CLARK COUNTY

AIR QUALITY REGULATIONS

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WHEREAS, it is recognized that there has been a growth in the amount of complexity of air pollution in Clark County, Nevada, brought about by, and incident to, the population growth of and industrial development in the said County, which conditions are likely to be aggravated and compounded by additional population growth and industrial development in the future, all resulting in serious potential danger to the public health and welfare of the residents of said County, and substantial injury to or interference with the reasonable use and enjoyment of property and the conduct of business therein, as well as injury to agricultural crops and livestock, and hazards to air and ground transportation; and

WHEREAS, it is the responsibility of the Clark County Board of County Commissioners to promote and protect the health and welfare of the inhabitants of this County, which necessitates the control and regulation of activities affecting the quality of the air therein; and

WHEREAS, it is the public policy of Clark County and the purpose of these Regulations to achieve and maintain levels of air quality which will protect human health and safety, prevent injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, esthetic and historic values of Clark County; and

WHEREAS, it is the intent of these Regulations to:

(a) Require the use of reasonably available methods to prevent, reduce or control air pollution throughout Clark County;

(b) Maintain cooperative programs;

(c) Facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within a single jurisdiction; and

WHEREAS, the quality of air is declared to be affected with the public interest and these Regulations are enacted in the exercise of the police power of this county and the municipal entities comprising Clark County to protect the health, peace, safety and general welfare of its people as required by State law; and

WHEREAS, Clark County Board of County Commissioners has initiated and conducted an air pollution control program, including a comprehensive air monitoring program for the purpose of determining air quality standards and source emission standards; and

WHEREAS, the need for control of air contaminants, and the emission thereof at their source, was first determined by an air pollution survey of Clark County conducted in 1962 and 1963, the findings of which survey and the problems identified therein having been confirmed by subsequent measurements and experience gained in the conduct of an air pollution control program established pursuant to authority vested in the Clark County Department of Air Quality; and

WHEREAS, the Clark County Board of County Commissioners has taken into consideration all of the facts and circumstances bearing upon the reasonableness of the emission of air contaminants in the area including but not limited to:

(a) The character and degree of injury to or interference with health and property or the reasonable use and enjoyment of property or conduct of business;

(b) The social and economic value of the source of air contaminants;

(c) The technical practicability and economic reasonableness of reducing or eliminating the emission of air contaminants from such source;

(d) The location involved, the density of population, the atmospheric condition, and the relationship of the emissions to the general air pollution condition of the area;

(e) The cost and effectiveness of control equipment available; and

(f) Efforts previously made and the equipment previously installed to control or decrease such emissions; and

WHEREAS, recent developments in State and Federal law, as well as developing air pollution control technology, and the need for more precise and equitable standards and procedures, require the updating and amendment of the current Air Quality Regulations of the Clark County Board of County Commissioners;

NOW, THEREFORE, the Clark County Board of County Commissioners, in accordance with the authority vested in it by Chapter 445 of Nevada Revised Statutes, does hereby adopt, promulgate and order compliance therewith within Clark County, Nevada, the following amended Regulations, to be known as "Air Quality Regulations."

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SECTION 0: DEFINITIONS

In these Air Quality Regulations (AQRs), incorporated into the Clark County Code at Section 9.08.130, unless the context otherwise requires:

"Act" means the Clean Air Act (CAA), as amended, 42 U.S.C. 7401, et seq.

"Actual Emissions" means the actual rate of emissions of a regulated air pollutant from an emissions unit, as determined in accordance with this definition:

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the regulated air pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) If there is inadequate information to determine actual historical emissions, the Control Officer may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(c) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Affected Facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

"Affected Source" means a source that includes one or more affected units that are subject to the acid rain requirements under Title IV of the Act or subject to a standard or other requirement under Sections 112(d), (f) or (h) of the Act.

"Affected State(s)" means all States whose air quality may be affected that are located contiguous to or within fifty (50) miles of Clark County, Nevada, including Arizona, California, and Utah. Any Indian tribe located in Clark County or within fifty (50) miles of the permitted source shall be considered an Affected State.

"Affected Unit" means a unit that is subject to any requirement under Title IV of the Act.

"Agricultural Operations" means the growing of crops for profit or the growing of crops for the purpose of providing life support to a considerable number of people, animals,

or fowl.

