

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 94008

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-015-94

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

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Nevada State Environmental Commission

Classification [] Proposed [] Adopted By Agency [XX] Temporary [] Emergency []

Brief description of action: Petition 94008 (LCB R-015-94) amended NAC 445.430 to 445.846 inclusive and regulations previously adopted by the Environmental Commission on November 3, 1993. The **permanent** amendments addressed deficiencies in the air quality regulations concerning the review of new sources of air pollution in nonattainment areas and to incorporate comments received from the U.S. EPA concerning Nevada's newly adopted integrated New Source Review/Title V Operating Permit Program. Sections 16, 21, 31, 32, 33, 39, 42, 43, 44, 45, 46, 47, 49, 71, 73, 75, 76, of petition 94002 (LCB file R-138-93) were amended by this petition. Section 56 of R-138-93 was repealed. The petition added new definitions, clarified the public noticing process and created the provision for shielding of applicants from the failure of the Division of Environmental Protection to act during the permitting process.

Authority citation other than 233B: NRS 445.461

Notice date: February 1, 1994; February 2, 1994; February 16, 1994 & February 24, 1994

Hearing date: March 3, 1994

Date of Adoption of Agency: March 3, 1994

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PETITION 94008
LCB R-015-94**

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code Chapter 445 by the State Environmental Commission (SEC).

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 94008 was noticed four (4) times: February 1, February 2, February 16 and February 24, 1994 in the Las Vegas Review and Reno Gazette-Journal newspapers. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. No comments were received from the general public regarding this petition.

2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1. Comments and hearing minutes may be secured from the Office of the State Environmental Commission located in Carson City, Nevada at 333 W. Nye Lane, Room 128. Two comments were received in regards to this petition from the Nevada Mining Association and Nevada Power Company. Nevada Power Company was concerned about section 35 of petition 94008 and the impact of having to track emissions from insignificant activities. The Nevada Mining Association also expressed concern about section 35 and insignificant activities. Additionally, the Mining Association expressed concern about the potential abuse of the general permit program by potential permittee and the impact of section 26 that treats responses to requests for information.

3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulations were adopted at the SEC hearing on March 3, 1994 with amendments to section 20 and 30 of LCB R-015-94 to reflect the aforementioned comments.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and**
- (b) Both immediate and long-term effects.**

- a. There are no adverse or beneficial economic effects on the public or regulated sources. The new source review provisions will apply only to proposed sources under state jurisdiction locating the Washoe county nonattainment area. The only sources regulated by the state in Washoe county are power plants. The changes to the operating permit program provisions are refinements to the regulations which were adopted by the Environmental Commission on November 3, 1993 as R-138-93 (SEC petition 94002).
- b. There are no immediate or long-term economic effects on regulated sources. There are no immediate or long-term economic effects on the public. The adopted regulations are not expected to cause increased costs to the public over the existing regulations, because sources locating in the Washoe county nonattainment area are already subject to the new source review requirements, and the refinements to the operating permit program will not cause costs beyond those addressed in petition 94002.

5. The estimated cost to the agency for enforcement of the proposed regulation.

There is no additional cost to the agency for enforcement of the proposed regulation.

6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

There are no other state or government agency regulations which the proposed amendments duplicate.

CODIFIED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION

LCB File No. R-015-94

EXPLANATION - Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: NRS 445.461

Section 1. Chapter 445 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *"Offset" means a reduction in emissions at an existing source which is greater than a corresponding increase in emissions of the same pollutant at a new source or modification of a source in the same nonattainment area.*

Sec. 3. 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.

Sec. 4. *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.*

Sec. 5. NAC 445.430 is hereby amended to read as follows:

445.430 As used in NAC 445.430 to 445.846, inclusive, [and] sections 2 to 50, inclusive, of [this regulation,] *the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, and section 4 of this regulation,* unless the context otherwise requires, the words and terms defined in NAC 445.432 to 445.655, inclusive, [and] sections 2 to 29, inclusive, of [this regulation] *the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, and sections 2 and 3 of this regulation,* have the meanings ascribed to them in those sections.

Sec. 6. NAC 445.452 is hereby amended to read as follows:

445.452 ["Best] *1. For a 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 445.6605.*

2. For a source that is not subject to the provisions of 40 C.F.R. § 52.21, "best available control technology" means a technology which reduces the emission of particulate matter, sulphur dioxide, nitrogen oxides, hydrocarbons, carbon monoxide, lead, beryllium, mercury, fluoride, vinyl chloride, total reduced sulfur, hydrogen sulfide, reduced sulfur compounds, and toxic or hazardous air contaminants to the maximum extent possible for any source for which preparation of an environmental evaluation is required, taking into account:

[1.] (a) Energy;

[2.] (b) Environmental impacts;

[3.] (c) Economic impacts; and

[4.] (d) Other costs for emission control systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for the control of each pollutant.

