in an amount determined by the Director to compensate a person injured by an action of the licensee.

2. Released by the Director upon the receipt by the Department of a statement:

- (a) Signed by a person under whose name the bond or deposit is made;
- (b) Acknowledged before any person authorized to take such acknowledgments in this State;

(c) Requesting that the Director release the bond or deposit, or a specified portion thereof; and

(d) Explaining the purpose for which the release of the bond or deposit is requested.

3. Refunded by the Director:

(a) Automatically 1 year after the date on which the business is terminated if the Director determines that there are no outstanding claims against the bond or deposit; or

(b) Pursuant to the order of a court of competent jurisdiction.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; R079-98, 9-25-98)

**NAC 445B.468 Authorized stations or authorized inspection stations: Coverage of bond or deposit. (NRS 445B.785)** A bond which is filed or a deposit which is made with the Department pursuant to NAC 445B.465 covers all authorized stations and authorized inspection stations owned by a person if all of his places of business are located in the county where his principal place of business is located.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 12-28-89; A 8-19-94; 9-13-95; R079-98, 9-25-98)

**NAC 445B.469 Authorized station or authorized inspection station: Posting of signs and placards. (NRS 445B.210, 445B.770, 445B.785, 445B.830)**

1. An authorized station or authorized inspection station shall post in a conspicuous place in the station signs or placards provided by the Department which:

(a) Set forth the fee for the emission control test;

(b) Set forth the fee for each vehicle inspection report number issued; and

(c) Provide information regarding the program of this State for the inspection and maintenance of motor vehicles.

2. In addition to the requirements of subsection 1, an authorized station shall post in a conspicuous place in the station signs or placards provided by the Department which set forth the hourly labor rate charged by the authorized station.

3. An authorized station or authorized inspection station shall display at least one outdoor sign provided by the Department which is posted so that it is visible from the middle of the nearest roadway adjacent to the station.

4. For each sign posted by an authorized station or authorized inspection station that is provided by the Department, the Department will collect from the authorized station or authorized inspection station a fee based upon the actual costs incurred by the Department to produce the sign. The fee will be returned if the sign is returned to the Department in a reusable condition.

5. An authorized station or authorized inspection station shall pay the costs of repairing and maintaining signs which are in its control.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.5, eff. 1-10-78; A 8-16-78; § 4.5.1, eff. 1-10-78; § 4.5.2, eff. 1-10-78; A 12-20-79; § 4.5.3, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85; eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.470 Test station: Display of licenses; availability of reference information. (NRS 445B.210, 445B.770, 445B.785)**

1. The license to operate a test station and all licenses issued to approved inspectors must be displayed in a conspicuous place under glass or other transparent material within the test station.

2. Except as otherwise provided in subsection 3:

(a) A test station shall keep the operator's manual for its exhaust gas analyzer readily available to the approved inspector.

(b) A test station shall have readily available to the approved inspector a reference manual or equivalent information stating the emissions devices which are required by state and federal law to be installed on each type of motor vehicle that is inspected. The owner of the test station or his designee shall, upon the request of a representative of the Department, demonstrate the availability of the reference manual or equivalent information by accessing the manual or information.

(c) An authorized station or class 2 fleet station shall have readily available to the class 2 approved inspector reference information in the form of printed or electronic media explaining the operation and maintenance of the emissions devices which are required by state and federal law to be installed on each type of motor vehicle. The owner of the test station or his designee shall, upon the request of a representative of the Department, demonstrate the availability of the reference information:

(1) If a telephone or facsimile transmission is not required to access the reference information, by accessing the reference information; and

(2) If the reference information is accessible only through the use of a telephone or facsimile transmission, by using the telephone or facsimile transmission to obtain and provide to the representative of the Department one copy of the reference information.

3. A fleet station is not required to maintain the specifications or instructions of the manufacturer for any motor vehicles other than those motor vehicles used and serviced by the fleet station.

[Environmental Comm'n, Engine Emission Control Reg. § 3.10.5, eff. 1-10-78; § 3.10.6, eff. 8-16-78]—(NAC A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; 8-19-94; 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.471 Test station: Advertising; distribution of brochure to public by Department. (NRS 445B.785)**

1. A test station shall not intentionally publish, display or circulate any advertising which is misleading or inaccurate in any material manner or misrepresent any of the services rendered to the public.

2. A test station shall not deceive a member of the public by misrepresenting the cost for any service rendered. Any advertisement, promotional material or coupon published by or on behalf of a test station that contains any reference to price or waiver of charges must clearly set forth the total dollar amount to be paid by the customer in print that is comparable in size and style to all other print in the advertisement, promotional material or coupon where price or waiver of charges is discussed. If a test station offers any service for no charge, it must specify, in print that is comparable in size and style and is located immediately adjacent to the print which states there is no charge, whether any costs will be incurred by the customer and for what reason. A test station may not use abbreviations of terms peculiar to the emissions industry in its advertising. The Department will consider advertising to be deceptive if an ordinary and reasonable customer with no experience in the control of emissions could not understand the advertisement.

3. The Department will provide a brochure for distribution to the general public which will explain the reasons and methods for the emission control inspection.

[Dep't of Motor Veh., Engine Emission Control Reg. §§ 4.7 & 4.7.1, eff. 1-10-78]—(NAC A Dep't of Motor Veh. & Pub. Safety, 8-19-94; R079-98, 9-25-98)

**NAC 445B.472 Test station: Records of inspections and repairs; inspection of place of business; audit of exhaust gas analyzers. (NRS 445B.210, 445B.770, 445B.785, 445B.790)**

1. Each test station shall maintain and have available for collection, records of all inspections and repairs, as may be applicable, for evaluation of the information at the request of the Department.

2. The principal portion of the established place of business of a test station must be open to inspection during usual business hours by any authorized agent of the Department.

3. A representative of the Department will perform an audit of all exhaust gas analyzers located at a test station a minimum of once every calendar month.

4. A representative of the Department will perform an accuracy audit using specialty gas specifically designed for that purpose on all exhaust gas analyzers located at a test station a minimum of once every quarter in each calendar year.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.3.6, eff. 1-10-78; A 12-20-79; § 4.3.7, eff. 1-10-78; § 4.3.8, eff. 1-10-78; A 8-16-78; § 4.3.9, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.473 Test station: Notice of lost or stolen certificates of compliance. (NRS 445B.210, 445B.770, 445B.785)** The holder of a license for a test station or his agent shall notify the Department within 24 hours after a certificate of compliance has been lost or stolen.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; A 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94)

**NAC 445B.474 Test station: Failure to employ approved inspector. (NRS 445B.210, 445B.770, 445B.785)**

1. Except as otherwise provided in subsections 2 and 3, a test station which does not employ an approved inspector of the appropriate rating shall:

- (a) Immediately cease to operate as a test station;
- (b) Remove or cover its sign as a test station;
- (c) Not inspect any motor vehicle or issue any evidence of compliance; and
- (d) Immediately notify the Department that an approved inspector of the appropriate rating is not employed by the test station.

2. Except as otherwise provided in subsection 3, if an approved inspector of the appropriate rating is not employed within 60 days, the test station shall surrender its signs, its license as a test station and all of its forms and supplies to the Department.

3. An authorized station that ceases the employment of, or is otherwise not employing, a class 2 approved inspector:

(a) May continue to operate as an authorized station for not more than 120 days after the last date of employment of the class 2 approved inspector if the authorized station:

- (1) Is currently employing a class 1 approved inspector;
- (2) Had actively employed a class 2 approved inspector who was working on the premises for at least 90 consecutive days immediately preceding the last date of employment of the class 2 approved inspector; and

(3) Notifies the Department within 2 working days after the last date of employment of the class 2 approved inspector; and

(b) If the authorized station does not qualify for the 120-day grace period provided in paragraph (a) or fails to employ a class 2 approved inspector by the end of the 120-day grace period, shall:

- (1) Immediately cease to operate as an authorized station;
- (2) Remove or cover its sign as an authorized station;
- (3) Not inspect any motor vehicle or issue any vehicle inspection report;
- (4) Immediately notify the Department that an approved inspector of the appropriate rating is not employed by the authorized station; and
- (5) Surrender its signs, its license as an authorized station and all of its forms and supplies to the Department.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.8, eff. 1-10-78; §§ 4.8.1 & 4.8.2, eff. 1-10-78; A 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.475 Authorized station or class 2 fleet station: Requirements for employees. (NRS 445B.785)**

1. An employee of an authorized station or class 2 fleet station shall not perform any testing of exhaust emissions or perform any diagnosis, repair or servicing of devices for the control of exhaust emissions unless he is licensed as a class 1 approved inspector or class 2 approved inspector.

2. Each authorized station and class 2 fleet station shall have a class 2 approved inspector on the premises during all hours of business. A class 1 approved inspector employed by an authorized station or class 2 fleet station may diagnose, repair and service a device for the control of exhaust emissions only if his work is inspected and approved in writing by a class 2 approved inspector.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 9-13-95)

**NAC 445B.476 Test station: Willful failure to comply with directive; suspension of license; reapplication after revocation of license. (NRS 445B.210, 445B.770, 445B.785)**

1. The failure of a licensee to comply with a directive of the Director advising him of his noncompliance with any provision of NAC 445B.400 to 445B.735, inclusive, within 10 days after his receipt of the directive is prima facie evidence of his willful failure to comply with the directive.

2. If the license of a test station has been suspended for cause, the suspension will be no longer than 90 days. Upon suspension, the license of the test station must be surrendered to the Department.

3. If the license of a test station has been revoked for any cause, except pursuant to NAC 445B.474, the principal officers of the test station may not reapply for a license as a test station within 1 year after the date of the revocation. Upon revocation, the license of the test station must be surrendered to the Department.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.9.2, eff. 1-10-78; A 12-20-79; §§ 4.9.2.1 & 4.9.2.2, eff. 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; A by Environmental Comm'n by R205-97, 3-5-98; A by Dep't of Motor Veh. & Pub. Safety by R079-98, 9-25-98)

**NAC 445B.478 Fleet station: Licensing; powers and duties. (NRS 445B.210, 445B.770, 445B.785)**

1. A license for a class 1 fleet station or class 2 fleet station may be issued to an owner or lessee of a fleet of 25 or more motor vehicles.

2. Except as otherwise provided in NAC 445B.400 to 445B.735, inclusive, a fleet station must meet all the requirements applicable to test stations in general.

3. A fleet station may inspect only those motor vehicles which constitute its fleet and may issue evidence of compliance for such motor vehicles which are sold to the public.

[Environmental Comm'n, Engine Emission Control Reg. § 3.13.1, eff. 1-10-78; A 12-20-79; § 3.13.3, eff. 1-10-78; renumbered as § 3.13.2, 12-20-79 + Dep't of Motor Veh., Engine Emission Control Reg. § 4.19.1, eff. 1-10-78; A 12-20-79; §§ 4.19.2-4.19.2.2, eff. 1-10-78; § 4.19.3, eff. 1-10-78; A 12-20-79]—(NAC A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98)

**NAC 445B.480 Test station: General duties. (NRS 445B.785)** A test station must adhere to regular business hours and must test any motor vehicle presented at its facility during such hours, except as otherwise provided in NAC 445B.478 or unless the motor vehicle is rejected for reasons of safety.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 8-19-94; A 9-13-95)

## **Inspectors**

### **NAC 445B.485 Prerequisites to licensing. (NRS 445B.210, 445B.770, 445B.785)**

1. The Department will not license a person as a class 1 approved inspector unless he has demonstrated his qualifications and ability to test motor vehicles to its satisfaction by:

- (a) Submitting an application, on a form provided by the Department;
- (b) Submitting a certificate of competence issued by the manufacturer of an exhaust gas analyzer approved by the Department, indicating his ability to adjust and operate the equipment required to obtain the rating or ratings for which he is applying pursuant to NAC 445B.498, or by demonstrating to the Department his ability to adjust and operate such equipment; and

(c) Successfully:

(1) Completing a training course or courses for a license as a class 1 approved inspector which was conducted or approved by the Department, or equivalent training approved by the Department, for the particular rating or ratings for which he is applying;

(2) Completing a written test for a license as a class 1 approved inspector which was prepared by the Department for the particular rating or ratings for which the person is applying with a score of at least 80 percent; and

(3) Performing a practical demonstration of the procedures for testing prescribed by the Department.

2. The Department will not license a person as a class 2 approved inspector unless he has demonstrated his qualifications and ability to test motor vehicles and to diagnose, repair and service devices for the control of exhaust emissions to its satisfaction by submitting an application, on a form provided by the Department, which establishes that he has, within the last 12 months, satisfied the requirements set forth in paragraphs (b) and (c) of subsection 1 for a license as a class 1 approved inspector for the particular rating or ratings for which the person is applying and:

(a) Successfully completed a written test for a license as a class 2 approved inspector which was administered by the Department for the particular rating or ratings for which the person is applying with a score of at least 80 percent; or

(b) Submitted current certification from the National Institute for Automotive Service Excellence as an advanced engine performance specialist. The certification must remain valid throughout the applicant's 24-month period of licensure as a class 2 approved inspector.

3. The Department will investigate each applicant to determine his fitness.

[Environmental Comm'n, Engine Emission Control Reg. §§ 3.12.1-3.12.1.4, eff. 1-10-78; A 12-20-79; § 3.12.2, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-23-87, eff. 7-1-88; A by Dep't of Motor Veh. & Pub. Safety, 11-10-92; 8-19-94; 9-13-95; A by Dep't of Motor Veh. by R066-05, 2-23-2006)

### **NAC 445B.486 Examination of applicants for licensing. (NRS 445B.210, 445B.770, 445B.785)**

1. The Department will establish written tests for the licensing and rating of class 1 approved inspectors and class 2 approved inspectors.

2. An applicant taking such a test must show that he has completed the course, courses or equivalent training required pursuant to NAC 445B.485 for the rating or ratings for which he is applying.

3. An applicant who fails to pass the written test or practical demonstration required for a license as a class 1 approved inspector must wait 7 calendar days before he may retake the test or demonstration.

4. If an applicant fails two or more consecutive written tests or practical demonstrations required for a license as a class 1 approved inspector, he must, before he may retake the test or demonstration, submit proof to the Department that he has, after failing the tests or demonstrations, successfully completed an additional training course which is conducted or approved by the Department.



5. If an applicant fails to pass the written test required for a license as a class 2 approved inspector, he must, before he may retake the test, submit proof to the Department that he has, after failing the test, completed a training course regarding the diagnosis, repair and servicing of devices for the control of exhaust emissions which was conducted or approved by the Department for the rating or ratings for which he is applying.

[Dep't of Motor Veh., Engine Emission Control Reg. § 3.12.1.5, eff. 8-16-78; + § 4.3.5, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85, eff. 7-1-86; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; A by Dep't of Motor Veh. by R066-05, 2-23-2006)

**NAC 445B.487 Denial of license. (NRS 445B.785)**

1. The Department may refuse to issue a license to an applicant who fails to pass the examination required for that license pursuant to NAC 445B.485.

2. The Department may refuse to issue a license to an applicant who fails to provide satisfactory evidence of his ability and competence.

