PROPOSED REGULATION OF THE

STATE ENVIRONMENTAL COMMISSION

LCB File No. R077-24

July 1, 2024

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

AUTHORITY: § 1, NRS 445B.210, 445B.300, 445B.470 and 445B.640; §§ 2-6, 9 and 10, NRS 445B.210 and 445B.300; §§ 7, 8 and 11, NRS 445B.210, 445B.225 and 445B.300.

A REGULATION relating to air pollution; repealing the prohibition on discharging or causing the discharge of certain odors from a stationary source; repealing provisions relating to mercury early reduction credits; repealing provisions relating to certain technologies to control mercury emissions; repealing provisions relating to tier-1 thermal units that emit mercury; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Environmental Commission to adopt regulations to prevent, abate and control air pollution. (NRS 445B.210)

Existing regulations: (1) prohibit a person from discharging or causing 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; and (2) set forth a schedule of fines for such a violation. (NAC 445B.22087, 445B.281) **Section 11** of this regulation eliminates this prohibition. **Section 1** of this regulation makes a conforming change to eliminate the fine imposed for violating any such prohibition.

Existing law requires the Commission, by regulation, to: (1) require the person operating or responsible for the existence of each source of air contaminant, generally or within a specified class or classes, to apply for and obtain an operating permit for the source; and (2) provide for the issuance, renewal, modification, revocation and suspension of operating permits. (NRS 445B.300) Existing regulations provide that no owner or operator of a tier-1 thermal unit that emits mercury may cause or permit the discharge of mercury into the atmosphere without applying certain technologies for the control of mercury emissions. (NAC 445B.3659) **Section 4** of this regulation eliminates this provision.

Existing regulations set forth certain requirements for obtaining a mercury operating permit to construct which differ depending on the phase of construction of a thermal unit that emits mercury and whether the thermal unit is classified as a tier-1, tier-2 or tier-3 thermal unit that emits mercury. (NAC 445B.3661-445B.3673) **Section 5** of this regulation eliminates the requirement that an owner or operator of a stationary source which conducts precious metals

mining to obtain a mercury operating permit to construct a tier-1 thermal unit that emits mercury. **Section 6** of this regulation eliminates the deadline for an owner or operator of a tier-1 thermal unit that emits mercury to submit a phase-1 application, which was not later than October 31, 2006. **Section 11** repeals certain application requirements for tier-1 thermal units. (NAC 445B.3645, 445B.3673) **Section 2** of this regulation makes a conforming change to eliminate an internal reference to a section of the Nevada Administrative Code that is repealed in **section 11**.

Section 8 of this regulation eliminates requirements relating to a phase-2 application for a tier-1 thermal unit that emits mercury. **Section 9** of this regulation eliminates requirements for the review of 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. **Section 10** of this regulation eliminates provisions relating to conditions that must be contained in a mercury operating permit to construct a tier-1 thermal unit that emits mercury. **Section 11** repeals the definition of "tier-1 thermal unit that emits mercury." (NAC 445B.3645) **Section 3** of this regulation makes a conforming change to the definition of "tier-2 thermal unit that emits mercury" to remove a reference to the term "tier-1 thermal unit that emits mercury." (NAC 445B.3647)

Existing regulations identify a list of existing tier-1 thermal units that emit mercury. (NAC 445B.3653) **Section 11** repeals this list.

Existing regulations require that 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 include additional controls which will be implemented by a tier-1 thermal unit that emits mercury or a 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. (NAC 445B.3671) **Section 7** of this regulation eliminates this requirement.

Existing regulations establish the Nevada Mercury Air Emissions Control Program to require a mercury operating permit to construct and the application of certain controls of mercury emissions for thermal units that emit mercury which are located at stationary sources that conduct mining of gold or silver ore. (NAC 445B.3611-445B.3689) Existing regulations define "Nevada maximum achievable control technology," abbreviated as "NvMACT," for the purposes of identifying the 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 designed to reduce the level of mercury emissions and is determined by the Director to be the maximum degree of reduction of mercury emissions that is achievable for the thermal unit that emits mercury. (NAC 445B.3629) Existing regulations define "presumptive NvMACT" to mean technologies to control mercury emissions that Goldstrike Mining Operations of Barrick Gold Corporation, Newmont Mining Corporation, the Pipeline Mining Operation of Cortez Gold Mines of Placer Dome, Inc. or the Jerritt Canyon Mine of Queenstake Resources, Ltd. apply to an existing thermal unit that emits mercury before May 4, 2006. (NAC 445B.3639, 445B.3651)

Section 11 eliminates the category of presumptive NvMACT by repealing the existing regulations that: (1) creates the category; and (2) identifies the technologies that constitute presumptive NvMACT. **Section 11** also repeals certain requirements for the contents of a phase-1 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. **Sections 9 and 10** make conforming changes to remove from existing regulations the requirement that certain

applications to construct or revise a permit to construct or notices of the Director's review of an application or a mercury operating permit identify presumptive NvMACT.