Sec. 7. NAC 445.500 is hereby amended to read as follows:

445.500 "Emission unit" means a **[discrete]** part of a stationary or portable source which emits or has the potential to emit any pollutant regulated under the Act.

Sec. 8. NAC 445.520 is hereby amended to read as follows:

445.520 "Fugitive dust" means emission of solid, airborne particulate matter which **[do] could not reasonably** pass through a stack, chimney, vent or a functionally equivalent opening. **[and are generated by activities necessary for continued operation of the source.]**

Sec. 9. NAC 445.521 is hereby amended to read as follows:

445.521 "Fugitive emissions" means emissions of any pollutants, including fugitive dust, which **[do] could not reasonably** pass through **[the] a** stack, chimney, vent or a functionally equivalent opening. **[and are generated by activities necessary for continued operation of the source.]**

Sec. 10. NAC 445.548 is hereby amended to read as follows:

445.548 "Monitoring device" means the total equipment ***used to measure and record emissions and process parameters which is*** required **[under provisions governing the monitoring of operations in] pursuant to 42 U.S.C. §§ 7401 to 7671q, inclusive, or** NAC 445.430 to 445.944, inclusive, **[used to measure and record, if applicable, process parameters.] or as a condition of an operating permit.**

Sec. 11. NAC 445.552 is hereby amended to read as follows:

445.552 "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods **[set forth in NAC 445.430 to 445.944, inclusive.] approved by the EPA.**

Sec. 12. NAC 445.553 is hereby amended to read as follows:

445.553 "Nonattainment area" means, for any 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 pollutant; **[and]**
2. Which is designated as a nonattainment area by the governor **[.] ; and**
3. ***Which is promulgated as a nonattainment area by the administrator.***

Sec. 13. NAC 445.624 is hereby amended to read as follows:

445.624 "Stack" or "chimney" means any flue, conduit or duct which conducts an air contaminant to the atmosphere.

[The term does not include a flare used for burning off gases.]

Sec. 14. NAC 445.625 is hereby amended to read as follows:

445.625 "Standard" means a standard of performance ***that is*** proposed or promulgated **[under] *by the administrator, or the director pursuant to*** NAC 445.430 to 445.944, inclusive.

Sec. 15. NAC 445.628 is hereby amended to read as follows:

445.628 "Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant **[and which contains any one or a combination of the following:**

1. **Affected facilities;**
2. **Existing facilities; and**
3. **Facilities for which no standards have been adopted.] *that is regulated under 42 U.S.C. §§ 7401 to 7671q, inclusive, or NAC 445.430 to 445.846, inclusive.***

Sec. 16. NAC 445.632 is hereby amended to read as follows:

445.632 "Structure, building, facility or installation" means **[any industrial plant or grouping which is] *all of the activities that emit air pollutants which:***

1. ***Belong to the same major industrial grouping as described in the "Standard Industrial Classification Manual" as incorporated by reference in NAC 445.6605;***
2. ***Are*** located on one or more contiguous or adjacent properties; and **[is]**
3. ***Are*** owned or operated by the same person or by persons under common control.

Sec. 17. NAC 445.650 is hereby amended to read as follows:

445.650 "Volatile organic compounds" **[means any compound, containing carbon and hydrogen in combination with any other element, which has a vapor pressure of 1.5 pounds per square inch (1,055 kilograms per square meters) absolute or greater, under actual storage conditions.] *has the meaning ascribed to it in 40 C.F.R. § 51.100(s), as incorporated by reference in NAC 445.6605.***

Sec. 18. NAC 445.6605 is hereby amended to read as follows:

NAC 445.6605 1. Title 40 C.F.R. §§ **51.100(s)**, 51.100(hh) to 51.100(kk), inclusive, 51.100(nn), **51.165**, and 52.21, **and Appendix S of Title 40 C.F.R. Part 51** are hereby adopted by reference as they existed on July 1, [1992] **1993**.