[Dep't of Motor Veh., Engine Emission Control Reg. §§ 4.12.1 & 4.12.2, eff. 1-10-78]—(NAC A 9-13-95)

**NAC 445B.489 Grounds for denial, suspension or revocation of license. (NRS 445B.210, 445B.770, 445B.785, 445B.790)** The Department may deny the issuance of, suspend or revoke the license of an approved inspector if:

1. The approved inspector fails to establish by satisfactory evidence to the Department that he is employed by a test station with an appropriate rating.

2. The approved inspector has knowingly made any false statement or concealed any material fact on his application for a license.

3. The approved inspector knowingly submits false, inaccurate or misleading information on evidence of compliance or any other records submitted to the Department.

4. The approved inspector fails to report in writing to the Department every change in his place of employment or any termination of his employment within 10 days after the date of the change or termination.

5. The approved inspector does not follow the procedures for testing prescribed by the Department.

6. The approved inspector allows evidence of compliance to be completed or issued by a person who is not an approved inspector.

7. The approved inspector allows another person to perform emissions tests by using the identification number assigned to the approved inspector.

8. The approved inspector submits to the Department falsified credentials or certifications of training.

9. The approved inspector makes an inaccurate determination regarding a classification of a motor vehicle.

10. The approved inspector fails to comply with any provision of NAC 445B.400 to 445B.735, inclusive.

11. The Department determines that an applicant or approved inspector is not lawfully entitled to a license.

12. The approved inspector is convicted for violating the provisions of chapter 598 of NRS relating to deceptive trade practices.

13. The approved inspector is unable to demonstrate proficiency in the verbal and written expression of the English language.

[Dep't of Motor Veh., Engine Emission Control Reg. §§ 4.13.1-4.13.1.5, eff. 1-10-78; A 12-20-79; §§ 4.13.1.6-4.13.1.10, eff. 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; 8-19-94; 9-13-95; A by Environmental Comm'n by R205-97, 3-5-98; A by Dep't of Motor Veh. & Pub. Safety by R079-98, 9-25-98; A by Dep't of Motor Veh. by R199-01, 7-17-2003; R066-05, 2-23-2006)

**NAC 445B.490 Hearing on suspension or revocation of license. (NRS 445B.785)**

1. The approved inspector may, within 30 days after receipt of the notice of suspension or revocation, petition the Director, in writing, for a hearing which will be conducted by the Director or his authorized representative.

2. Failure of the approved inspector to petition the Director in writing for a hearing within the 30-day period constitutes an automatic suspension or revocation of the license.

3. Upon filing the petition, a date for hearing will be fixed not later than 20 days after receipt of the request for a hearing, and the approved inspector is entitled to be present at the hearing, to testify in his own behalf and to have such other persons as he desires to be present to testify at the hearing.

4. Within 10 days after the hearing, the Director or his authorized representative will make written findings of fact and conclusions of law and may, without limitation, suspend or revoke the license.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.14.1, eff. 1-10-78; A 12-20-79; § 4.14.2, eff. 1-10-78; § 4.14.2.1, eff. 12-20-79; § 4.14.3, eff. 1-10-78; A 12-20-79]—(A by R066-05, 2-23-2006)

**NAC 445B.491 Temporary suspension or refusal to renew license. (NRS 445B.785)**

1. Notwithstanding the provisions of NAC 445B.490, the Department may, if the Director of the Department finds that the action is necessary in the public interest, upon notice to the approved inspector temporarily suspend or refuse to renew the license for a period not to exceed 30 days.

2. In any such case, a hearing will be held and a final decision rendered within 30 days after notice of the temporary suspension.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.14.4, eff. 1-10-78]—(Substituted in revision for NAC 445.911)

**NAC 445B.492 Duration of suspension; surrender of license. (NRS 445B.785)** When an approved inspector's license has been suspended for cause, the suspension will not exceed 90 days. The approved inspector's license must be surrendered to the Department.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.13.2, eff. 1-10-78; A 12-20-79]—(Substituted in revision for NAC 445.912)

**NAC 445B.493 Limitation on reapplication after revocation or denial of license; surrender of revoked license; permanent revocation of license. (NRS 445B.210, 445B.770, 445B.785)**

1. Except as otherwise provided in subsection 3, if an approved inspector's license has been revoked for cause, the person may not reapply for an approved inspector's license for 1 year after the date of revocation.

2. The approved inspector's license which has been revoked must be surrendered to the Department.

3. The Department will permanently revoke the license of an approved inspector who willfully or negligently:

(a) Issues or assists in the issuance of evidence of compliance which contains fraudulent information.

(b) Conspires or causes to be produced evidence of compliance which contains fraudulent information.

4. An applicant for an approved inspector's license who has been denied a license may not reapply for a license after denial:

(a) Until he has taken an action which removes the ground for the denial; or

(b) Within 1 year after the denial,

↳ whichever first occurs.

5. If the Department determines that an approved inspector engages in egregious conduct or conduct that poses a serious risk to the public safety, the Department may, in its discretion, permanently revoke the license of the approved inspector.

6. As used in this section:

(a) "Egregious conduct" includes, without limitation, using a motor vehicle that meets the standards for emission control for the purpose of fraudulently issuing a certificate of compliance for another motor vehicle that does not meet such standards.

(b) "Fraudulent information" includes, without limitation:

(1) A backdated document;

(2) A postdated document;

(3) A document based on anything other than the actual physical inspection of the vehicle for which the evidence of compliance was issued; or

(4) A certificate of compliance issued by a person wrongfully utilizing the identification number or access code of an approved inspector.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.13.3, eff. 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; A by Dep't of Motor Veh. by R066-05, 2-23-2006)

**NAC 445B.495 Contents of license. (NRS 445B.210, 445B.770, 445B.785)** A license issued by the Department to an approved inspector must contain:

1. The inspector's name;

2. The identification number assigned to the inspector;

3. The name of the test station employing the inspector;

4. A photograph of the inspector;

5. The inspector's signature; and

6. Such other information as the Department may require.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, eff. 9-13-95)

**NAC 445B.496 Expiration of license. (NRS 445B.210, 445B.770, 445B.785)** An inspector's license expires at midnight on a date specified by the Department. The expiration date must be indicated on the inspector's license.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88)—(Substituted in revision for NAC 445.9134)

**NAC 445B.497 Requirements for renewal of license. (NRS 445B.210, 445B.770, 445B.785)**

1. If an approved inspector wishes to renew his license, he must, within the 3 months before its expiration and before it is reissued, successfully:

(a) Complete a course for the renewal of his license which is approved or developed and conducted by the Department for the particular class and rating or ratings the approved inspector is attempting to renew; and

(b) Complete a written test, with a score of at least 80 percent, which is approved or prepared by the Department for the particular class and rating or ratings the approved inspector is attempting to renew. Before the holder of a license as a class 2 approved inspector may take a test for the renewal of that class of license, he must submit to the Department proof that he has, after the initial issuance or last renewal of his license, whichever occurred last, successfully completed a course that includes updates on the latest technology available regarding the diagnosis, repair and servicing of devices for the control of exhaust emissions which was conducted or approved by the Department for the rating or ratings the approved inspector is attempting to renew.

2. An approved inspector who fails to attain a score of 80 percent on the written examination required by subsection 1 for the renewal of a license as:

(a) A class 1 approved inspector may not take the examination again within 7 calendar days after the date of the first examination. If an approved inspector fails two or more consecutive written examinations for the renewal of a license as a class 1 approved inspector, he must submit proof to the Department that he has, after failing the examinations, successfully completed an additional course conducted or approved by the Department before he may retake the examination.

(b) A class 2 approved inspector must, before he may retake the examination, submit proof to the Department that he has, after his failure of that examination, successfully completed a course regarding diagnosis, repair and servicing of devices for the control of exhaust emissions which was conducted or approved by the Department for the rating or ratings the approved inspector is attempting to renew.

3. If the license of an approved inspector remains inactive, revoked or in expired status for 1 year or longer, the approved inspector shall be deemed to be a new applicant and must again comply with all applicable requirements concerning training and examinations.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; 8-19-94; 9-13-95; A by Dep't of Motor Veh. by R066-05, 2-23-2006)

**NAC 445B.498 Performance of emission inspection without license prohibited; expiration of license; license ratings. (NRS 445B.785)**

1. A person shall not perform any emission inspection for the purpose of issuing evidence of compliance unless he is currently licensed by the Department as an approved inspector.

2. Each license issued to an approved inspector expires 24 months after the date on which the license is issued.

3. Each approved inspector must have one or both of the following license ratings:

(a) A "G" rating to perform certified on-board diagnostic system and two-speed emissions inspections on gasoline-powered motor vehicles using the procedures set forth in NAC 445B.580.

(b) A "D" rating to perform light-duty diesel emissions inspections using the procedures set forth in NAC 445B.589.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 8-19-94; A 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R066-05, 2-23-2006)

**NAC 445B.4983 Issuance of access code to approved inspector; use of access code and identification number. (NRS 445B.785)**

1. In addition to the identification number assigned to each approved inspector, the Department will issue to each approved inspector a unique and confidential access code. The access code will enable the approved inspector to activate, access and input data into the exhaust gas analyzer located at the test station where he is employed.

2. An approved inspector, including, without limitation, the operator of a test station, shall not willfully or negligently allow any person to use his identification number or access code to:

(a) Activate, access or input data into the exhaust gas analyzer; or

(b) Issue a certificate of compliance.

(Added to NAC by Dep't of Motor Veh. by R066-05, eff. 2-23-2006)

**NAC 445B.4985 Violations. (NRS 445B.785)** The owner of the test station will be held responsible for any act or omission of an approved inspector or any other employee employed at any test station owned by the owner which is committed while the inspector or other employee is acting within the scope of his employment, and which would constitute a violation of this chapter or chapter 445B of NRS if:

1. The act or omission is a second or subsequent violation of a specific section of this chapter or chapter 445B of NRS that was committed by the same inspector or other employee while employed at any test station owned by the owner; and

2. The owner of the test station received notice from the Department of the first offense previously committed by the approved inspector or other employee.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety by R079-98, eff. 9-25-98; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.499 Fees. (NRS 445B.210, 445B.770, 445B.785)**

1. The fee for the initial issuance and biennial renewal of an inspector's license is \$25.

2. If an inspector who is employed by a test station and has paid the fee required by subsection 1 wishes to be licensed at one or more additional locations of that test station, the fee for the issuance and biennial renewal of an inspector's license for each additional location is \$10.

3. The fee for the transfer of an inspector's license is \$10.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.501 Report of change in place of employment or termination of employment. (NRS 445B.210, 445B.770)** Every inspector approved by the Department shall report in writing to the Department every change in his place of employment and any termination of his employment within 10 days after the date when the change or termination occurred.

[Environmental Comm'n, Engine Emission Control Reg. § 3.12.1.6, eff. 12-20-79]—  
(Substituted in revision for NAC 445.914)

**NAC 445B.502 Submission of certificate of employment to report change. (NRS 445B.210, 445B.770, 445B.785)** If an approved inspector changes his place of employment, he shall submit to the Department a certificate of employment indicating that he is reemployed by a test station.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-13-95)

### **Exhaust Gas Analyzers**

**NAC 445B.5049 Connection to state electronic data transmission system. (NRS 445B.785)** A test station shall connect its exhaust gas analyzer to the state electronic data transmission system not later than 6 months after the date on which the state electronic data transmission system is activated by the Department. The Department will notify each test station of the date the state electronic data transmission system is activated.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety by R079-98, eff. 9-25-98)

**NAC 445B.505 Availability of list of approved analyzers and their specifications. (NRS 445B.210, 445B.770, 445B.785)** A list of approved exhaust gas analyzers and specifications for those analyzers will be on file with the Department. A copy of the list and specifications may be obtained by writing to:

Department of Motor Vehicles  
Division of Management Services and Programs  
555 Wright Way  
Carson City, Nevada 89711

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.2.2, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85, eff. 1-1-86; 11-23-87, eff. 7-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; 8-19-94; 9-13-95; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.5052 Approved analyzer. (NRS 445B.785)**

1. A test station shall use an NV2000 exhaust gas analyzer to perform an inspection of a motor vehicle subject to the provisions of NAC 445B.580.

2. The Department will not enroll an exhaust gas analyzer unless it is an NV2000 exhaust gas analyzer.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety by R106-00, eff. 12-11-2000; A by Dep't of Motor Veh. by R178-01, 8-21-2002)

**NAC 445B.5055 Revocation of approval of analyzer. (NRS 445B.785)** The Department may revoke its approval of an exhaust gas analyzer if the Department:

1. Determines that the analyzer fails to comply with the specifications approved by the Department:

2. Notifies the manufacturer of the analyzer in writing of the facts supporting its determination pursuant to subsection 1; and

3. Provides the manufacturer of the analyzer with an opportunity to prove that the analyzer complies with those specifications.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 9-13-95)

**NAC 445B.5065 Manufacturer of approved analyzer: Required warranty. (NRS 445B.785)**

1. The manufacturer of each exhaust gas analyzer approved by the Department shall provide a written warranty to each purchaser or lessee of the analyzer. The warranty must provide complete coverage of:

(a) Parts and labor for all systems and components of the analyzer; and

(b) All services provided by the manufacturer pursuant to NAC 445B.5075.

2. The warranty must include the:

(a) Name of the owner of the test station;

(b) Address and telephone number of the test station;

(c) Identification number of the test station; and

(d) Terms of the warranty.

3. The warranty must extend for at least 4 years with guaranteed renewals provided for at least 2 years at the request of the purchaser or lessee.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 7-1-94; A 9-13-95; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.5075 Manufacturer of approved analyzer: Required services; administrative fine for violations. (NRS 445B.785, 445B.835)**

1. The manufacturer of an exhaust gas analyzer approved by the Department, or an authorized representative of the manufacturer, shall provide the services set forth in this section to each person purchasing or leasing one of those analyzers as part of the warranty required pursuant to NAC 445B.5065, and thereafter upon request by the purchaser or lessee at a cost negotiated between the parties.

2. The manufacturer or its authorized representative shall:

(a) Deliver, install, calibrate and verify the proper operating condition of the analyzer.

(b) Train all approved inspectors employed by the test station at the time of installation in the proper use, maintenance and operation of the analyzer, including the procedure for performing a vehicle inspection in this State.

(c) Provide, within 30 days after receiving an oral or written request from the operator of a test station, additional training to an applicant for licensure as a class I approved inspector who is unable to demonstrate to the Department an ability to adjust and operate the equipment in accordance with paragraph (b) of subsection 1 of NAC 445B.485. The manufacturer may charge a fee for providing such additional training.

(d) Provide on-site service calls by a qualified repair technician within 2 business days after receiving an oral or written request from the operator of the test station. The names, toll-free telephone numbers and business addresses of all of the manufacturer's representatives responsible for equipment service in the affected area must be provided to the operator of the test station for this purpose. A service representative of the manufacturer must be available to receive service calls at all times during normal working hours of each day of the week, excluding Sundays and national holidays. Any necessary repairs to an analyzer, replacement of components or adjustments to an analyzer, including the correction and reset of quality control lockout systems, must be accomplished at the test station within 1 day after authorization from the operator of the test station has been obtained to perform the repairs. If it is not possible to complete the work within this time, a temporary replacement analyzer meeting all program requirements of the Department must be provided to the operator of the test station at no additional charge until the malfunctioning analyzer is properly repaired and returned to service.