“Air Contaminants” means any solid, liquid, or gaseous matter, any odor, or any form of energy that is capable of being released into the atmosphere from an emission source.

"Air Pollution" means the presence in the outdoor atmosphere of one or more air pollutants or any combination thereof in such quantity and duration as may tend to:

(a) Injure human health or welfare, animal or plant life, or property;

(b) Limit visibility or interfere with scenic, aesthetic and historic values of the State; or

(c) Interfere with the enjoyment of life or property.

“Air Pollution Control Hearing Board” or “Hearing Board” means the seven-member board appointed by the Clark County Board of County Commissioners (BCC) to preside over public hearings, hear appeals, and make procedural rulings. It has the powers, duties, and functions as described in Chapter 445B.500, of the Nevada Revised Statutes (NRS) and Chapters 2.68 and 9.08 Clark County Code.

“Air Quality Planning Region” means an area within Clark County, Nevada, consisting of one hydrographic area, as listed in the definition of airshed region, which is used for air quality planning purposes.

“Air Quality Standard” or “Ambient Air Quality Standard” has the same meaning as the term “National Ambient Air Quality Standard” as defined in Section 0.

"Airshed Region" or “Airshed” means an area within Clark County, Nevada, consisting of one hydrographic area as listed in the following table:

Airshed Regions within Clark County, Nevada		
Air Quality Planning Region	Airshed Region	Air Quality Planning Region Abbreviation
Las Vegas Valley	Hydrographic Area 212	LV
Eldorado Valley	Hydrographic Area 167	EV
North Ivanpah Valley	Hydrographic Area 164A	IV
South Ivanpah Valley	Hydrographic Area 164B	SI
Jean Lake Valley	Hydrographic Area 165	JL
South Hidden Valley	Hydrographic Area 166	SH
Garnet Valley	Hydrographic Area 216	GV
North Hidden Valley	Hydrographic Area 217	NH
Paiute Valley	Hydrographic Area 214	PV
Colorado River Valley	Hydrographic Area 213	CV
Mesquite Valley	Hydrographic Area 163	MS
Pahrump Valley	Hydrographic Area 162	PR
South Three Lakes Valley	Hydrographic Area 211	ST

Frenchman Flat	Hydrographic Area 160	FF
Indian Springs Valley	Hydrographic Area 161	IS
North Three Lakes Valley	Hydrographic Area 168	NT
Tikapoo Valley	Hydrographic Area 169B	TV
California Wash	Hydrographic Area 218	CW
Muddy River Springs Area	Hydrographic Area 219	MR
Lower Meadow Valley Wash	Hydrographic Area 205	MW
Coyote Springs Valley	Hydrographic Area 210	CS
Lower Moapa Valley	Hydrographic Area 220	LM
Virgin River Valley	Hydrographic Area 222	VV
Black Mountains Area	Hydrographic Area 215	BA
Gold Butte Area	Hydrographic Area 223	GB
Greasewood Area	Hydrographic Area 224	GA

If a hydrographic area extends beyond the boundary of Clark County and the State of Nevada, only the portion that is within the boundary of Nevada is included in the definition of airshed region.

"Allowable Emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to practically enforceable limits which restrict the operating rate, hours of operation, or both) and the most stringent of the following:

(a) Any applicable standards as set forth in these AQRs or 40 CFR Parts 60, 61 or 63;

(b) Any applicable Nevada State Implementation Plan (SIP) emission limitation, including those with a future compliance date; or

(c) The emissions rate specified as a practically enforceable permit condition, including those with a future compliance date.

"Apex Valley" means the geographical area that coincides with the boundary of Hydrographic Area 216 (also known as Garnet Valley) as reported in the Hydrographic Areas Map, prepared by the Division of Water Resources, Rev. 9/71. An approximate map is contained in the definition of Hydrographic Areas.