2. The following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, [1992] **1993**:

- (a) Subpart A, General Provisions.
- (b) Subpart D, Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
- (c) Subpart Da, Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
- (d) Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
- (e) Subpart E, Standards of Performance for Incinerators.
- (f) Subpart Ea, Standards of Performance for Municipal Waste Combustors.
- (g) Subpart F, Standards of Performance for Portland Cement Plants.
- (h) Subpart G, Standards of Performance for Nitric Acid Plants.
- (i) Subpart H, Standards of Performance for Sulfuric Acid Plants.
- (j) Subpart I, Standards of Performance for Asphalt Concrete Plants.
- (k) Subpart J, Standards of Performance for Petroleum Refineries.
- (l) Subpart K, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
- (m) Subpart Ka, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.
- (n) Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.
- (o) Subpart L, Standards of Performance for Secondary Lead Smelters.
- (p) Subpart M, Standards of Performance for Secondary Brass and Bronze Production Plants.
- (q) Subpart N, Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
- (r) Subpart Na, Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
- (s) Subpart O, Standards of Performance for Sewage Treatment Plants.
- (t) Subpart P, Standards of Performance for Primary Copper Smelters.
- (u) Subpart Q, Standards of Performance for Primary Zinc Smelters.
- (v) Subpart R, Standards of Performance for Primary Lead Smelters.
- (w) Subpart S, Standards of Performance for Primary Aluminum Reduction Plants.
- (x) Subpart T, Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
- (y) Subpart U, Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
- (z) Subpart V, Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
- (aa) Subpart W, Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
- (bb) Subpart X, Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
- (cc) Subpart Y, Standards of Performance for Cool Preparation Plants.
- (dd) Subpart Z, Standards of Performance for Ferroalloy Production Facilities.
- (ee) Subpart AA, Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974,

and on or Before August 17, 1983.

(ff) Subpart AAa, Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.

(gg) Subpart BB, Standards of Performance for Kraft Pulp Mills.

(hh) Subpart CC, Standards of Performance for Glass Manufacturing Plants.

(ii) Subpart DD, Standards of Performance for Grain Elevators.

(jj) Subpart EE, Standards of Performance for Surface Coating of Metal Furniture.

(kk) Subpart GG, Standards of Performance for Stationary Gas Turbines.

(ll) Subpart HH, Standards of Performance for Lime Manufacturing Plants.

(mm) Subpart KK, Standards of Performance for Lead-Acid Battery Manufacturing Plants.

(nn) Subpart LL, Standards of Performance for Metallic Mineral Processing Plants.

(oo) Subpart MM, Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations.

(pp) Subpart NN, Standards of Performance for Phosphate Rock Plants.

(qq) Subpart PP, Standards of Performance for Ammonium Sulfate Manufacture.

(rr) Subpart QQ, Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

(ss) Subpart RR, Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

(tt) Subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances.

(uu) Subpart TT, Standards of Performance for Metal Coil Surface Coating.

(vv) Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

(ww) Subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

(xx) Subpart WW, Standards of Performance for the Beverage Can Surface Coating Industry.

(yy) Subpart XX, Standards of Performance for Bulk Gasoline Terminals.

(zz) Subpart DDD, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

(aaa) Subpart FFF, Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

(bbb) Subpart GGG, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.

(ccc) Subpart HHH, Standards of Performance for Synthetic Fiber Production Facilities.

(ddd) Subpart III, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

(eee) Subpart JJJ, Standards of Performance for Petroleum Dry Cleaners.

(fff) Subpart KKK, Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.

(ggg) Subpart LLL, Standards of Performance for Onshore Natural Gas Processing: SO₂ Emissions.

(hhh) Subpart NNN, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

(iii) Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.

(jjj) Subpart PPP, Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.

3. Title 40 C.F.R. Part 60, Subpart UUU, Standards of Performance for Calciners and Dryers in Mineral Industries, is hereby adopted by reference as it existed on September 28, 1992. A copy of Subpart UUU may be obtained free of charge from the Nevada Bureau of Air Quality, 333 West Nye Lane, Carson City, Nevada 89710.

4. The following subparts of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, [1992] 1993:

(a) Subpart A, General Provisions.

(b) Subpart C, National Emission Standard for Beryllium.

- (c) Subpart D, National Emission Standard for Beryllium Rocket Motor Firing.
 - (d) Subpart E, National Emission Standard for Mercury.
 - (e) Subpart F, National Emission Standard for Vinyl Chloride.
 - (f) Subpart BB, National Emission Standard for Benzene Emissions from Benzene Transfer Operations.
 - (g) Subpart FF, National Emission Standard for Benzene Waste Operations.
5. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, is hereby adopted by reference as it existed on November 3, 1993.

6. *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 Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, or 450 Golden Gate Avenue, Room 1023, San Francisco, California 94102, for the price of \$24.*

7. Except as otherwise provided in **[subsection 3,] subsections 3 and 6,** a copy of the publications which contain these provisions may be obtained from the:

(a) Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, or 450 Golden Gate Avenue, Room 1023, San Francisco California 94102. The price is:

(1) For §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, and 51.100(nn).....	\$31
(2) For Part, Appendix S	33
(3) For § 51.165	33
(4) For § 52.21	33
[(3)] (5) For Part 60	\$36
[(4)] (6) For Part 61	16

(b) State library and archives for 15 cents per page.