(e) Provide up to two updates of software as required by the Department, which may include, without limitation:

(1) Preconditioning procedures and emission testing sequences;

(2) Various look-up tables;

(3) Procedures for data communication; and

(4) Criteria affecting the selection of emission standards, vehicle exemptions, and whether a vehicle passes or fails an emissions test.

↳ Other areas not specifically mentioned may also be required to be updated, but changes are not expected in all noted areas at one time.

(f) Provide major alterations or additions to the hardware or software of the analyzer as may be deemed necessary by the Department in response to a change in requirements of the inspection and maintenance program of this State, a change in vehicle technology or other relevant change. If an update is required, the time for development will be agreed upon by the Department and the manufacturer. If an update of software is required, the time within which the updated software must be developed will be agreed upon by the Department and manufacturer.

3. If the manufacturer of an exhaust gas analyzer violates any provision of subsection 2, the Department may, pursuant to NRS 445B.835, impose an administrative fine of \$1,000. Each day upon which such a violation occurs constitutes a separate violation.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 7-1-94; A 9-13-95; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

### **Control of Emissions: Generally**

**NAC 445B.575 Device to control pollution: General requirement; alteration or modification. (NRS 445B.210, 445B.770, 445B.785)**

1. Except as otherwise provided in this section, a person shall not:

(a) Sell, offer to sell, display, operate or leave standing any motor vehicle which is required by state or federal law to be equipped with a device for the control of pollution unless the device is correctly installed and in operating condition.

(b) Disconnect, alter or modify any such required device.

2. Except for NAC 445B.5815, the provisions of subsection 1 and NAC 445B.576 to 445B.582, inclusive, do not apply to an alteration or modification of a motor vehicle to use fuel other than gasoline or diesel fuel where the alteration or modification is effected without violating existing federal and state standards for the control of exhaust emissions.

3. The provisions of subsection 1 do not apply to a wholesale transaction between licensed dealers of motor vehicles.

4. The Department may inspect a licensed dealer of motor vehicles to determine compliance with this section. Such inspections must be conducted in accordance with subparagraph (2) of paragraph (a) of subsection 4 of NAC 445B.580.

5. As used in this section, a “device for the control of pollution” includes, without limitation, a gasoline cap which meets the specifications of the manufacturer of the motor vehicle and seals the neck or pipe of the fuel filler.

[Environmental Comm’n, Engine Emission Control Reg. § 3.1, eff. 1-10-78]—(NAC A by Environmental Comm’n & Dep’t of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep’t of Motor Veh. & Pub. Safety, 9-28-88; 12-28-89; 9-13-95; 12-4-96; R079-98, 9-25-98; A by Environmental Comm’n by R055-00, 7-27-2000; A by R017-02, 4-5-2002, eff. 3-1-2002)

**NAC 445B.576 Vehicles powered by gasoline or diesel fuel: Restrictions on visible emissions and on idling of diesel engines. (NRS 445B.210, 445B.760, 445B.770)**

1. A person shall not operate a motor vehicle powered by gasoline which emits smoke.  
2. Except as otherwise provided in subsection 3, visible emissions of diesel-powered motor vehicles or special mobile equipment manufactured:

(a) Before January 1, 1970, must not exceed an opacity of 40 percent for more than 15 consecutive seconds or for periods aggregating more than 5 minutes in any 1 hour.

(b) On or after January 1, 1970, must not exceed an opacity of 20 percent for more than 15 consecutive seconds or for periods aggregating more than 5 minutes in any 1 hour.

3. For the purpose of compliance with the inspection and maintenance program of this State required by subsection 1 of NRS 445B.795, visible emissions of light-duty motor vehicles powered by diesel engines must not exceed an opacity of:

(a) Thirty percent at an elevation of less than 4,000 feet above mean sea level for more than 5 consecutive seconds or for periods aggregating more than 5 minutes in any 1 hour; or

(b) Forty percent at an elevation of 4,000 feet or more above sea level for more than 5 consecutive seconds or for periods aggregating more than 5 minutes in any 1 hour.

4. Except as otherwise provided in this subsection, a person shall not idle the engine of a diesel truck or a bus for more than 15 consecutive minutes. The provisions of this subsection do not apply to a diesel truck or a bus:

(a) For which the Commission has issued a variance from the requirements of this subsection. A variance is not effective during an air pollution emergency as defined in the air quality plan for the State of Nevada.

(b) Which is an emergency vehicle.

(c) Used for the removal of snow.

(d) Used to repair or maintain other motor vehicles.

(e) Which is stopped because of traffic congestion while in transit on a highway, roadway or street.

(f) Which is idling while a repair or maintenance is being performed on it at a shop or facility for the repair and maintenance of motor vehicles.

(g) The emission from which is contained and treated by a method approved by the Commission.

(h) The engine of which must idle to perform a specific task for which it is designed such as well drilling, trenching or hoisting. Such a diesel truck or a bus may not idle for more than 15 consecutive minutes during an air pollution emergency as defined in the air quality plan for the State of Nevada.

5. As used in this section, “mean sea level” means the average level of the sea between high and low tide.

[Environmental Comm’n, Engine Emission Control Reg. §§ 3.2-3.4, eff. 1-10-78]—(NAC A by Environmental Comm’n & Dep’t of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Environmental Comm’n, 12-26-89; 10-22-92)—(Substituted in revision for NAC 445.920)



**NAC 445B.577 Devices used on stationary rails: Restrictions on visible emissions. (NRS 445B.210, 445B.760, 445B.770)**

1. Except as provided by federal regulation, visible emissions from devices manufactured before January 1, 1970, used exclusively upon stationary rails must not exceed an opacity greater than 60 percent for more than 15 consecutive seconds.

2. Except as provided by federal regulation, a person shall not operate a device manufactured on or after January 1, 1970, used exclusively upon stationary rails at or below 5,000 feet (1,500 meters) elevation where the period of continuous visible emission is of an opacity greater than 40 percent for more than 15 consecutive seconds.

[Environmental Comm'n, Engine Emission Control Reg. §§ 3.5 & 3.6, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88)—(Substituted in revision for NAC 445.921)

**NAC 445B.578 Exceptions to restrictions on visible emissions. (NRS 445B.210, 445B.760, 445B.770, 445B.825)**

1. Scheduled maintenance or repairs which result in emissions of air contaminants performed in an area determined by the Department as constituting a repair shop do not violate NAC 445B.575 to 445B.582, inclusive.

2. Diesel-powered motor vehicles and special mobile equipment may exceed the visible emissions set forth in subsections 2 and 3 of NAC 445B.576 for not longer than 15 minutes for stationary warm-up of cold engines to achieve operating temperatures.

3. Visible emissions in excess of those set forth in NAC 445B.577 do not violate the requirements of NAC 445B.575 to 445B.582, inclusive, if the visible emissions occur:

(a) During maintenance or repairs.

(b) For a period of 40 consecutive seconds or less during acceleration under load.

(c) For a period of 4 consecutive minutes or less when loaded after a period of idle.

[Environmental Comm'n, Engine Emission Control Reg. §§ 3.7.1-3.7.3.3, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Environmental Comm'n, 10-22-92)—(Substituted in revision for NAC 445.922)

**NAC 445B.579 Inspection of vehicle: Devices for emission control required. (NRS 445B.210, 445B.770, 445B.785)**

Any motor vehicle which is manufactured on or after January 1, 1981, and subject to inspection in accordance with the provisions of chapter 445B of NRS and the table set forth in NAC 445B.596, as a condition of compliance with the inspection, must have a catalytic converter, fuel inlet restricter, air injection system, exhaust gas recirculation valve and fuel inlet cap if the motor vehicle was originally equipped by the manufacturer with such equipment. The equipment required by this section must be installed and properly operating in accordance with the specifications for emission control of the manufacturer of the motor vehicle.

[Environmental Comm'n, Engine Emission Control Reg. § 3.7.5, eff. 1-10-78; § 3.8.1, eff. 1-10-78; A 12-20-79; § 3.16, eff. 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; A by Environmental Comm'n, 12-26-89; A by Dep't of Motor Veh. & Pub. Safety by R079-98, 9-25-98)

**NAC 445B.580 Inspection of vehicle: Procedure for certain vehicles with model year of 1995 or older and heavy-duty vehicles with model year of 1996 or newer. (NRS 445B.785)**

1. Except as otherwise provided in subsection 4, the provisions of this section apply to inspections of:

(a) All motor vehicles with a model year of 1968 to 1995, inclusive; and

(b) With regard to motor vehicles with a model year of 1996 or newer, all heavy-duty motor vehicles.

2. After the owner or operator of a motor vehicle subject to the provisions of this section requests an inspection, an approved inspector shall follow the sequence of prompts displayed by the exhaust gas analyzer when conducting the inspection. While the vehicle is at normal operating temperature, the inspector shall connect the exhaust gas analyzer to the vehicle following the sequence of instructions programmed into the analyzer. The probe of the analyzer must be placed in the exhaust pipe of the vehicle. With the engine speed increased to 2,500 revolutions per minute, a steady level of carbon monoxide and hydrocarbons must be recorded by the analyzer. The engine speed must be returned to idle and a steady level of carbon monoxide and hydrocarbons must be recorded. If the vehicle is equipped with dual exhaust pipes, a test must be completed on both exhaust pipes and the average level of carbon monoxide and hydrocarbons must be recorded when the engine speed is increased to 2,500 revolutions per minute and when the engine speed is returned to idle.

3. The inspector shall visually inspect:

(a) The exhaust system to determine whether or not there is smoke when idling and at 2,500 revolutions per minute; and

(b) The engine to determine whether or not there are blowby gases from the crankcase when idling and at 2,500 revolutions per minute.

4. The inspector shall:

(a) Visually inspect:

(1) All motor vehicles subject to the provisions of this section to determine the presence of a properly installed gas cap; and

(2) Each motor vehicle with a model year of 1981 to 1995, inclusive, and, with regard to motor vehicles with a model year of 1996 or newer, each heavy-duty motor vehicle, to determine the presence of an exhaust gas recirculation valve, catalytic converter, air injection system and fuel inlet restricter, and whether that equipment appears to be operating in accordance with the specifications of the manufacturer of the vehicle; and

(b) Enter the results of the visual inspection into the analyzer.

5. The inspector shall complete each test and issue a vehicle inspection report indicating whether or not the vehicle passes the inspection.

6. The inspector shall issue a vehicle inspection report indicating that the vehicle did not pass the inspection if:

(a) The emissions from the vehicle exceed the maximum levels for carbon monoxide or hydrocarbons, or both, as prescribed in NAC 445B.596;

(b) Smoke or blowby is visible; or

(c) The vehicle does not meet the requirements of NAC 445B.579.

7. If a motor vehicle subject to the provisions of this section passes all portions of an inspection but has an improper gas cap or no gas cap, the owner or operator of the motor vehicle shall obtain a gas cap which is in accordance with the specifications of the manufacturer of the vehicle. The inspector shall inspect the new gas cap and certify its presence in a manner prescribed by the Department, and sign and date the failing vehicle inspection report beneath the gas cap tamper description. Such a vehicle inspection report may be used as evidence of compliance.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 12-28-89; A 5-17-90; 8-19-94; 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R178-01, 8-21-2002)

**NAC 445B.5805 Inspection of vehicle: Procedure for light-duty vehicles with model year of 1996 or newer. (NRS 445B.785)**

1. The provisions of this section apply to inspections of light-duty motor vehicles with a model year of 1996 or newer.

2. After the owner or operator of a motor vehicle subject to the provisions of this section requests an inspection, the inspector shall:

- (a) Turn the ignition switch to the off position for at least 12 seconds.
  - (b) Locate the data-link connector for the vehicle and connect the test equipment.
  - (c) Visually inspect the operation of the malfunction illumination light while turning the ignition switch to the run position with the engine off.
  - (d) Start the vehicle and, with the engine running, establish communication with the certified on-board diagnostic system installed in the vehicle.
  - (e) Visually inspect the vehicle to determine whether the malfunction illumination light is commanded on.
  - (f) Review the emission readiness code status.
  - (g) Retrieve all data trouble codes that are present.
3. The inspector shall complete each test and issue a vehicle inspection report indicating whether or not the vehicle passes the inspection.
4. The inspector shall issue a vehicle inspection report indicating that the vehicle did not pass the inspection if:
- (a) The vehicle has a malfunction illumination light that fails to illuminate during a visual inspection while the ignition switch is turned to the run position with the engine off;
  - (b) The vehicle has its malfunction illumination light commanded on continuously;
  - (c) The vehicle has a data-link connector that is missing, has been tampered with or is inoperable, including related electrical circuitry;
  - (d) There is no serial data communication from the certified on-board diagnostic system installed in the vehicle;
  - (e) The vehicle has a model year of 2001 or newer and has more than one unset readiness indicator;
  - (f) The vehicle has a model year of 1996 to 2000, inclusive, and has more than two unset readiness indicators; or
  - (g) Smoke is visible in the exhaust emissions from the vehicle with the engine speed at idle.
- (Added to NAC by Dep't of Motor Veh. by R178-01, eff. 8-21-2002)

**NAC 445B.581 Inspection of vehicle: Place and equipment for performance. (NRS 445B.210, 445B.770, 445B.785)**

1. An inspection may be performed only at the established place of business by an approved inspector.
2. An inspection of a motor vehicle subject to the provisions of NAC 445B.580 must be performed using an exhaust gas analyzer which is approved by the Department.  
[Environmental Comm'n, Engine Emission Control Reg. § 3.10.4, eff. 1-10-78; 8-16-78; 12-20-79]—(NAC A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95; R079-98, 9-25-98; R106-00, 12-11-2000; A by Dep't of Motor Veh. by R178-01, 8-21-2002)

**NAC 445B.5815 Inspection of vehicle: Certified on-board diagnostic systems. (NRS 445B.210, 445B.770)**

1. Any motor vehicle with a 1996 or newer model year which is equipped with a certified on-board diagnostic system and which is subject to inspection pursuant to chapter 445B of NRS, as a condition of compliance with the inspection, must have the certified on-board diagnostic system inspected.
2. The Department shall develop test procedures and certify equipment to be used for inspecting certified on-board diagnostic systems.
3. As used in this section, "certified on-board diagnostic system" means a computer system which is contained within the vehicle and which is certified by the United States Environmental Protection Agency to be fully capable of monitoring all the sensors and actuators in the drivetrain of the vehicle to determine whether the sensors and actuators are working as intended.  
(Added to NAC by Environmental Comm'n by R055-00, eff. 7-27-2000; A by R017-02, 4-5-2002, eff. 3-1-2002)

**NAC 445B.582 Repair of vehicle; reinspection or retesting. (NRS 445B.210, 445B.770, 445B.785)**

1. If a vehicle exceeds the limits prescribed in subsection 3 of NAC 445B.576 for visible emissions or NAC 445B.596 for the emission of carbon monoxide or hydrocarbons, or both, it must be repaired and reinspected. If the vehicle passes the reinspection, it is eligible for registration. If the vehicle fails the reinspection, a waiver may be issued as provided in NAC 445B.590.