Existing regulations authorize the Director, in taking his or her final action concerning the proposed conditions for a mercury operating permit to construct, to extend the time required to apply certain NvMACT if the owner or operator of an existing thermal unit that emits mercury has installed additional controls for mercury emissions. Existing regulations define this extension of time as the "mercury early reduction credit". (NAC 445B.3621) **Section 11** repeals the mercury early reduction credit and the Director's authority to grant the extension of time.

Section 1. NAC 445B.281 is hereby amended to read as follows:

445B.281 1. Except as otherwise provided in NAC 445B.001 to 445B.390, 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 sources, violations of NAC 445B.22037, 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.

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

	First Offense	Second Offense	Third Offense
NAC 445B.22037, fugitive dust	$500	$1,000	$2,000
NAC 445B.22067, open burning	250	500	1,000
NAC 445B.2207, incinerator burning	250	500	1,000
~~[NAC 445B.22087, odors~~	~~250~~	~~500~~	~~1,000]~~

	First Offense	Second Offense	Third Offense
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions	250	500	1,000
Subsection 8 of NAC 445B.252, testing and sampling reporting	250	500	1,000
Subsection 2 of NAC 445B.265, reporting of monitoring systems	250	500	1,000
Paragraph (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification	250	500	1,000
NAC 445B.331, change of location	250	500	1,000

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.

Sec. 2. NAC 445B.3633 is hereby amended to read as follows:

445B.3633 "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.]~~

Sec. 3. NAC 445B.3647 is hereby amended to read as follows:

445B.3647 "Tier-2 thermal unit that emits mercury" means an existing thermal unit that emits mercury which ~~[~~:

~~1. Emits~~] ***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.]~~

Sec. 4. NAC 445B.3659 is hereby amended to read as follows:

445B.3659 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.

Sec. 5. NAC 445B.3663 is hereby amended to read as follows:

445B.3663 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)]~~ ***(b)*** A new thermal unit that emits mercury; and

~~[(d)]~~ ***(c)*** 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.

Sec. 6. NAC 445B.3667 is hereby amended to read as follows:

445B.3667 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.]~~ ***2.*** 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.

Sec. 7. NAC 445B.3671 is hereby amended to read as follows:

445B.3671 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 the owner's 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.

Sec. 8. NAC 445B.3675 is hereby amended to read as follows:

445B.3675 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.

Sec. 9. NAC 445B.3677 is hereby amended to read as follows:

445B.3677 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]~~ ***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) Publish notice of the Director's review, the proposed conditions for a mercury operating permit to construct or a revision of a mercury operating permit to construct and a copy of the proposed mercury operating permit on an Internet website 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 or her 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 or her 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.

Sec. 10. NAC 445B.3679 is hereby amended to read as follows:

445B.3679 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~~] ***all*** applicable requirements concerning controls for mercury emissions ~~[,]~~ ***and*** 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~~] ***, 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.]~~

Sec. 11. NAC 445B.22087, 445B.3621, 445B.3639, 445B.3645, 445B.3651, 445B.3653, 445B.3669 and 445B.3673 are hereby repealed.

TEXT OF REPEALED SECTIONS

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 or she 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.

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 or her 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.

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.

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.

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
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, SO2 scrubber
North and south CFB ore roasters	Roaster off-gas quench, wet scrubber, electrostatic precipitator, wash tower, SO2 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, SO2 scrubber, mercury scrubber, tail gas scrubber, sodium hypochlorite injection system
Refinery and carbon regeneration kiln	Venturi mercury wet-scrubbing/carbon-polishing system

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
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 Haggarty, 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
Refinery and carbon regeneration kiln	1	Elmco Technologies, serial number 44DD 3071

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.

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.