[7.] 8. For the purposes of the provisions of Parts 60 and 61, 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.

[8.] 9. The provisions adopted by reference in this section supersede the requirements of NAC 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of **[this regulation,] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93,** for all sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

[9.] 10. For the purposes of this section, "administrator" as used in the provisions of Parts 60 and 61, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the director.

Sec. 19. NAC 445.664 is hereby amended to read as follows:

445.664 Except as *otherwise* provided in NAC 445.430 to 445.846, inclusive, no person may:

1. Operate any source of air pollution unless the **[necessary or required equipment for controlling the pollution] 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 **[necessary or required equipment for controlling pollution or modify any necessary or required procedure.] of the control equipment for air pollution or modify any procedure required by an applicable requirement or condition of the permit.**

Sec. 20. NAC 445.705 is hereby amended to read as follows:

445.705 1. Except as otherwise provided in subsection 2, no existing or new stationary source which is a major source is exempt from the requirement to obtain an operating permit.

2. The following sources are exempt from the requirement to obtain an operating permit:

(a) **[Sources]** *A source which would 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; and

(b) **[Sources]** *A source which would be required to obtain an operating permit solely because it is* subject to 40 C.F.R. Part 61, Subpart M, Asbestos NESHAP, section 61.145.

3. Except as otherwise provided in this subsection, the following existing and new single sources perform insignificant activities and do not require operating permits:

(a) Air-conditioning equipment or fuel-burning equipment, except internal combustion engines, that individually have a rating:

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

(2) Equal to or greater than 4,000,000 Btu's per hour, but operating less than 100 hours per calendar year.

(b) Motor vehicles and special mobile equipment. As used in this paragraph, "special mobile equipment" has the meaning ascribed to it in NAC 445.884.

(c) Residential and commercial housekeeping vacuum systems.

(d) Incinerators with less than 25 lb per hour rated burning capacity.

(e) Agricultural land use.

(f) Storage containers for petroleum liquid or storage facilities for volatile organic liquid having a capacity of less than 40,000 gallons which are not subject to 40 C.F.R. Part 60, Subparts K, Ka or Kb.

(g) Equipment or contrivances used exclusively for the processing of food for human consumption.

(h) Disturbing topsoil of less than 5 acres.

(i) Maximum allowable throughput of less than 50 lb per hour, unless the source directly emits or has the potential to emit a hazardous air pollutant.

(j) Portable internal combustion engines that, individually, have a rating:

(1) Less than 500 horsepower output; or

(2) Equal to or greater than 500 horsepower output, but operating less than 100 hours per calendar year.

(k) Stationary internal combustion engines that, individually, have a rating:

(1) Less than 250 horsepower output; or

(2) Equal to or greater than 250 horsepower output, but operating less than 100 hours per calendar year.

(l) Emergency generators.

The potential emissions from the sources listed in this subsection must be included in the determination of whether a source is a major source, except for the potential emissions from motor vehicles and special mobile equipment, residential and commercial housekeeping vacuum systems, agricultural land use, and disturbing top soil of less than five acres.

4. As used in this section:

(a) "Emergency generator" means an internal combustion engine that is used to generate electrical power to maintain essential operations during unplanned electrical power outages.

(b) "Internal combustion engine" means any fuel burning, heat generating engine, except engines in the motor vehicles or the special mobile equipment described in **[sections 16, 17 and 18 of chapter 654, Statutes of Nevada 1993] NRS 445.6145, 445.615, and 445.6155** and NAC 445.884.

Sec. 21. NAC 445.707 is hereby amended to read as follows:

445.707 1. Except as otherwise provided in this subsection and section 50 of **[this regulation] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93**, within 60 calendar days after the official date of submittal of an application for a Class I operating

permit or for the modification of such an operating permit, the director shall determine if any additional information is needed. For a Class I-B application, the official date of submittal of all information is needed. For a Class I-B application, the official date of submittal of all information required by section 36 of **[this regulation] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93**, is the date on which the director determines that the information required pursuant to the provisions regarding the prevention of significant deterioration of air quality or for preconstruction review is complete. Within 30 days after receiving a Class I-B application for a Class I operating permit or for the modification of such an operating permit, the director shall determine whether any additional information is needed to process the portion of the application pertaining to preconstruction review. The director shall notify the applicant in writing if any additional information is needed. Unless the director requests additional information or otherwise notifies the applicant that the application is incomplete within 60 days after the official date of submittal, the application shall be deemed complete. Within 180 calendar days after receiving adequate information, the director shall make a preliminary determination to issue or deny the operating permit or the modification of the operating permit. The director shall give preliminary notice of his intent to issue or deny the operating permit or the modification of the operating permit within 180 calendar days after receiving adequate information for reviewing the application.