2. A vehicle owned by a fleet station or a public entity may be retested after repairs by that fleet station or public entity. If the vehicle passes the retesting, it is eligible for registration. If the vehicle fails the retesting, a waiver may be issued as provided in NAC 445B.590.

[Environmental Comm'n, Engine Emission Control Reg. § 3.14.6, eff. 8-16-78; A and renumbered as §§ 3.15.2 & 3.15.3, 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; A by Environmental Comm'n, 12-26-89; A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; A by Environmental Comm'n, 11-23-92; A by Dep't of Motor Veh. & Pub. Safety, 9-13-95)

**NAC 445B.583 Evidence of compliance: Purpose; records. (NRS 445B.210, 445B.770, 445B.785)**

1. The primary use of evidence of compliance is for the registration of a used motor vehicle as required by chapter 445B of NRS, requiring the submission of certificates of compliance or evidence of compliance with NAC 445B.400 to 445B.735, inclusive, for submission to the Department upon application for registration by an owner of a used motor vehicle.

2. All materials or documents which are used by a test station in its inspection program must be kept at the station.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.16.1, eff. 1-10-78; § 4.16.2, eff. 8-16-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-13-95; A by Environmental Comm'n by R205-97, 3-5-98; A by Dep't of Motor Veh. & Pub. Safety by R079-98, 9-25-98)

**NAC 445B.584 Evidence of compliance: Purchase of vehicle inspection report numbers. (NRS 445B.210, 445B.770, 445B.785)**

1. Vehicle inspection report numbers may be purchased only by an owner of a test station or his authorized representative and may be obtained from the branch offices of the Department or from an authorized agent of the Department.

2. An owner of a test station or his authorized representative shall not purchase or otherwise obtain vehicle inspection report numbers from a source other than the Department or an authorized agent of the Department.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.17.1, eff. 1-10-78; A 12-20-79; § 4.17.1.1, eff. 1-10-78; § 4.17.1.2, eff. 1-10-78; A 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; 9-13-95; R079-98, 9-25-98; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.585 Evidence of compliance: Issuance by approved inspector. (NRS 445B.210, 445B.770, 445B.785)** No person other than an approved inspector who is employed by a test station may issue evidence of compliance.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.18.1, eff. 1-10-78; A 12-20-79; § 4.18.2, eff. 1-10-78; A 8-16-78; 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85; eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; 9-13-95; R079-98, 9-25-98)

**NAC 445B.586 Evidence of compliance: Return of fee. (NRS 445B.210, 445B.770, 445B.785)** If evidence of compliance is not required for registration by NAC 445B.592 to 445B.595, inclusive, or an inspection is performed by an inspector who the Department

determines did not follow the correct procedures for inspection or is performed fraudulently, the authorized station or authorized inspection station where the inspection was performed shall remit to the bearer, upon demand, the amount of the fee for the inspection and the vehicle inspection report number.

[Dep't of Motor Veh., Engine Emission Control Reg. § 4.16.2, eff. 8-16-78; A and renumbered as § 4.16.3, 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-19-85, eff. 1-1-86; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 12-28-89; 9-13-95; R079-98, 9-25-98)

**NAC 445B.587 Testing of light-duty motor vehicles powered by diesel engines: Equipment for measurement of smoke opacity. (NRS 445B.785)**

1. Equipment for the measurement of smoke opacity from light-duty motor vehicles powered by diesel engines must include a dynamometer and a smoke opacity meter.

2. The dynamometer must have:

(a) The capacity to absorb a minimum of 100 horsepower.

(b) A mechanism for controlling the load that is capable of:

(1) Infinitely variable settings throughout the load and speed range from no-load to full-load;

(2) Being set at a load or speed and, until deactivated, maintaining a preset setting without additional input from the load controller; and

(3) Being operated in the following function modes:

(I) Constant speed;

(II) Constant torque;

(III) Constant horsepower; and

(IV) Manual absorber.

(c) Computer controls which include, without limitation:

(1) A model 286 12-megahertz central processing unit;

(2) A 256 kilobyte video graphic array color card;

(3) A 1.44 megabyte floppy drive;

(4) Five hundred and twelve kilobytes of random access memory;

(5) Parallel printer interface; and

(6) Digital and analog data acquisition interface.

(d) A minimum roller diameter of 8.5 inches.

(e) One hundred and fifteen volt AC single phase 60 Hz power.

(f) A weight limit of 6,000 pounds per axle.

(g) A provision for checking the accuracy of the calibration of the dynamometer in the field, including, without limitation, an electrical output signal, interface and attendant instrumentation. Equipment, tools and procedures recommended or specified by the manufacturer for the calibration and adjustment of the dynamometer must be available.

3. The smoke opacity meter must have:

(a) Calibration accuracy within 1 percent.

(b) Linearity within 1 percent, from 0 to 60 percent opacity.

(c) Drift within 1 percent of the temperature range specified by the manufacturer.

(d) A response time of less than 2 seconds from 0 to 90 percent of scale.

(e) A warm-up time of not more than 10 minutes.

(f) An operating temperature range from 32 to 120 degrees Fahrenheit.

(g) One hundred and fifteen volts AC input, if operated from alternating current.

(h) Batteries which are replaceable or rechargeable, and which allow for the operation of the smoke opacity meter without AC input.

(i) A RS232C standardized serial interface.

(j) The ability to measure exhaust opacity continuously.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 11-10-92; A by R079-98, 9-25-98)

**NAC 445B.588 Testing of light-duty motor vehicles powered by diesel engines: List of approved equipment. (NRS 445B.785)** A list of equipment approved for testing light-duty motor vehicles powered by diesel engines and specifications for that equipment will be on file with the Department. A copy of the list may be obtained by writing to:

Department of Motor Vehicles  
 Division of Management Services and Programs  
 555 Wright Way  
 Carson City, Nevada 89711

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 11-10-92; A by Dep't of Motor Veh. by R199-01, 7-17-2003)

**NAC 445B.589 Testing of light-duty motor vehicles powered by diesel engines: Procedure; certificate of compliance; effect of failure. (NRS 445B.785)**

1. An inspector shall comply with the following procedure when testing a light-duty motor vehicle powered by a diesel engine:

(a) The test procedure must include, without limitation, a preparation phase, a tampering inspection phase and an opacity test phase.

(b) In the preparation phase:

(1) The vehicle must be placed on a dynamometer, the transmission must be placed in neutral and the vehicle must be properly restrained to prevent any rolling motion.

(2) The inspector may place an auxiliary cooling fan into position approximately 12 inches in front of the cooling system of the motor vehicle.

(3) The inspector shall then affix a smoke opacity meter which has been calibrated and zeroed to the exhaust system of the vehicle according to the recommendations of the manufacturer of the meter. Vehicles with dual exhaust configurations must have the smoke opacity meter attached to the exhaust pipe displaying the highest observed opacity.

(4) If an exhaust removal system is used, it must be installed so that all of the exhaust from the vehicle being tested is passed through the smoke opacity meter.

(c) In the tampering inspection phase, the inspector shall visually inspect:

(1) All vehicles with a model year of 1981 or newer to ensure that all equipment for emission control which is listed on the manufacturer's emission label is present and appears to be operational; and

(2) All vehicles to verify the presence of a properly installed fuel cap.

(d) During the opacity test phase, the inspector shall:

(1) Verify that the vehicle is at normal operating temperature before beginning the test. If the vehicle has cooled down below its normal operating temperature during its placement on the dynamometer, it must be operated until its normal operating temperature is reached.

(2) Test vehicles with varying engine sizes under the following speed and load conditions:

Number of Cylinders	Speed (± 4 miles per hour)	Load (± 1 horsepower)
4	40	7.0
6	40	15.0
8	40	30.0

(3) Maintain the required speed and load condition on the vehicle being tested for 10 seconds. The engine opacity must be stored and printed at the end of the 10-second interval.

2. The inspector shall issue a certificate of compliance indicating the results of the test. The printout from the opacity meter must be provided with the certificate of compliance. The test is complete if the vehicle passes the tampering inspection phase and the results of the opacity test

phase comply with the standards set forth in NAC 445B.576. A vehicle which exceeds the opacity standards or which fails the tampering inspection phase must be considered to have failed the inspection and the inspector shall issue a certificate of compliance reflecting the failure.

3. A vehicle which:

(a) Fails the tampering inspection phase must be repaired and reinspected.

(b) Fails the opacity test must be repaired and retested.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 11-10-92; A by R079-98, 9-25-98)

**NAC 445B.5895 Provision of list of authorized stations. (NRS 445B.785)** An authorized inspection station must provide a list of authorized stations to the owner or operator of a motor vehicle that fails an inspection. The Department will provide the list of authorized stations to each authorized inspection station in this State.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety by R079-98, eff. 9-25-98)

**NAC 445B.590 Waiver of standards for emissions. (NRS 445B.210, 445B.760, 445B.770, 445B.785, 445B.825)**

1. Only the Department may grant a waiver from the standards for emissions as set forth in subsection 3 of NAC 445B.576 or in NAC 445B.596.

2. An application for a waiver from the provisions of NAC 445B.596 for a motor vehicle powered by gasoline that is subject to an inspection pursuant to:

(a) NAC 445B.594 must include receipts from an authorized station that at least \$200 has been spent on parts other than a catalytic converter, fuel inlet restricter or air injection system or on labor other than emission testing if the repairs evidenced by the receipt were directly related to the deficiency in emissions. If the vehicle is repaired by the owner, the application must include receipts or other evidence that at least \$200 has been spent on parts other than a catalytic converter, fuel inlet restricter or air injection system purchased within 14 calendar days after the initial emissions test. No allowance will be permitted for labor on vehicles repaired by the owner.

(b) NAC 445B.593 must include receipts from an authorized station that at least \$450 has been spent on parts other than a catalytic converter, fuel inlet restricter or air injection system or on labor other than emission testing if the repairs evidenced by the receipt were directly related to the deficiency in emissions.

3. Except as otherwise provided in subsection 4, an application for a waiver for a light-duty motor vehicle powered by a diesel engine from the provisions of subsection 3 of NAC 445B.576 must include:

(a) A copy of the original certificate indicating that the vehicle failed to comply with the provisions of subsection 3 of NAC 445B.576; and

(b) Receipts or other evidence that at least \$750 has been spent on:

(1) Parts other than required emission control equipment; or

(2) Labor other than emission testing if the repairs evidenced by the receipt were directly related to the deficiency in emissions.

↪ Receipts must be dated within 14 calendar days after the date of issuance of the certificate indicating that the vehicle failed to comply with subsection 3 of NAC 445B.576.

4. If the owner of a light-duty motor vehicle powered by a diesel engine repairs the vehicle, an application for a waiver from the provisions of subsection 3 of NAC 445B.576 must include:

(a) A copy of the original certificate indicating that the vehicle failed to comply with the provisions of subsection 3 of NAC 445B.576; and

(b) Receipts or other evidence that at least \$500 has been spent on parts other than required emission control equipment. No allowance will be permitted for labor on a vehicle repaired by the owner.

↪ Receipts must be dated within 14 calendar days after the date of issuance of the certificate indicating that the vehicle failed to comply with subsection 3 of NAC 445B.576.

5. The Department will deny an application for a waiver if the parts have not been installed or the repairs performed as indicated on the receipts presented to the Department.

6. The Department will allow registration of the vehicle if:

(a) The provisions of NAC 445B.582 have been complied with; and

(b) The Department finds after inspection that additional costs exceeding the minimum established in this section are needed to bring the vehicle into compliance.

7. A vehicle which qualifies for repairs under a warranty is not eligible for a waiver.

8. A waiver permits the registration of the vehicle.

[Environmental Comm'n, Engine Emission Control Reg. § 3.14.1, eff. 1-10-78; A and renumbered as § 3.15.1.1, 12-20-79; § 3.14.2, eff. 1-10-78; A and renumbered as § 3.15.1.2, 12-20-79; § 3.14.3, eff. 1-10-78; A and renumbered as § 3.15.1.3, 12-20-79; § 3.14.5, eff. 1-10-78; A and renumbered as § 3.15.1.4, 12-20-79; § 3.15.1, eff. 1-10-78; A 12-20-79; § 3.15.4, eff. 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; A by Environmental Comm'n, 12-26-89; 11-23-92; R033-98, 5-14-98)

**NAC 445B.591 Form for registration of vehicle in area where inspection of vehicle not required. (NRS 445B.210, 445B.770)**

1. The Department will make available a form for the registration or the renewal of registration for a motor vehicle which is not in an area where a program for the annual inspection of emissions from motor vehicles has been established.

2. The form must be completed and submitted to the Department pursuant to its instructions.

(Added to NAC by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88)—(Substituted in revision for NAC 445.9315)

**NAC 445B.592 Applicability of certain standards for emissions and other requirements. (NRS 445B.210, 445B.760, 445B.770, 445B.825)** The provisions of subsection 3 of NAC 445B.576 and NAC 445B.593 to 445B.596, inclusive, do not apply to any:

1. Motorcycle or moped.

2. Motor vehicle which is subject to prorated registration pursuant to NRS 706.801 to 706.861, inclusive, and is not based in this State.

3. New motor vehicle until the third registration of the vehicle.

4. Motor vehicle permanently converted from gasoline to propane, compressed natural gas (CNG), methane or butane as a fuel.

5. Motor vehicle with a model year before 1968.

6. Heavy-duty motor vehicle which has a manufacturer's gross vehicle weight rating of more than 10,000 pounds and which is powered by a diesel engine.

[Environmental Comm'n, Engine Emission Control Reg. § 3.7.4, eff. 1-10-78; A 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 10-19-85, eff. 1-1-86; A by Environmental Comm'n, 12-26-89; 11-23-92; 11-9-95; R035-05, 10-31-2005)

**NAC 445B.593 Evidence of compliance required for certain vehicles based in Clark County. (NRS 445B.210, 445B.770)**

1. Except as otherwise provided in subsection 2, persons who are registering or reregistering a used motor vehicle in Clark County must provide evidence of compliance with NAC 445B.400 to 445B.735, inclusive, for those vehicles which are based at an address:

(a) Within the boundaries of Hydrographic Area 212, as established by the State Implementation Plan;

(b) Within 5 miles of the boundaries of Hydrographic Area 212, as established by the State Implementation Plan; or

(c) Within the city limits of Boulder City.

2. A person who is registering or reregistering a used motor vehicle in Clark County is not required to provide evidence of compliance with NAC 445B.400 to 445B.735, inclusive, for the vehicle if the vehicle is based at an address within the community of Goodsprings.



3. The Department will establish and maintain a list by zip code of the addresses in Clark County that are subject to the requirements of this section and the addresses in Clark County that are exempted from the requirements of this section.

4. As used in this section, "State Implementation Plan" means the plan adopted by the State of Nevada pursuant to 42 U.S.C. §§ 7410 and 7502.

[Environmental Comm'n, Engine Emission Control Reg. § 3.9.2, eff. 1-10-78; A 12-20-79]—  
(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85, eff. 1-1-86; A by Environmental Comm'n, 12-26-89; R035-05, 10-31-2005)

**NAC 445B.594 Evidence of compliance required for certain vehicles based in Washoe County. (NRS 445B.210, 445B.770)**

1. Except as otherwise provided in subsection 2, persons who are registering or reregistering used motor vehicles in Washoe County must provide evidence of compliance with NAC 445B.400 to 445B.735, inclusive, for those vehicles which are based at an address that is south of the 40th degree of north latitude.

2. A person who is registering or reregistering a used motor vehicle in Washoe County is not required to provide evidence of compliance with NAC 445B.400 to 445B.735, inclusive, for the vehicle if the vehicle is based at an address:

(a) Within the community of:

- (1) Crystal Bay;
- (2) Empire;
- (3) Incline Village;
- (4) Nixon;
- (5) Sutcliffe; or
- (6) Wadsworth; or

(b) Which is serviced by a post office for any of the communities listed in paragraph (a).

3. The Department will establish and maintain a list by zip code of the addresses in Washoe County that are subject to the requirements of this section and the addresses in Washoe County that are exempted from the requirements of this section.

[Environmental Comm'n, Engine Emission Control Reg. § 3.9.3, eff. 1-10-78; A 12-20-79]—  
(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; A by Environmental Comm'n, 12-26-89; R035-05, 10-31-2005)

**NAC 445B.595 Inspections of vehicles owned by State or political subdivisions or operated on federal installations. (NRS 445B.210, 445B.770, 445B.785)**

1. Motor vehicles owned by the State or any of its political subdivisions which are provided distinguishing license plates issued by the Department must be inspected and certified annually if they are based in those areas where a program for the inspection of exhaust emissions has been put into effect.

2. Motor vehicles operated on federal installations located within an area requiring a program for the inspection of exhaust emissions must be inspected and certified annually. The provisions of this subsection:

(a) Apply to all motor vehicles which are owned, leased or operated by an employee of, or military personnel stationed at, a federal installation;

(b) Apply to all motor vehicles which are owned, leased or operated by any agency of the Federal Government on a federal installation;

(c) Do not apply to tactical military vehicles operated on a federal installation; and

(d) Do not apply to motor vehicles which are owned, leased or operated on a federal installation by visiting federal employees or military personnel when the visit does not exceed 60

days within any 1 calendar year. A federal installation shall annually submit to the Department evidence showing that it has complied with the provisions of this paragraph, in a form prescribed by the Department.

[Environmental Comm'n, Engine Emission Control Reg. § 3.9.4, eff. 1-10-78; 12-20-79]—(NAC A by Environmental Comm'n & Dep't of Motor Veh. & Pub. Safety, 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; A by Environmental Comm'n, 12-26-89; A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95)

**NAC 445B.596 Standards for emissions. (NRS 445B.210, 445B.760, 445B.770, 445B.780, 445B.785)**

1. Each motor vehicle powered by gasoline with a model year of 1968 to 1995, inclusive, and, with regard to motor vehicles with a model year of 1996 or newer, each heavy-duty motor vehicle powered by gasoline, that is subject to an inspection pursuant to NAC 445B.593, 445B.594 or 445B.595 must not have:

(a) Smoke in its emissions from its exhaust or crankcase when the prescribed procedure for the testing is used.

(b) Carbon monoxide or hydrocarbon, or both, in its emissions from its exhaust in excess of the limits set forth in subsection 3 or 4.

2. The measurements required by subsection 1 must be made with an approved exhaust gas analyzer and under the prescribed procedure. The engine must be at normal operating temperature, but if it has been operating at an idle for more than 5 minutes, it must be purged before the measurement is taken.

3. The following standards apply to light-duty motor vehicles subject to subsection 1:

Model Year	Maximum CO%	Maximum HC(PPM)
1968-1969	4.0	800
1970-1974	3.5	700
1975-1978	2.5	500
1979-1980	2.0	500
1981-1995	1.2	220

4. The following standards apply to heavy-duty motor vehicles subject to subsection 1:

Model Year	Maximum CO%	Maximum HC(PPM)
1968-1969	7.0	1400
1970-1978	6.0	1400
1979	5.0	1000
1980	4.0	1000
1981 and newer	3.5	1000

[Environmental Comm'n, Engine Emission Control Reg. § 3.8.2, eff. 1-10-78]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-19-85, eff. 1-1-86; 11-19-85, eff. 1-1-87; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-28-88; A by Environmental Comm'n, 12-26-89; 7-5-94; 11-9-95; A by Dep't of Motor Veh. by R178-01, 8-21-2002)

**NAC 445B.598 Imposition and statement of fee for inspection and testing; listing of stations and fees. (NRS 445B.785, 445B.830)**

1. For inspecting and testing a motor vehicle in accordance with the required procedure, an authorized station or authorized inspection station may charge a reasonable fee but not more than the maximum fee prescribed by the Department pursuant to NAC 445B.599.

2. The Department will not issue a license to such a station pursuant to NAC 445B.460 to 445B.480, inclusive, until the applicant has furnished the Department a written statement of the fee which it will charge for performing the required procedures for inspection and testing.

3. The Department will maintain a list of authorized stations and authorized inspection stations, and their statements of current fees for inspection and testing.

[Dep't of Motor Veh., Engine Emission Control Reg. §§ 5.1-5.3, eff. 6-19-80]—(NAC A by Dep't of Motor Veh. & Pub. Safety, 8-19-94; 9-13-95)

**NAC 445B.599 Prescription and notice of maximum fees for inspections and testing. (NRS 445B.210, 445B.770, 445B.785, 445B.830)**

1. The Department will annually prescribe the maximum fees for inspections and testing by authorized stations and authorized inspection stations, and will mail a notice of the applicable maximum fee to each authorized station and authorized inspection station.

2. For each county where a program of inspection and testing of vehicles is in effect, the Department will determine the maximum fee which may be charged for the inspection and for issuing evidence of compliance, by taking 35 percent of the average hourly shop labor rate charged by the authorized stations within the county and rounding the result to the nearest 50 cents.

3. If an authorized station or authorized inspection station is located outside any county where the inspection and testing of vehicle emissions is in effect, the Department will prescribe as the maximum fee for the station the maximum fee of the nearest county where the program is in effect.

[Dep't of Motor Veh., Engine Emission Control Reg. §§ 5.1.2, 5.1.4 & 5.1.5, eff. 6-19-80]—(NAC A by Environmental Comm'n & Dep't of Motor Veh., 10-1-83; 11-23-87, eff. 1-1-88; A by Dep't of Motor Veh. & Pub. Safety, 9-13-95; R079-98, 9-25-98)

**NAC 445B.600 Procedure for setting new fee. (NRS 445B.785)**

1. An authorized station or authorized inspection station must not put a new fee into effect unless it first submits to the Department a written request that the new fee be listed and receives the Department's acknowledgment.

2. Within 10 days after receiving such a request, the Department will send a written acknowledgment to the authorized station or authorized inspection station.

[Dep't of Motor Veh., Engine Emission Control Reg. § 5.4, eff. 6-19-80]—(NAC A 9-13-95)

**NAC 445B.601 Concealment of emissions prohibited. (NRS 445B.210, 445B.760, 445B.770)** A person shall not install, construct or use any device which conceals any emission without resulting in a reduction in the total release of air contaminants to the atmosphere.

[Environmental Comm'n & Dep't of Motor Veh. Reg. § 2.2.1, eff. 1-10-78]—(Substituted in revision for NAC 445.944)

### **Restored Vehicles**

**NAC 445B.6115 Exemption of vehicle from certain provisions. (NRS 445B.210, 445B.760, 445B.770, 445B.825)** The provisions of NAC 445B.575 to 445B.601, inclusive, do not apply to a motor vehicle that is certified as a restored vehicle by the Department pursuant to NAC 445B.6125.

(Added to NAC by Environmental Comm'n by R205-97, eff. 3-5-98; A by R055-00, 7-27-2000)

**NAC 445B.6125 Certification of vehicle for exemption. (NRS 445B.210, 445B.760, 445B.770, 445B.825)** The Department may certify a motor vehicle as a restored vehicle if the motor vehicle:

1. Is licensed pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816;
2. Does not emit smoke;
3. Has an engine that complies with the standards for emissions set forth in NAC 445B.596 for the model year of the motor vehicle as determined by a two-speed emissions test conducted by the Department pursuant to NRS 445B.798 or conducted at an authorized station or authorized inspection station; and
4. Has been certified upon each annual registration required pursuant to NRS 482.205 to have been driven not more than 2,500 miles since the immediately preceding annual registration, if any.

(Added to NAC by Environmental Comm'n by R205-97, eff. 3-5-98)

### **Inspection of Test Stations and Approved Inspectors**

**NAC 445B.7015 Annual and additional inspections. (NRS 445B.790)**

1. The Department will conduct:
  - (a) Annual inspections of test stations; and
  - (b) Inspections of the performance of approved inspectors.
2. In addition to the annual inspections of test stations required pursuant to paragraph (a) of subsection 1, the Department may determine that additional inspections of test stations are necessary based on the following factors:

(a) Rates of failure of motor vehicles on exhaust emissions tests administered at a test station or by an approved inspector that the Department determines to be abnormal when compared to the overall rates of failure of motor vehicles on exhaust emissions tests administered at all test stations and by all approved inspectors;

(b) Complaints received against test stations and approved inspectors;

(c) Violations of NRS 445B.700 to 445B.845, inclusive, or 40 C.F.R. Part 51 discovered by the Department during prior inspections conducted pursuant to subsection 1 or prior inspections or audits conducted pursuant to NAC 445B.472; and

(d) Any data on the state electronic data transmission system relating to a test station or approved inspector that the Department determines is questionable.

(Added to NAC by Dep't of Motor Veh. by R003-04, eff. 2-3-2005)

**NAC 445B.7025 Alteration of emission control system of vehicle used to conduct inspection. (NRS 445B.790)** For the purposes of an inspection conducted pursuant to NAC 445B.7015, the emission control system of a motor vehicle that is used by the Department to conduct the inspection will be altered in such a manner that an approved inspector, using due care and following the testing procedures described in NAC 445B.580, 445B.5805 and 445B.589, would readily identify, through only a visual inspection of the vehicle, that the emission control system of the vehicle has been tampered with or is missing or inoperable.

(Added to NAC by Dep't of Motor Veh. by R003-04, eff. 2-3-2005)

**NAC 445B.7035 Preliminary written notice of violation; reinspection of vehicle. (NRS 445B.790)**

1. If the Department discovers noncompliance with any of the testing procedures set forth in NAC 445B.580, 445B.5805 or 445B.589 during an inspection conducted pursuant to NAC 445B.7015, the Department will issue a preliminary written notice of the violation, on a form prescribed by the Department, to the approved inspector who committed the violation. If the approved inspector who committed the violation is no longer present at the test station, the Department will:

(a) Give the preliminary written notice of the violation to another approved inspector or any other employee of the test station who is present; and

(b) Send a copy of the written preliminary notice to the approved inspector who committed the violation by certified mail not later than 5 business days after the violation occurred.

2. Before removing the motor vehicle used in the inspection conducted pursuant to NAC 445B.7015 from the test station, the Department will allow the approved inspector who committed the violation or, in the absence of the approved inspector, the person to whom the preliminary written notice of the violation was given pursuant to paragraph (a) of subsection 1, to inspect the motor vehicle used in the inspection.

3. If the approved inspector who committed the violation is not the owner of the test station where the violation occurred, the Department will send a copy of the written preliminary notice to the owner by certified mail not later than 5 business days after the violation occurred.

(Added to NAC by Dep't of Motor Veh. by R003-04, eff. 2-3-2005)

**NAC 445B.7045 Administrative fines and other penalties for certain violations. (NRS 445B.785, 445B.790, 445B.835)**

1. If the Department imposes administrative fines or other penalties against an owner of a test station pursuant to NRS 445B.835 for a violation of NAC 445B.4985, the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense, issue a cease and desist order.

(b) For a second offense, require the owner of the test station or his authorized representative to complete successfully an educational course, which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(c) For a third offense, impose a fine of \$1,000.

(d) For a fourth offense, revoke the license of the owner to operate the test station.

2. If the Department imposes administrative fines or other penalties against an approved inspector pursuant to NRS 445B.835 for a violation of NAC 445B.580, 445B.5805 or 445B.589, the Department will impose such fines or other penalties for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense:

(1) Issue a cease and desist order; and

(2) Require the approved inspector to complete successfully an educational course, which is established and conducted by the Department, not later than the date specified in the notice of the violation.

(b) For a second offense:

(1) Impose a fine of \$250;

(2) Require the approved inspector to complete successfully an educational course, which is established by the Department and conducted by a provider approved by the Department, not later than the date specified in the notice of the violation; and

(3) Suspend the license of the approved inspector for 10 calendar days.

(c) For a third offense:

(1) Impose a fine of \$500; and

(2) Suspend the license of the approved inspector for 90 calendar days.

(d) For a fourth offense, permanently revoke the license of the approved inspector.

3. Any person who has been fined in accordance with the schedules set forth in this section shall make payment to the Department not later than the date specified in the notice of the violation, unless the person has requested a hearing pursuant to subsection 1 of NRS 445B.835.

4. Upon the failure of a person to pay a fine or comply with any directive imposed pursuant to the provisions of this section, the Director may suspend, revoke or refuse to issue any license obtained pursuant to the provisions of chapter 445B of NRS.

5. An owner of a test station whose license is revoked by the Department pursuant to this section:

(a) Shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles, if the violation:

- (1) Was knowing or willful; or
- (2) Involved fraud.

(b) May directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles at a test station other than the test station where the violation occurred, if the violation:

- (1) Was not knowing or willful; and
- (2) Did not involve fraud.

6. An approved inspector whose license is revoked or suspended by the Department pursuant to this section shall not directly or indirectly engage in any activity pursuant to this chapter or chapter 445B of NRS that is related to emission control inspections of motor vehicles.

7. For the purposes of this section, the curriculum for an educational course established by the Department may include, without limitation:

- (a) The pertinent laws and regulations related to the control of emissions of motor vehicles;
- (b) Procedures for emission control inspections of motor vehicles;
- (c) The responsibilities of owners of test stations; and
- (d) A review of the penalties which may be imposed on the owner of a test station or an approved inspector for future violations of NRS 445B.700 to 445B.845, inclusive, or any rule, regulation or order adopted or issued pursuant thereto.

(Added to NAC by Dep't of Motor Veh. by R003-04, eff. 2-3-2005)

### **Miscellaneous Provisions**

#### **NAC 445B.727 Administrative fines and other penalties. (NRS 445B.785, 445B.835, 481.051)**

1. Except as otherwise provided in subsections 2 and 3 and NAC 445B.7045, if the Department imposes administrative fines pursuant to the provisions of NRS 445B.835, it will impose such fines for violations occurring within the 2-year period immediately preceding the most recent offense according to the following schedule:

- (a) For a first offense, a fine of not less than \$100 or more than \$500.
- (b) For a second offense, a fine of not less than \$500 or more than \$1,000.
- (c) For a third offense, a fine of not less than \$1,000 or more than \$1,500.
- (d) For a fourth or subsequent offense, a fine of not less than \$1,500 or more than \$2,500.