2. Within 10 working days after the official date of submittal of an application for a Class II operating permit or a modification of a Class II operating permit, the director shall determine if any additional information is needed. Within 30 days after receiving adequate information to review the application, the director shall make a preliminary determination to issue or deny such an operating permit or the modification of such an operating permit and give preliminary notice of his determination to the applicant.

3. The director's review and preliminary intent to issue or deny a Class I operating permit and the proposed conditions for the operating permit must be made public and maintained on file with the director during normal business hours at 123 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 calendar days to enable public participation and comment and a review by any affected states.

4. The director shall:

(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the 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;

[and]

(d) Provide a copy of the director's review of the application, the director's preliminary intent to issue or deny the operating permit and the proposed operating permit to the administrator[.] ; **and**

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

5. The notice must identify:

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

(b) The name and address of the authority processing the operating permit;

(c) The activity or activities involved in the operating permit and the emissions change involved in any modification of the 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 operating permit, the application, all relevant supporting materials and all other materials which are available to the authority that is processing the operating permit and which are

relevant to the determination of the issuance of the 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.

6. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 calendar 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.

7. Except as otherwise provided in subsection 8 and section 50 of **[this regulation,] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93**, within 12 months after receiving a complete application, the director shall issue or deny the application for an operating permit or for a modification of the operating permit. The director shall make his decision by taking into account written comments from the public, affected states and the administrator and the comments made during public hearings on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the state and national ambient air quality standards contained in NAC 445.843 and the control strategy contained in the air quality plan. **The director shall send a copy of the final permit to the administrator.**

8. For 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 445.6605, the director shall issue or deny an application for an operating permit, or for the modification or renewal of such an operating permit, within 12 months after receiving a complete application.

9. The director shall not issue an operating permit, or a modification of or a renewal of an operating permit, if the administrator objects to its issuance in writing within 45 days of the administrator's receipt of the proposed conditions for the operating permit and the necessary supporting information, including all public comments submitted during the period allowed for public comment, or made during the public hearing.

10. Any person may petition the administrator to request that he object to an operating permit as provided in 40 C.F.R. § 70.8(d).

11. If the administrator objects to the issuance of an operating permit **[,] of his own accord or in response to a public petition**, the director shall submit revised proposed conditions for the operating permit in response to the objection within 90 days.

12. An operating permit or the modification of an operating permit for a new or modified source, other than a 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 1 year after the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.

Sec. 22. NAC 445.708 is hereby amended to read as follows:

445.708 1. Before an operating permit or a modification of an operating permit may be issued for a new or modified source, in accordance with NAC 445.708 to 445.711, inclusive, and sections 2 to 50, inclusive, of **[this regulation,] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93**, the applicant must submit to the director an environmental evaluation and any other information the director deems necessary to make an independent air quality impact assessment. The environmental evaluation must have approval for any street or highway changes or improvements from the county, regional or state highway agency having jurisdiction over the streets and highways affected by the source before submittal to the director.

2. The director shall not issue an operating permit or a modification of an operating permit for any source if [:

(a) The] the environmental evaluation submitted by the applicant shows, or if the director determines, in accordance with the provisions of this section, that the source:

[(1)] (a) Will prevent the attainment and maintenance of the state or national ambient air quality standards;

~~[(2)] (b)~~ Will cause a violation of the applicable control strategy contained in the approved air quality plan; ~~[(or~~
~~(3)] (c)~~ Will cause a violation of any applicable requirement [.

(b) The source is located in any designated nonattainment area and:

(1) The lowest achievable emission rate for each nonattainment pollutant from the source is not defined and adopted as an emission limitation for the source;

(2) Any other source within this state which is owned, operated or controlled by the applicant is not in compliance or on a schedule of compliance with NAC 445.430 to 445.846, inclusive, sections 2 to 50, inclusive, of this regulation and all other applicable emission limitations or variances as provided in NRS 445.506 to 445.521, inclusive and sections 2 to 50, inclusive, of this regulation;

(3) The total allowable emissions of each nonattainment pollutant from the existing sources in the area, those sources in the area which have received their respective permits and the proposed source will not be sufficiently less, by the time the proposed source is to commence operation, than the total emissions from the existing sources and those sources in the area which have received their respective permits before the proposed source applies for its operating permit or a modification of its operating permit, so that reasonable further progress is achieved; or

(4) The emissions from the source will cause or contribute to emission levels which exceed the allowance permitted for such a pollutant for the nonattainment area.

3.] ; or

(d) Will not comply with subsection 3.

3. To be issued an operating permit or a modification 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 pollutant or pollutants for which the source or modification is major must:

(a) Comply with the provisions of 40 C.F.R. § 51.165, as incorporated by reference in NAC 445.6605.

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

(c) Demonstrate that all other sources within this state which are owned, operated or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445.430 to 445.846, 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 source.

(e) Conduct an analysis of alternative sites, sizes, processes of production and techniques for environmental control for the proposed source. Except as otherwise provided in this paragraph, the analysis must demonstrate that the benefits of the proposed 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 source which is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if it proposes to locate 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 source begins operation to ensure that the total allowable emissions of each nonattainment pollutant from the existing sources in the area, those sources in the area which have received their respective permits and the proposed source will be sufficiently less than the total emissions from the existing sources and those sources in the area which have received their respective permits before the proposed source applies for its operating permit or a modification 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, demonstrate that the emission from the source will not cause or contribute to emissions levels which exceed the allowance permitted for a 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 incorporated by reference in NAC 445.6605, and be coordinated with the appropriate local agency for the control of air pollution.

4. To be issued an operating permit or a modification 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. §52.21, 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 incorporated by reference in NAC 445.6605.

5. The director may impose any reasonable conditions on his approval, including conditions requiring the owner or operator of the 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 source; and

(b) Meet standards for emissions that are more stringent than those found in NAC 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of [this regulation.

4.] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93.

6. Where a proposed source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in NAC 445.708 to 445.711, inclusive, and sections 2 to 50, inclusive, of [this regulation] *the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93*, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

[5]7. Approval and issuance of an operating permit or a modification of an operating permit for any source does not affect the responsibilities of the owner or owners to comply with any other portion of the control strategy.

[6]8. An owner or operator of a Class II source not subject to federal requirements may request an exemption from the requirement to submit an environmental evaluation. 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.

9. *As used in this section:*

(a) *"Lowest achievable emission rate" has the meaning ascribed to it in 40 C.F.R. § 51.165, as incorporated by reference in NAC 445.6605.*

(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 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.*

Sec. 23. NAC 445.711 is hereby amended to read as follows:

445.711 1. For the purposes of determining the effects of *Class II sources* on the quality of ambient air pursuant to NAC 445.708 to 445.711, inclusive, the heat input is the aggregate heat content of all *combusted* fuels, [whose products of combustion pass through a stack or stacks,] or the [equipment manufacturer's or designer's] 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 an air contaminant which may be

emitted.

2. 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 Materials (ASTM) contained in 40 C.F.R. Parts 51, 52, 60 and 61.

Sec. 24. NAC 445.713 is hereby amended to read as follows:

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

2. **[An]A completed** application for renewal of an operating permit must be submitted to the director on the form provided by him with the appropriate fee at least 180 calendar days, **but no earlier than 18 months**, before the expiration date of the current permit for Class I sources, or at least 30 calendar days before the expiration date of the current permit for Class II sources.

3. Applications for renewal must comply with all requirements for the issuance of an initial operating permit.

4. If an application for renewal is submitted at least 180 calendar days before the expiration of the current permit for Class I sources, or at least 30 days before the expiration of the current permit for Class II sources, the source may continue to operate until the permit is renewed [.] **or the application for renewal is denied. The continued operation of the source must comply with the conditions of the expired permit.** If a request is not submitted in a timely manner, the source may be required to cease operation when the permit expires, and may not recommence the operation until the permit is renewed.

5. The fee for the renewal of an operating permit is as specified in NAC 445.7135.

Sec. 25. NAC 445.7162 is hereby amended to read as follows:

445.7162 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 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 retain their operating permits if the emission units that are relocated use the best available control technology.

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 incorporated by reference in NAC 445.6605.

Sec. 26. Section 16 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 16. "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.

Sec. 27. Section 21 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 21. 1. Except as otherwise provided in subsection 2, "major source" means any stationary source or group of stationary sources 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] "Standard Industrial Classification Manual [, 1987;] Manual" as incorporated by reference in NAC 445.6605;** and
- (d) Complies with one of the following:
 - (1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 40 U.S.C. §§ **[7501-7515,] 7501 to 7515,** inclusive; or
 - (2) Directly emits or has the potential to emit:
 - (I) One hundred tons per year or more of any air pollutant; 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.