↪ For the purposes of paragraphs (b), (c) and (d), a cease and desist order issued by the Department shall be deemed to be a first offense.

2. If the Department imposes administrative fines on an owner or operator of a heavy-duty motor vehicle powered by diesel for a violation of the standards of opacity established pursuant to NRS 445B.780, it will impose such fines for violations occurring within the 1-year period immediately preceding the most recent offense according to the following schedule:

(a) For a first offense, a fine of \$800. The Department will not impose this fine if demonstration of correction is provided within 45 calendar days after the receipt of the citation.

- (b) For a second or subsequent offense, a fine of \$1,500.

↪ For the purposes of paragraph (b), a cease and desist order issued by the Department shall be deemed to be a first offense.

3. The Department may impose a fine of not less than \$1,500 or more than \$2,500 for any violation of NAC 445B.460 or subsection 4 of NRS 445B.840.

4. Any person who has been fined pursuant to the provisions of NRS 445B.835 shall make payment to the Department not later than the date specified in the notice of the violation, unless he has requested a hearing pursuant to subsection 1 of that section.

5. Upon the failure of a person to pay a fine imposed pursuant to the provisions of this section when it becomes due, the Director may suspend, revoke or refuse to issue any license obtained pursuant to the provisions of chapter 445B of NRS.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 11-23-92; A 12-4-96; A by Dep't of Motor Veh. by R003-04, 2-3-2005)

**NAC 445B.735 Program for licensure to install, repair and adjust devices for control of emissions. (NRS 445B.210, 445B.770, 445B.785)** A program for the licensure of authorized inspection stations and persons qualified to install, repair and adjust devices for the control of emissions in motor vehicles is hereby established. The program, which is to be established by the Department in compliance with the requirements of 40 C.F.R. § 51.367, must include, without limitation, a procedure for reporting for persons qualified to install, repair and adjust devices for the control of emissions in motor vehicles.

(Added to NAC by Environmental Comm'n, eff. 3-23-94; A by Dep't of Motor Veh. & Pub. Safety by R079-98, 9-25-98)

### **Control of Emissions: Heavy-Duty Motor Vehicles**

**NAC 445B.737 Definitions. (NRS 445B.210, 445B.780)** As used in NAC 445B.737 to 445B.774, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.739 to 445B.762, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Environmental Comm'n, eff. 10-22-92; A 5-3-96, eff. 7-1-96; R102-02, 10-18-2002)

**NAC 445B.739 "Certification level" defined. (NRS 445B.210, 445B.780)** "Certification level" means the maximum allowable level of opacity for a diesel engine with a 1970 or newer model year, as set by the Commission in NAC 445B.7665.

(Added to NAC by Environmental Comm'n, eff. 10-22-92; A 5-3-96, eff. 7-1-96; R102-02, 10-18-2002)

**NAC 445B.740 "Citation" defined. (NRS 445B.210, 445B.780)** "Citation" means a written communication issued by the Department to the owner or driver of a heavy-duty motor vehicle that is in violation of the provisions of NAC 445B.737 to 445B.774, inclusive, which requires the owner to repair the vehicle and to pay a fine.

(Added to NAC by Environmental Comm'n, eff. 10-22-92; A 5-3-96, eff. 7-1-96)

**NAC 445B.7405 "Commission" defined. (NRS 445B.210, 445B.780)** "Commission" means the State Environmental Commission.

(Added to NAC by Environmental Comm'n, 5-3-96, eff. 7-1-96)

**NAC 445B.741 "Demonstration of correction" defined. (NRS 445B.210, 445B.780)** "Demonstration of correction" means:

1. A receipt evidencing repair from a repair facility;
2. A completed work order from a fleet repair facility or a fleet maintenance facility; or
3. The successful completion of a post-repair test or a post-repair inspection.

(Added to NAC by Environmental Comm'n, eff. 10-22-92)—(Substituted in revision for NAC 445.9463)

**NAC 445B.742 "Department" defined. (NRS 445B.210, 445B.780)** "Department" means the Department of Motor Vehicles.

(Added to NAC by Environmental Comm'n, eff. 10-22-92)—(Substituted in revision for NAC 445.9464)

**NAC 445B.743 “Director” defined. (NRS 445B.210, 445B.780)** “Director” means the Director of the Department or his designated representative.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9465)

**NAC 445B.744 “Driver” defined. (NRS 445B.210, 445B.780)** “Driver” has the meaning ascribed to it in NRS 483.063.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9466)

**NAC 445B.745 “Emission control label” defined. (NRS 445B.210, 445B.780)** “Emission control label” means the label required by 40 C.F.R. Part 86, Subpart A.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9467)

**NAC 445B.746 “Emission control system” defined. (NRS 445B.210, 445B.780)** “Emission control system” means the components for controlling pollution that are present on an engine at the time that model of engine is certified. For a heavy-duty motor vehicle powered by a diesel engine, the term includes the emission control label.

(Added to NAC by Environmental Comm’n, eff. 10-22-92; A by R102-02, 10-18-2002)

**NAC 445B.747 “Fleet” defined. (NRS 445B.210, 445B.780)** “Fleet” means three or more heavy-duty motor vehicles that are owned, operated or leased by the same person.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9469)

**NAC 445B.749 “Heavy-duty motor vehicle” defined. (NRS 445B.210, 445B.780)** “Heavy-duty motor vehicle” means a motor vehicle having a manufacturer’s gross vehicle weight rating of 8,500 pounds or more.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.947)

**NAC 445B.750 “Inspection procedure” defined. (NRS 445B.210, 445B.780)** “Inspection procedure” means the test procedure carried out pursuant to the provisions of NAC 445B.767 and the inspection of an emission control system carried out pursuant to the provisions of NAC 445B.768.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9471)

**NAC 445B.751 “Inspector” defined. (NRS 445B.210, 445B.780)** “Inspector” means an employee of the Department whose primary duty is the enforcement of standards for air quality.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9472)

**NAC 445B.755 “Officer” defined. (NRS 445B.210, 445B.780)** “Officer” means a uniformed employee of the Nevada Highway Patrol Division of the Department.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9473)

**NAC 445B.756 “Opacity” defined. (NRS 445B.210, 445B.780)** “Opacity” means the percentage of light obstructed from passing through the exhaust plume of a motor vehicle.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9474)



**NAC 445B.757 “Post-repair test” defined. (NRS 445B.210, 445B.780)** “Post-repair test” means a test conducted after the issuance of a citation to determine whether a vehicle has been repaired to meet the requirements of an inspection procedure.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9475)

**NAC 445B.758 “Repair facility” defined. (NRS 445B.210, 445B.780)** “Repair facility” means any location where a heavy-duty motor vehicle is repaired, rebuilt, reconditioned or in any way maintained for members of the public at a charge. The term includes a fleet maintenance facility.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9476)

**NAC 445B.759 “Smokemeter” defined. (NRS 445B.210, 445B.780)** “Smokemeter” means a detection device used to measure the opacity of smoke by percentage.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9477)

**NAC 445B.760 “Snap-idle cycle” defined. (NRS 445B.210, 445B.780)** “Snap-idle cycle” means rapidly depressing the accelerator pedal from normal idle to the position at which the delivery of fuel to the engine is at maximum flow, holding the pedal in this position for no longer than 10 seconds or until the engine reaches maximum revolutions per minute, and then releasing the pedal to allow the engine to decelerate to its normal idle.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9478)

**NAC 445B.761 “Tampered” defined. (NRS 445B.210, 445B.780)** “Tampered” means missing, modified or disconnected.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9479)

**NAC 445B.762 “Test procedure” defined. (NRS 445B.210, 445B.780)** “Test procedure” means the processes of the preconditioning sequence and the measurement of the opacity of smoke to determine whether a vehicle meets the relevant standard of opacity set forth in NAC 445B.7665.

(Added to NAC by Environmental Comm’n, eff. 10-22-92; A 5-3-96, eff. 7-1-96; R102-02, 10-18-2002)

**NAC 445B.765 Applicability. (NRS 445B.210, 445B.780)** The provisions of NAC 445B.737 to 445B.774, inclusive, apply to all heavy-duty motor vehicles operating in this State.

(Added to NAC by Environmental Comm’n, eff. 10-22-92; A 5-3-96, eff. 7-1-96)

**NAC 445B.7665 Standards of opacity; citation for violation; equipment for measurement. (NRS 445B.210, 445B.780)**

1. Except as otherwise provided in this section and NAC 445B.774, no owner or driver of a heavy-duty motor vehicle powered by:

(a) A 1991 or newer model-year engine may cause or permit the discharge into the atmosphere of engine exhaust from the vehicle which is of an opacity greater than 40 percent.

(b) A 1977 to 1990 model-year engine may cause or permit the discharge into the atmosphere of engine exhaust from the vehicle which is of an opacity greater than 55 percent.

(c) A 1970 to 1976 model-year engine may cause or permit the discharge into the atmosphere of engine exhaust from the vehicle which is of an opacity greater than 70 percent.

2. A vehicle will not be cited as violating any smoke opacity standard listed in subsection 1 unless the opacity reading is at least 1 full percentage point greater than the relevant standard.

3. Before July 1, 2003, the Director may authorize opacity testing that uses equipment for the measurement of smoke opacity without the built-in capability to adjust the opacity readings to take ambient conditions into consideration as required by the Society of Automotive Engineers Procedure, SAE J1667, "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles." If the smoke opacity of a heavy-duty motor vehicle is tested using equipment authorized for use by the Director pursuant to this subsection, the owner or driver of a heavy-duty motor vehicle is not in violation of the provisions of subsection 1 unless the discharge into the atmosphere of engine exhaust is of an opacity greater than 70 percent. On and after July 1, 2003, only equipment that has the built-in capability to adjust the opacity readings to take ambient conditions into consideration as required by the Society of Automotive Engineers Procedure, SAE J1667, "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles," may be used to measure smoke opacity.

4. A family of engines that has been exempted by the California Air Resources Board pursuant to section 2182(b) of Title 13 of the *California Code of Regulations* is not subject to the standards set forth in subsection 1. Such a family of engines is subject to the technologically appropriate less stringent opacity standard identified by the Executive Director of the California Air Resources Board pursuant to section 2182(b) of Title 13 of the *California Code of Regulations* for that family of engines, plus 5 percentage points.

(Added to NAC by Environmental Comm'n, 5-3-96, eff. 7-1-96; A by R102-02, 10-18-2002)

**NAC 445B.767 Specifications for equipment for measurement of smoke opacity; test procedure. (NRS 445B.210, 445B.780)**

1. Equipment for the measurement of smoke opacity must meet the specifications set forth in section 6 of the Society of Automotive Engineers Procedure, SAE J1667, "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles."

2. The test procedure must comply with the provisions of section 5 of SAE J1667, including the preparation phase and preconditioning phase set forth in subsections 1, 2 and 3 of section 5 of SAE J1667.

(Added to NAC by Environmental Comm'n, eff. 10-22-92; A 5-3-96, eff. 7-1-96; R102-02, 10-18-2002)

**NAC 445B.768 Components of vehicle subject to inspection for tampered or defective conditions. (NRS 445B.210, 445B.780)**

1. During an inspection of an emission control system, the components for emission control for heavy-duty motor vehicles powered by diesel engines that are subject to inspection for tampered or defective conditions include:

- (a) The engine governor.
- (b) Any seal or cover protecting the adjustments to control the ratio of air to fuel.
- (c) Any seal or cover on the fuel injection pump.
- (d) The air cleaner and the indicator of the restriction of flow.
- (e) The exhaust gas recirculation valve.
- (f) The particulate matter trap system or catalytic converter system, including related pipes and valves.
- (g) Any hose, connector, bracket or hardware related to the components listed in paragraphs (a) to (f), inclusive.
- (h) Engine computer controls, including related sensors and actuators.
- (i) The emission control label.
- (j) Any other components related to emissions for a particular vehicle or engine as determined from the manufacturer's specifications, emission control label, certification data or a published manual of parts for the vehicle.

2. During an inspection of an emission control system, the components for emission control for a heavy-duty motor vehicle powered by a gasoline engine that are subject to inspection for tampered or defective conditions include:

- (a) The air injection system.
- (b) The exhaust gas recirculation system.
- (c) The catalytic converter, including related pipes and valves.
- (d) The fuel inlet restricter.
- (e) The fuel inlet cap, if the motor vehicle was originally equipped by the manufacturer with such a cap.
- (f) Any hose, connector, bracket or hardware related to the components listed in paragraphs (a) to (e), inclusive.

3. As used in this section, “defective” means an emission control system or a component of an emission control system that is malfunctioning due to age, wear, faulty maintenance or a defect in design.

(Added to NAC by Environmental Comm’n, eff. 10-22-92; A by R102-02, 10-18-2002)

**NAC 445B.7685 Missing emission control label: Replacement; effect on standard of opacity. (NRS 445B.210, 445B.780)**

1. If the owner of a heavy-duty motor vehicle powered by a diesel engine receives written notification from the Department that the emission control label was missing during an inspection of the emission control system of the vehicle, the owner shall replace the emission control label and provide the identification number of the engine of the vehicle to the Department within 30 days after the date on which the owner receives the written notification.

2. If, after the end of the 30-day period, the vehicle undergoes a smoke opacity test and the owner has not replaced the emission control label, the vehicle is subject to the 40 percent standard of opacity set forth in subsection 1 of NAC 445B.7665 unless, at the time of the subsequent test, it is plainly evident from a visual inspection that the vehicle is powered by a 1990 or older model-year engine. If it is plainly evident from a visual inspection that the vehicle is powered by a 1990 or older model-year engine, the vehicle is subject to the applicable standard set forth in paragraph (b) or (c) of subsection 1 of NAC 445B.7665.

(Added to NAC by Environmental Comm’n by R102-02, eff. 10-18-2002)

**NAC 445B.769 Duties of driver of vehicle selected for inspection; duties of inspector. (NRS 445B.210, 445B.780)**

1. The driver of any heavy-duty motor vehicle powered by a diesel engine that is selected to undergo an inspection procedure shall, upon the request of an officer or inspector:

- (a) Drive the vehicle to the inspection site.
- (b) Perform the functions required for a test procedure.
- (c) Open the door of the vehicle to enable the inspector to observe the depression of the accelerator pedal.
- (d) Permit the inspection of the vehicle’s emission control system.
- (e) If a citation is issued, sign the citation to acknowledge its receipt and sign the smoke test strip chart to acknowledge the performance of the test procedure.

2. The driver of a heavy-duty motor vehicle powered by a gasoline engine that is selected to undergo an inspection procedure shall, upon the request of an officer or inspector:

- (a) Drive the vehicle to the inspection site.
- (b) Permit an inspection of the emission control system.
- (c) If a citation is issued, sign the citation to acknowledge its receipt.

3. The inspector performing an inspection procedure shall:

(a) Advise the driver that his refusal to submit to the inspection procedure will result in the issuance of a citation.

(b) Issue a citation to the driver of any vehicle that fails either part of the inspection procedure or to any driver who refuses to submit to the inspection procedure.

4. As used in this section, “inspection site” means an area, including a random roadside location, a weigh station, or a fleet facility used to conduct a test procedure on a heavy-duty motor vehicle, or an inspection of an emission control system of a heavy-duty motor vehicle, or both.

(Added to NAC by Environmental Comm’n, eff. 10-22-92; A 5-3-96, eff. 7-1-96)

**NAC 445B.770 Refusal of owner or driver to submit vehicle to inspection. (NRS 445B.210, 445B.780)** If an owner or driver of a vehicle refuses to submit his vehicle to an inspection procedure pursuant to NAC 445B.769, it constitutes a failure of the inspection procedure, unless the driver is cited by an officer for a violation of NRS 484.701.

(Added to NAC by Environmental Comm’n, eff. 10-22-92)—(Substituted in revision for NAC 445.9486)

**NAC 445B.771 Demonstration of correction of vehicle after issuance of citation; post-repair or inspection required by Director under certain circumstances. (NRS 445B.210, 445B.780)**

1. An owner of a vehicle who has been issued a citation may demonstrate correction of the vehicle by:

(a) Submitting to the Director a receipt evidencing repair from a repair facility or a completed work order from a fleet repair facility or a fleet maintenance facility. The receipt or work order must include:

(1) The name, address and telephone number of the facility;

(2) The name of the mechanic;

(3) The date of the repair;

(4) A description of any repair or adjustment made to the vehicle; and

(5) An itemized list of all replaced components, including a description of the part, number of the part and the cost of the part.

(b) Submitting the vehicle to a post-repair test or a post-repair inspection.

2. The Director shall require a post-repair test or post-repair inspection if:

(a) A submitted receipt evidencing repair or a submitted work order does not meet the requirements of paragraph (a) of subsection 1;

(b) A receipt or work order appears to be falsified; or

(c) A second or subsequent failure of either part of an inspection procedure on the vehicle occurs within 1 year after the most recent citation was issued.

3. As used in this section, “post-repair inspection” means a subsequent inspection of an emission control system for the purpose of determining compliance of a vehicle that has been cited for violating a standard of opacity set forth in NAC 445B.7665.

(Added to NAC by Environmental Comm’n, eff. 10-22-92; A 5-3-96, eff. 7-1-96; R102-02, 10-18-2002)

**NAC 445B.772 Removal of vehicle from service for outstanding citations; release and repair of vehicle. (NRS 445B.210, 445B.780)**

1. A vehicle may be removed from service by the Nevada Highway Patrol Division of the Department if:

(a) The Director requests its removal; and

(b) One or more uncleared citations are outstanding for the vehicle at the time of its inspection.

2. Upon payment by cashier’s check or money order of all unpaid penalties for a vehicle that has been removed from service, the Director shall provide the owner or his designated representative a release form for presentation to the Nevada Highway Patrol Division of the Department.

3. A vehicle that is released must be repaired and undergo a post-repair test or post-repair inspection within 15 calendar days after its release.

4. As used in this section:

(a) "Remove from service" means the towing and storage of a vehicle under the direction of the Nevada Highway Patrol Division of the Department.

(b) "Uncleared citation" means a citation for which demonstration of correction and, if required, payment of a penalty has not been made.

(Added to NAC by Environmental Comm'n, eff. 10-22-92)—(Substituted in revision for NAC 445.9488)

**NAC 445B.773 Request for administrative hearing. (NRS 233B.050, 445B.210, 445B.780)** Any person cited for violating the provisions of NAC 445B.737 to 445B.774, inclusive, may request an administrative hearing pursuant to the provisions of NRS 233B.121. The request must be made in writing and submitted to the Department within 10 days after the date of receipt of the citation. The failure of the owner of the vehicle to request such a hearing within this time operates as a waiver of his right to request such a hearing.

(Added to NAC by Environmental Comm'n, eff. 10-22-92; A 5-3-96, eff. 7-1-96)

**NAC 445B.774 Waiver from standard of opacity. (NRS 445B.210, 445B.780, 445B.825)**

1. The Director may grant a waiver from a standard of opacity set forth in NAC 445B.7665.

2. Except as otherwise provided in this section, an application for a waiver must include a receipt or receipts or other evidence that at least \$1,000 has been spent on parts other than a catalytic converter, fuel inlet restricter, air injection system, exhaust gas recirculation valve, fuel cap or particulate matter trap system, or on labor other than emission testing if the repairs evidenced by the receipt were directly related to the deficiency in emissions.

3. If the vehicle is repaired by the owner, the application must include a receipt or receipts or other evidence that at least \$750 has been spent on parts other than a catalytic converter, fuel inlet restricter, air injection system, exhaust gas recirculation valve, fuel cap or particulate matter trap system and that the parts were purchased within 15 days after the initial test or inspection. No allowance will be made toward the \$750 requirement for labor on a vehicle repaired by its owner.

4. The Director shall deny an application for a waiver if the parts have not been installed or the repairs have not been performed as indicated on the receipt or receipts presented to the Director.

5. A vehicle that qualifies for repairs under a warranty is not eligible for a waiver.

6. A waiver is valid for 1 year after the date it is issued.

(Added to NAC by Environmental Comm'n, eff. 10-22-92; A 5-3-96, eff. 7-1-96; R102-02, 10-18-2002)

## GRANTS FROM POLLUTION CONTROL ACCOUNT

**NAC 445B.850 Definitions. (NRS 445B.830)** As used in NAC 445B.850 to 445B.873, inclusive, unless the context otherwise requires:

1. "Committee" means the Advisory Committee on the Control of Emissions From Motor Vehicles created pursuant to NRS 445B.830.

2. "Division of Environmental Protection" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

3. "Fiscal year" means the period from July 1 to June 30 of the succeeding year.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90)—(Substituted in revision for NAC 445.950)

**NAC 445B.853 Advisory Committee on the Control of Emissions From Motor Vehicles: Creation; membership; Chairman. (NRS 445B.830)**

1. The Advisory Committee on the Control of Emissions From Motor Vehicles is hereby created.

2. The Committee consists of 11 members appointed by the Deputy Director of the Department of Motor Vehicles. The Deputy Director shall appoint:

- (a) Two persons who are representatives of the Department of Motor Vehicles;
- (b) Two persons who are representatives of the Division of Environmental Protection;
- (c) Two persons who are representatives of the Clark County Department of Air Quality and Environmental Management;
- (d) One person who is a representative of the Department of Transportation;
- (e) One person who is a representative of the State Department of Agriculture;
- (f) One person who is a representative of the Washoe County District Health Department;
- (g) One person who is a representative of the Truckee Meadows Regional Planning Agency;
- (h) One person, as a nonvoting member, who is a representative of the United States Environmental Protection Agency, Region IX; and
- (i) One person, as an alternate member, for each person described in paragraphs (a) to (h), inclusive.

3. The Deputy Director of the Department of Motor Vehicles shall:

(a) Appoint the members of the Committee from a list submitted by the chief administrative officer of each agency represented on the Committee.

(b) Designate one of the members of the Committee to act as its Chairman.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A 5-26-92; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.855 Advisory Committee on the Control of Emissions From Motor Vehicles: Term of Chairman; terms, salaries and removal of members. (NRS 445B.830)**

1. Unless he is removed pursuant to the provisions of subsection 3:

(a) The Chairman of the Committee serves in that capacity for a term of not more than 2 years, as determined by the Deputy Director of the Department of Motor Vehicles, and may be reappointed.

(b) Each member and alternate member of the Committee serves a term of 2 years and may be reappointed. Any person appointed to replace a member or alternate member before the expiration of his term serves during the unexpired portion of that term.

2. Members of the Committee serve without salary.

3. Any member or alternate member of the Committee must be removed upon written request for his removal made by the chief administrative officer of the agency he represents. Any such request must be submitted to the Deputy Director of the Department of Motor Vehicles.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.857 Advisory Committee on the Control of Emissions From Motor Vehicles: Meetings; quorum; minutes. (NRS 445B.830)**

1. The Committee shall meet at least quarterly, or more frequently at the call of the Chairman, at the time and place designated by the Chairman.

2. A majority of all appointed members who are eligible to vote constitutes a quorum. The affirmative votes of a majority of the members present are necessary to adopt a recommendation or approve action.

3. The Chairman shall cause written minutes of each meeting to be made and shall forward a copy of the minutes to the Deputy Director of the Department of Motor Vehicles and to the Administrator of the Division of Environmental Protection.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A 5-26-92; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.859 Eligibility for grant. (NRS 445B.830)** An agency is eligible for a grant from the money allocated for grants in subsection 6 of NRS 445B.830 if the agency meets the requirements of that subsection and is:

1. Responsible for preparing and submitting an implementation plan pursuant to 42 U.S.C. § 7407; or
2. Responsible for monitoring air pollution and enforcing air pollution control regulations.  
(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A 5-26-92; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.861 Application for grant: Submission; contents. (NRS 445B.830)**

1. An application for a grant must be submitted to the Deputy Director of the Department of Motor Vehicles, the Administrator of the Division of Environmental Protection and the Chairman of the Committee not later than April 1 preceding the fiscal year for which the grant is requested.

2. The application must:
  - (a) Contain the name and address of the agency making the application;
  - (b) Contain the name and telephone number of any person responsible for coordinating the proposed project or, if there is no such person, the chief administrative officer of the applicant;
  - (c) Specify the fiscal year for which the grant is requested;
  - (d) State the specific objectives of the request;
  - (e) Contain a description of the manner in which the request is related to the improvement of air quality;
  - (f) Contain a statement of the work that is planned to be performed; and
  - (g) Set forth a program budget, itemized under applicable categories of expenditures, including, without limitation, professional services, personnel, travel, operating expenses and equipment.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A 5-26-92; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.863 Application for grant: Action by Committee. (NRS 445B.830)**

1. The Chairman of the Committee shall schedule a meeting of the Committee not later than April 15 preceding the fiscal year for which the grant is requested.

2. The Committee shall review the application at the meeting scheduled pursuant to subsection 1 and determine:

- (a) Whether the applicant is eligible for a grant;
- (b) Whether the request is related to the improvement of air quality;
- (c) The merit of the project; and
- (d) The likelihood of success of the project.

3. Based upon its determinations, the Committee shall recommend that the application be approved as submitted, that it be approved with specified changes or that it be denied.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.865 Application for grant: Consideration of Committee's recommendation; submission to Interim Finance Committee; agreement concerning grant. (NRS 445B.830)**

1. The recommendation of the Committee concerning an application must be transmitted by the Chairman of the Committee to the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection not later than 5 working days after the Committee conducted the review of the application pursuant to NAC 445B.863.

2. The Administrator of the Division of Environmental Protection shall consider the recommendation of the Committee and shall approve the application, disapprove it or approve it pending revision of the application. The Administrator shall transmit his decision to the Deputy

Director of the Department of Motor Vehicles not later than 10 working days after he receives the recommendation of the Committee.

3. The Deputy Director of the Department of Motor Vehicles shall consider the recommendation of the Committee and shall approve the application, disapprove it or approve it pending revision of the application.

4. If both the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection approve an application, the Deputy Director shall cause the proposed grant to be submitted for approval by the Interim Finance Committee.

5. If the Interim Finance Committee approves the grant, the Deputy Director of the Department of Motor Vehicles shall enter into an agreement with the recipient of the grant, specifying the terms and conditions under which the grant is made.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.867 Period of grant; return of unexpended money; authorization to expend money for additional fiscal year. (NRS 445B.830)**

1. A grant must be awarded for a period of 2 fiscal years.

2. Except as otherwise provided in subsection 4, if any money from a grant remains unexpended at the end of the period for which the grant is made, the recipient shall return any unexpended money to the Department of Motor Vehicles.

3. Not later than 60 days before the expiration of the period authorized for the expenditure of money from a grant, the recipient of a grant may submit a request in writing to the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection for authorization to expend money from a grant for an additional fiscal year. The request must include:

- (a) The name and address of the recipient submitting the request;
- (b) The name and telephone number of any person responsible for coordinating the project or, if there is no such person, the chief administrative officer of the recipient;
- (c) The reasons for which the request is submitted;
- (d) A statement specifying the fiscal year during which the grant was originally awarded;
- (e) A statement specifying the amount of work remaining on the project; and
- (f) A statement specifying the amount of money that remains unexpended from the original grant.

4. If both the Deputy Director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection approve a request submitted pursuant to subsection 3, the Deputy Director, the Administrator and the recipient of the grant may enter into a written agreement authorizing the recipient to expend money from a grant for an additional fiscal year.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.869 Quarterly reports by recipient of grant. (NRS 445B.830)**

1. The recipient of a grant shall, during each fiscal year for which the grant is made, submit to the Deputy Director of the Department of Motor Vehicles quarterly reports on the status of the project supported by the grant. These reports are due no later than 45 days after October 1, January 1, April 1 and July 1, respectively.

2. Each report must, for the preceding quarter:

- (a) Contain a statement that sets forth:
    - (1) The date on which the request for the grant was approved by the Committee;
    - (2) The date on which the funding for the grant was approved by the Interim Finance Committee;
    - (3) The total amount of the money approved for the grant;
    - (4) The amount of money expended during each quarter since the approval of the grant;
- and
- (5) The amount of money remaining unexpended from the grant;



(b) Contain a description of progress made toward completion of the stated objectives of the project;

(c) Include a narrative summary of noteworthy accomplishments and problems encountered in connection with the project;

(d) Contain an itemized list of approved expenditures, shown by budget category, that have been made; and

(e) Be accompanied by original invoices or other acceptable evidence of these expenditures.

3. Each report may be accompanied by:

(a) Graphic or tabular displays;

(b) Media reports concerning the project; or

(c) Other related materials related to the project, such as papers prepared for professional meetings, published articles or brochures.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.871 Termination of grant or suspension of payments; denial of or refusal to consider application for grant. (NRS 445B.830)**

1. The Deputy Director of the Department of Motor Vehicles may terminate a grant or suspend payments of money pursuant to the grant for any of the following reasons, among others:

(a) Failure or refusal of the recipient of the grant to submit any report required by NAC 445B.869;

(b) Failure or refusal of the recipient to provide any information or assistance required in connection with any audit; or

(c) Misuse or use for a nonapproved purpose of any money from the grant.

2. The Deputy Director of the Department of Motor Vehicles may deny or refuse to consider an application for a grant made by a person who has previously violated any term or condition of a grant or of the provisions of NAC 445B.850 to 445B.871, inclusive.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 6-20-90; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**NAC 445B.873 Prerequisites to award of grant. (NRS 445B.830)**

1. Except as otherwise provided in subsection 2, the Department of Motor Vehicles shall award grants from the Pollution Control Account in accordance with subsection 6 of NRS 445B.830 if the Account contains sufficient money for this purpose.

2. The Department of Motor Vehicles shall not award a grant from the Pollution Control Account for a proposed project or program unless the project or program is designed to improve or maintain the quality of air.