The director shall consider fugitive emission in determining whether a source is a major source for any source category listed in 40 C.F.R. § 52.21(b), as **[promulgated] adopted by reference** pursuant to NAC 445.6605, or whether a source of a hazardous air pollutant is a major source. To determine whether a stationary source or group of stationary sources is a major source **[pursuant to this paragraph,] 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. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), "major source" has the meaning ascribed to it in 40 C.F.R. § 52.21(b)(a), as adopted by reference in NAC 445.6605.

Sec. 28. Section 31 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec.31. An owner or operator must file a Class I-A application and 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);
4. An incinerator unit for solid waste that is subject to the requirements of 42 U.S.C. § 7429(e); or
5. An affected source.

Sec. 29. Section 32 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 32. An owner or operator must file a Class I-B application and obtain a Class I operating permit before commencing the construction, reconstruction or modification of:

1. A proposed new major source;
2. A proposed significant modification to an existing source; **[or]**
3. A proposed new 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)[.]
; or
4. *A proposed new source in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a).*

Sec. 30. Section 33 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 33. 1. An owner or operator shall file a Class I-A application within 12 months after the effective date of the program, or within 12 months after the owner or operator commences operation of the source, whichever is later.

2. For affected sources, an owner or operator must file an application for a Class I operating permit within 12 months after the effective date of the program, or on or before January 1, 1996, whichever is earlier.

3. 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 445.430 to 445.846, inclusive, and sections 2 to 50, inclusive, of **[this regulation.] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93.**

4. *Except as otherwise provided in this subsection, if the owner or operator of a Class I source submits a completed 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 a 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.*

Sec. 31. Section 39 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 39 1. In addition to the conditions set forth in section 38 of **[this regulation,] the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93,** a Class I operating permit must:

(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 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 **[any] all** deviations from the requirements of the operating permit; and
 - (3) The probable cause of **[any] 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 source in **[its] 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) Contain the terms and conditions of any federally enforceable emissions cap which has been approved by the director and the terms and conditions of any trading of emissions under the cap which has been approved by the director.**
- (h)** Contain a schedule of compliance for sources that are not in compliance with any applicable requirement at the time the operating permit is issued, including:
- (1) Semiannual progress reports with dates for achieving milestones;
 - (2) Prior notice of and explanations for missed deadlines; and
 - (3) Any preventive or corrective measures taken.
- [h](i)** 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 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.
- [i](j)** 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:

- (1) Such applicable requirements are included and are specifically identified in the operating permit; or
 - (2) 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 source and the operating permit includes the determination or a concise summary of the determination.
2. 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.

Sec. 32. Section 42 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 42 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, modified, 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 445.430 to 445.846, inclusive, sections 2 to 50, inclusive, of [**this regulation,**] *the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93*, 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, modifies 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 modification 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 modification 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.

Sec. 33. Section 43 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows: is hereby amended to read as follows:

- Sec. 43. 1. The director may issue a general permit covering numerous similar sources.
2. A general permit must set forth the criteria by which sources may qualify for the general permit.
 3. A general permit which covers 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 445.707 have been completed.
 4. If the administrator does not object within 45 days after receiving a proposed general permit which covers 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 general permit, the general permit becomes effective when the objection is resolved.
 5. After the effective date of a general permit, the owner or operator of any source that meets the criteria set forth in the general permit may request authority to operate under the general permit. The request must be in writing and must include all the information required by the general permit.
 6. The director shall grant or deny authority to operate under a 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 general permit is not subject to the requirements of NAC 445.707.
 7. A person may challenge the provisions of a general permit only at the time the general permit is issued. The director's grant or denial of authority to operate under a general permit to a source or sources does not provide an opportunity for an administrative review or a judicial review of the general permit.
 8. The director shall not grant authority to operate under a general permit to an affected source.
 9. The term of a general permit is 5 years.
 10. The authority to operate under a general permit expires after 5 years. An owner or operator of a source operating under the authority of a general permit shall apply to renew his authority to operate under the general permit at least 30 days before his authorization expires.
 - 11. A source which obtains authorization to operate under a general permit and is later determined not to qualify for the conditions of the general permit may be subject to an action enforcing the prohibition against operating without a permit.**

Sec. 34. Section 44 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows: is hereby amended to read as follows:

- Sec. 44. 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 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 modification of the operating permit; or
 - (e) Allow for a change in ownership or operational control of a 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 of \$25.00.
3. The director shall **[issue]**:
- (a) *Issue* or deny an application for an administrative amendment within 30 days after receipt of the application.
 - (b) *Send a copy of the administrative amendment to the administrator.*

Sec. 35. Section 45 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

- Sec. 45. 1. The owner or operator of a source operating in compliance with a Class I 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- 7515,]~~ *7401 to 7515*, inclusive;
 - (b) Violate any applicable requirement; and
 - (c) Exceed the allowable emissions set forth in the operating permit.
2. Any conditions of a Class I 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 written notification to the director and the administrator at least 7 days before making the change. This notification must include:
- (a) A brief description of the change;
 - (b) The date on which the change will occur;
 - (c) Any change in emissions; and
 - (d) Any condition of the operating permit which will no longer apply because of the change.

The holder of the operating permit, the director and the administrator shall all attach a copy of the written notification to his copy of the permit.

Sec. 36. Section 46 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows: is hereby amended to read as follows:

- Sec. 46. 1. A minor modification may be made to Class I operating permit if it:
- (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, portable 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); and
 - (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ ~~[7401- 7515,]~~ **7401 to 7515**, inclusive.
2. The director may process as a minor modification an increase in the emissions of a criteria pollutant, other than lead, of 1 ton per year or less from a source located in an area designated as an attainment or as an unclassifiable area for the criteria pollutant if the increase in emissions does not violate any of the requirements set forth in subsection 1.
3. An owner or operator must request a minor modification on an application form provided by the director. The application must be accompanied by a fee of \$100.00. 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; **[and]**
 - (e) Certification by a responsible official of the source that the proposed modification complies with the criteria for a minor modification set forth in subsection 1[.]; **and**
 - (f) Any relevant information concerning the proposed change which is required by section 36 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93.**
4. The director shall **[provide]**:
- (a) Provide** notice to the administrator and any affected state within 5 working days after his receipt of a complete application for a minor modification.
 - (b) Notify the administrator of any recommendations from an affected state which the director does not accept.**
5. If the administrator does not object to the minor modification within 45 days after his receipt of the notification, the director may issue the minor modification.
6. If the administrator objects to the minor modification, the director shall:
- (a) Deny the application for the minor modification;
 - (b) Determine whether the minor modification should be reviewed under the procedures for a significant modification; or
 - (c) Revise the proposed modification of the operating permit and forward it to the administrator for review.
7. The director shall take action pursuant to subsections 5 or 6 within 90 days after receipt of an application for a minor modification or within 15 days after the administrator's 45-day review period ends, whichever is later.

Sec. 37. Section 47 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 47. 1. The holder of an operating permit may request a significant modification of a Class I operating permit if it does not qualify as a change that may be made pursuant to section 45 of **[this regulation] *the regulation adopted by the state environmental commissions and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93*** or as an administrative amendment or a minor modification. A significant modification includes, but is not limited to, a modification:

- (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, portable 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 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 445.6605; **or**
- (e) Subject to 42 U.S.C. § 7412. **]; or**
- (f) That is subject to paragraph (b) of subsection 2 of NAC 445.708.]**

[3] 2. An application for a significant modification must comply with the requirements for an application for a Class I operating permit set forth in **[section] *sections 35 and 36*** of **[this regulation,] *the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93***, including public participation and comment and a review by any affected states and the administrator pursuant to NAC 445.707.

[4] 3. An application for a significant modification must be accompanied by the fee set forth in NAC 445.7135.

Sec. 38. Section 49 of the regulation adopted by the state environmental commission and filed with the secretary of state on December 13, 1993, designated as LCB File No. R138-93, is hereby amended to read as follows:

Sec. 49. 1. The director shall approve maximum achievable control technology on a case-by-case basis before the owner or operator applies it to a source. At a minimum, the technology must comply with the federal requirements for such technology.

2. For existing sources, the degree of reduction in emissions resulting from the maximum achievable control technology must be no less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3). If the director or administrator has established an applicable emission limitation, no person may operate any source of a hazardous air pollutant unless the director determines that the source will comply with the emission limitation established for the maximum achievable control technology applied.

3. The maximum achievable control technology may include, but is not limited to, measures which eliminate or reduce the volume of the emission of hazardous air pollutants or, in the case of radionuclides, the mass and total activity of each species, through:

- (a) **[A reduction in the amount of hazardous materials used in the industrial process] *Source reduction*** or prevention of pollution, or both;
- (b) Enclosed systems or processes;
- (c) Process changes, substitution of materials or other modifications;

- (d) Design, equipment, work practices or operational standards, including requirements for the training or certification of an operator; or
- (e) Collection, capture, filtration or treatment systems on a process, stack, storage or fugitive emissions point.

Sec. 39. NAC 445.538 is hereby repealed.

Sec. 40. 1. This section and sections 1, 2, 3, 18, and 25 of this regulation become effective upon filing with the secretary of state.

2. Sections 4 to 17, inclusive, 19 to 24, inclusive, and 26 to 39, inclusive, of this regulation become effective on November 15, 1994.

END OF PETITION 94008