(Added to NAC by Dep't of Motor Veh. & Pub. Safety, eff. 5-26-92; A by Dep't of Motor Veh. by R135-05, 2-23-2006)

**PRACTICE BEFORE THE STATE ENVIRONMENTAL COMMISSION**

**NAC 445B.875 Definitions. (NRS 233B.050)**

1. As used in NAC 445B.875 to 445B.899, inclusive, unless the context otherwise requires, the words and terms defined in NAC 445B.877 to 445B.884, inclusive, have the meanings ascribed to them in those sections.

2. The meanings ascribed to words not included in NAC 445B.877 to 445B.884, inclusive, are in accordance with applicable sections of NAC governing air quality, water pollution or solid waste management and of chapters 444, 445A and 445B of NRS.

[Environmental Comm'n, Practice Rule 1 § B, eff. 1-7-73; A and renumbered as § 1.2, 1-9-76]—(NAC A 11-9-95; R227-03, 4-20-2004)

**NAC 445B.877 “Appellant” defined. (NRS 233B.050)** “Appellant” means any person:

1. Who requests a hearing before the Commission, pursuant to chapter 278, 444, 444A, 445A, 445B, 459, 486A or 519A of NRS or the Commission’s regulations concerning the control of air or water pollution or the management of solid waste; or
2. Whose appearance before the Commission is required by:
  - (a) The Director;
  - (b) An authorized representative of the Director; or
  - (c) A person who is designated by or pursuant to a county or city ordinance or a regional agreement or regulation to enforce local ordinances or regulations for the control of air pollution.

[Environmental Comm’n, Practice Rule 1 § A par. (1), eff. 1-7-73; A 4-3-74; A and renumbered as § 1.1.1, 1-9-76]—(NAC A 10-29-93)—(Substituted in revision for NAC 445.981)

**NAC 445B.879 “Commission” defined. (NRS 233B.050)** “Commission” means the State Environmental Commission or a panel of three or more members of the State Environmental Commission in accordance with NRS 445A.610 and 445B.350, where appropriate.

[Environmental Comm’n, Practice Rule 1 § A par. (2), eff. 4-3-74; A and renumbered as § 1.1.2, 1-9-76]—(Substituted in revision for NAC 445.982)

**NAC 445B.881 “Department” defined. (NRS 233B.050)** “Department” means the State Department of Conservation and Natural Resources.

(Supplied in codification)—(Substituted in revision for NAC 445.983)

**NAC 445B.882 “Director” defined. (NRS 233B.050)** “Director” means the Director of the Department.

[Environmental Comm’n, Practice Rule 1 § A par. (3), eff. 4-3-74; renumbered as § 1.1.3, 1-9-76]—(Substituted in revision for NAC 445.984)

**NAC 445B.884 “Person” defined. (NRS 233B.050)** “Person” has the meaning ascribed to it in NRS 445B.150.

[Environmental Comm’n, Practice Rule 1 § A par. (4), eff. 1-7-73; A 4-3-74; renumbered as § 1.1.4, 1-9-76]—(Substituted in revision for NAC 445.985)

**NAC 445B.886 Petitions to adopt, file, amend or repeal regulations. (NRS 233B.050)**

1. Any interested person may petition the Commission in writing for the adoption, filing, amendment or repeal of any regulation and shall accompany his petition with relevant data, views and arguments as required by form 1.\*

2. Upon submission of a petition, the Commission will within 30 days either deny the petition in writing stating its reasons or initiate regulation-making proceedings in accordance with NRS 444.560, 445A.435 or 445B.215, whichever is applicable.

\*(See adopting agency for form.)

[Environmental Comm’n, Practice Rule 3, eff. 1-9-76]—(Substituted in revision for NAC 445.986)

**NAC 445B.888 Declaratory orders, advisory opinions. (NRS 233B.050)**

1. Any member of the public may petition the Commission for a declaratory order or an advisory opinion as to the applicability of any statutory provision, Commission regulation or decision as required by form 2.\*

2. Upon submission of a petition, the Commission will within 30 days issue a declaratory order or an advisory opinion in writing stating reasons for its action.

\*(See adopting agency for form.)

[Environmental Comm’n, Practice Rule 6, eff. 1-9-76]—(Substituted in revision for NAC 445.987)

**NAC 445B.890 Request for hearing. (NRS 233B.050)** Any person requesting a hearing before the Commission concerning a final decision of the Department may do so by filing a request, within 10 days after notice of the action of the Department, on form 3\* with the State Environmental Commission, 901 S. Stewart Street, Suite 4001, Carson City, Nevada 89701-5249.

\*(See adopting agency for form.)

[Environmental Comm'n, Practice Rule 2, eff. 1-7-73; A 4-3-74; A and renumbered as Rule 8, 1-9-76]—(NAC A 10-29-93; R063-98, 8-4-98; R227-03, 4-20-2004)

**NAC 445B.891 Notice of hearing. (NRS 233B.050)**

1. The Secretary of the Commission will schedule a hearing to be held within 20 days after receipt of the request for a hearing or an order to appear before the Commission.

2. All of the parties must be notified by registered or certified mail of the date thereof which must be no less than 5 days after the date of notification. The notice must include:

- (a) A statement of the time, place and nature of hearing;
- (b) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (c) A reference to the particular sections of NRS and NAC allegedly violated; and
- (d) A brief and concise statement of the matters asserted or the issues involved.

[Environmental Comm'n, Practice Rule 4, eff. 1-7-73; A 4-3-74; A and renumbered as Rule 9, 1-9-76]—(Substituted in revision for NAC 445.989)

**NAC 445B.8915 Intervention in certain proceedings. (NRS 233B.050, 445B.210)**

1. A person, other than a party to a proceeding, who believes that he may be directly and substantially affected by the proceeding may request an order to intervene in the proceeding by filing a written petition for leave to intervene with the Commission.

2. Except as otherwise provided in this subsection, a petition for leave to intervene must be filed with the Commission not later than 10 calendar days after the notice of appeal related to the proceeding in which the intervention is sought is filed with the Commission pursuant to the provisions of NRS 445B.340. The petitioner shall serve a notice of a petition for leave to intervene upon each party to the proceeding. A party may file a response to the petition within 5 calendar days after receipt of the petition. If a petitioner files a petition for leave to intervene with the Commission after the period prescribed in this subsection, the petition must set forth the reason for the delay in filing the petition. The petition for leave to intervene must:

- (a) Identify the proceeding in which the petitioner requests leave to intervene;
- (b) Set forth the name and address of the petitioner and, if the petitioner is represented by an attorney or other authorized person, the name, address and telephone number of the attorney or other authorized person;
- (c) Contain a clear and concise statement of the direct and substantial interest of the petitioner in the proceeding;
- (d) Set forth the manner in which the petitioner will be affected by the proceeding; and
- (e) Include a statement indicating whether or not the petitioner intends to present evidence in the proceeding.

3. If a petition for leave to intervene demonstrates a direct and substantial interest in the subject matter of the proceeding or any part of the proceeding and does not unreasonably broaden the issues or prejudice any party to the proceeding, the Commission may grant leave to intervene or otherwise appear and participate in the proceeding with respect to the matters set forth in the petition.

4. If it appears during a proceeding that an intervener has no direct or substantial interest in the proceeding or that the public interest does not require his participation in the proceeding, the Commission may dismiss the intervener from the proceeding.

(Added to NAC by Environmental Comm'n by R227-03, eff. 4-20-2004)

**NAC 445B.892 Subpoenas. (NRS 233B.050)**

1. Subpoenas to compel attendance of any person at a hearing or to require the production of books, records or other documents may be issued by the Commission.

2. Requests for the issuance of subpoenas must be made to the Commission in writing no less than 5 days prior to the hearing date, setting forth the reason and necessity for the subpoenas. Upon good cause shown, subpoenas may be issued at the request of any party to the hearing at any time. The Commission may issue any subpoenas on its own initiative without request.

3. All costs incident to subpoenas issued at the request of appellant must be borne by the appellant. The Commission may demand payment of those costs prior to the issuance of the subpoenas.

[Environmental Comm'n, Practice Rule 5, eff. 1-7-73; A 4-3-74; A and renumbered as Rule 10, 1-9-76]—(Substituted in revision for NAC 445.990)

**NAC 445B.8925 Briefs. (NRS 233B.050)**

1. The Commission may, upon its motion or a motion by a party, order briefs to be filed before or after a hearing and shall prescribe the period during which the briefs must be filed.

2. Each brief must be accompanied by an acknowledgment of service or a certificate of mailing for all parties.

(Added to NAC by Environmental Comm'n by R227-03, eff. 4-20-2004)

**NAC 445B.893 Panels to conduct certain hearings; decision of panel. (NRS 233B.050)**

Three or more members of the Commission constitute a proper panel, where appropriate, in accordance with NRS 445A.610 and 445B.350, and a majority of those present must concur in any decision. The decision will be in writing and is a public record.

[Environmental Comm'n, Practice Rule 6, eff. 1-7-73; A 4-3-74; A and renumbered as Rule 11, 1-9-76]—(Substituted in revision for NAC 445.991)

**NAC 445B.894 Change in time or place of hearing; informal disposition of matter. (NRS 233B.050)**

1. Upon good cause shown, the Commission may vacate and reset the time of hearing.

2. Upon good cause shown, the Commission may transfer the place of hearing to a more appropriate location, taking into consideration the convenience and fairness to the witnesses and the parties.

3. Unless otherwise provided by law, informal disposition may be made by all involved parties at any time of any contested case or matter.

[Environmental Comm'n, Practice Rule 7, eff. 1-7-73; A 4-3-74; A and renumbered as Rule 12, 1-9-76]—(Substituted in revision for NAC 445.992)

**NAC 445B.895 Appearance of parties; procedure at hearing. (NRS 233B.050)**

1. The parties may appear in person and may be represented by counsel. All testimony must be given under oath and recorded verbatim pursuant to the provisions of NAC 445B.897.

2. The Commission:

(a) Will determine the order of the presentation of evidence; and

(b) May limit the time and scope of the examination of witnesses and disallow repetitive testimony.

3. Hearings are open to the public until such time as confidential information, within the meaning of chapter 445B of NRS or applicable sections of this chapter or chapter 445A of NAC, is admitted to the record, at which time the hearing will be closed.

[Environmental Comm'n, Practice Rule 8, eff. 1-7-73; A 4-3-74; A and renumbered as Rule 13, 1-9-76]—(NAC A by R227-03, 4-20-2004)

**NAC 445B.8953 Conduct at hearing; maintenance of order. (NRS 233B.050)**

1. A person who appears in a proceeding shall conform to the recognized standards of ethical and courteous conduct as determined by the Commission. All parties to a hearing, their counsel and the spectators shall conduct themselves in a respectful manner.

2. The Commission may take any action which it determines is necessary to maintain order during a hearing, including, without limitation:

- (a) Excluding a party or his attorney or authorized representative from the hearing;
- (b) Excluding a witness from the hearing; and
- (c) Limiting the taking of testimony and presentation of evidence during the hearing.

(Added to NAC by Environmental Comm'n by R227-03, eff. 4-20-2004)

**NAC 445B.8957 Consolidation of proceedings. (NRS 233B.050)**

1. The Commission may consolidate two or more proceedings if it appears that the issues are substantially the same and the rights of the parties will not be prejudiced by the consolidation.

2. At a consolidated hearing, the Commission will determine the order in which the parties introduce evidence and present testimony.

3. If two or more parties have substantially similar interests and positions, the Commission may, at any time during the hearing, limit the number of witnesses who will be allowed to testify.

(Added to NAC by Environmental Comm'n by R227-03, eff. 4-20-2004)

**NAC 445B.896 Findings of Commission. (NRS 233B.050)**

1. At the conclusion of the hearing, the Commission may take the case under submission and will notify the appellant and any other party to the hearing of its findings and recommendations in writing within 30 days after the date of the hearing.

2. Final recommendations will be in writing and will separately state findings of fact and conclusions of law. Findings of fact and recommendations will be based upon substantial evidence. Findings of fact will include a concise statement of the evidentiary facts supporting the findings.

[Environmental Comm'n, Practice Rule 10, eff. 1-7-73; A 4-3-74; A and renumbered as Rule 15, 1-9-76]—(NAC A by R227-03, 4-20-2004)

**NAC 445B.897 Record of hearing. (NRS 233B.050)**

1. Each hearing must be recorded electronically. An electronic recording of the hearing must be made available for inspection or copying. A party who requests a copy of an electronic recording must pay the cost to copy the recording.

2. In addition to the provisions of subsection 1, a party may request that a hearing be recorded by a court reporter who is certified pursuant to chapter 656 of NRS. A party who requests that a hearing be recorded by a court reporter must pay the costs relating to the services of the court reporter, including the cost charged by the court reporter for providing a transcript of the hearing.

[Environmental Comm'n, Practice Rule 12, eff. 1-7-73; A and renumbered as Rule 11, 4-3-74; renumbered as Rule 16, 1-9-76]—(NAC A by R227-03, 4-20-2004)

**NAC 445B.899 Petitions for reconsideration or rehearing. (NRS 233B.050)**

1. A petition for reconsideration must specifically:

(a) Identify each portion of the challenged decision which the petitioner deems to be unlawful, unreasonable, or based on erroneous conclusions of law or mistaken facts; and

(b) Cite those portions of the record, the law or the rules of the Commission which support the allegations in the petition. The petition may not contain additional evidentiary matter or require the submission or taking of evidence.

2. A petition for rehearing must:
  - (a) Allege that a decision is in error because of an incomplete or inaccurate record;
  - (b) Specifically set forth the nature and purpose of any additional evidence to be introduced;and
  - (c) Show that such evidence is not merely cumulative and could not have been introduced at the hearing.
3. A petition for reconsideration or rehearing of a decision must be served upon all parties of record within 15 days after the effective date of the decision.
4. An answer to a petition for reconsideration or rehearing may be filed with the Commission by any party of record in the proceeding within 5 days after the filing of the petition. The answer must be confined to the issues contained in the petition and served upon all parties of record. Proof of service must be attached to the answer.
5. The Commission will grant or deny a petition for reconsideration or rehearing within 10 days after the date of the filing of the petition. The denial of a petition may be on the record without a separate decision.
6. Unless otherwise ordered by the Commission, the filing of a petition for reconsideration or rehearing or the granting of such a petition does not excuse compliance with, or suspend the effectiveness of, the challenged decision.
7. If the Commission grants a petition for reconsideration, it will reexamine the record and decision with regard to the issues on which reconsideration was granted and issue a modified final decision or affirm its original decision within 20 days after the petition is granted.
8. If the Commission grants a petition for rehearing, it will, within 20 days thereafter, conduct a hearing to allow the parties to present additional evidence and will issue a modified final decision or affirm its original decision.
9. A modified final decision of the Commission issued upon reconsideration or rehearing will incorporate those portions of the original decision which are not changed by the modified final decision.
10. A modified final decision of the Commission or the affirmation of an original decision of the Commission is a final decision for the purposes of judicial review.  
(Added to NAC by Environmental Comm'n, eff. 11-9-95)