"Applicable Requirement" means any of the following requirements as they apply to an emissions unit covered by a permit issued pursuant to Section 12 of the AQRs:

(a) Any standard or requirement included in the Nevada SIP approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(b) Any term or condition of any permit issued pursuant to Section 12 of the AQRs;

(c) Any requirement under Section 111 ("New Source Performance

Standards") of the Act;

(d) Any requirement under Section 112 ("Hazardous Air Pollutants") of the Act;

(e) Any standard or other requirement of the Acid Rain Program under Title IV of the Act or the regulations promulgated thereunder;

(f) Any requirements established pursuant to Section 504(b) or Section 114(a)(3) ("Monitoring, Analysis and Compliance") of the Act;

(g) Any requirement relating to solid waste incineration under Section 129 ("Solid Waste Combustion") of the Act;

(h) Any requirement for consumer or commercial products under Section 183(e) ("Ozone") of the Act;

(i) Any requirement for tank vessels under Section 183(f) ("Tank Vessel Standards") of the Act;

(j) Any standard or requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the EPA determines that any such requirement need not be contained in a Part 70 Permit;

(k) Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) ("Temporary Sources") of the Act;

(l) Any requirement necessary to comply with the prohibition in Sections 126(a)(1) and 126(c) ("Interstate Pollution Abatement") of the Act; and

(m) Any requirement under the AQRs, e.g., "Emission of Visible Air Contaminants," "Odors in the Ambient Air," and "Prohibitions of Nuisance Conditions."

"Authority to Construct Permit" means a permit issued to a Part 70 source by the Control Officer pursuant to Section 12.4.3 of the AQRs that:

(a) Authorizes the construction and an initial period of operation of a new Part 70 source, or the modification or reconstruction of an existing Part 70 source; and

(b) Includes the conditions which apply to the construction and an initial period of operation of a new Part 70 source, or the modification or reconstruction of an existing Part 70 source.

"Best Management Practices" means dust control measures that are based on each project soil type, project activity, and phasing as required by the applicable standards of Sections 91 through 94 of these AQRs. These practices shall be included in each Dust Control Permit and Dust Mitigation Plan and are established to meet the goal of reducing particulate emissions from construction sites. Additionally, some practices are designed to address the economic and environmental purposes of reducing the amount of water to

be used for dust control.

"British Thermal Unit" or “BTU” means that quantity of heat required to raise the temperature of one pound of water 1 degree F.

“Building, structure, facility, or installation” means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same ‘‘Major Group’’ (which have the same first two digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively) or the North American Industry Classification System, as published in 2002.

"Chemical Process" means a manufacturing operation in which one or more changes in chemical composition, chemical properties, or physical properties are involved.

"Combined Tank Capacity" means all gasoline storage tanks at the gasoline station.

"Commence" or “Commencement” as applied to construction of a stationary source or modification means that the owner or operator has all necessary preconstruction approvals or permits and has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

“Commence Operation” or "Commencing Operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit’s combustion chamber that changes the location, form, physical properties, or chemical character of a material.

"Commercial and Residential Construction" means construction of:

(a) Structures intended to be utilized solely as personal dwellings, including but not limited to single family residences, duplexes, fourplexes, apartments, condominiums, and town houses;

(b) Institutional structures (e.g., government buildings, schools, libraries, churches, hospitals, parks, office complexes);

(c) Airports;

(d) Industrial, manufacturing, processing, and energy production facilities;

(e) Shopping malls;

(f) Residential streets within a subdivision;

(g) Improvements to existing paved and unpaved roads;

(h) Parking lots and parking lot structures; and

(i) Underground utilities for sanitary sewer, water, electricity, natural gas and communication.

“Complete” means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit), that would result in a change in emissions.

"Construction Activity" means the following activities: commercial and residential construction, flood control construction, and highway construction as defined in Section 0.

"Control Measure" means a technique, practice, or procedure used to prevent or minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust.

"Control Officer" means the director of the department, the director’s designee, or individual staff members to whom the director or designee has delegated the authority to perform specific Control Officer’s roles.

“Date of Submittal” means the date a document is postmarked, if the document is delivered by the U.S. Postal Service. If the document is hand delivered by the document owner, his/her representative or a commercial carrier, the date of submittal is the date the document is date stamped by the department.

"Disturbed Surface Area" means a portion of the earth's surface (or material placed thereupon) which is being moved, uncovered, destabilized, or otherwise modified from its undisturbed native condition, thereby increasing the potential for the emission of fugitive dust.

“Dust” means minute solid particles released into the atmosphere by natural forces or by mechanical or chemical processes.

"Dust Palliative" means hygroscopic material, non-toxic chemical stabilizer or other dust palliative material that is not prohibited for ground surface application by the EPA or the Nevada Division of Environmental Protection (NDEP) or by any applicable law or regulation, as a treatment material for reducing fugitive dust emissions. Water, solutions of water and chemical surfactants, and foam are not dust palliatives for the purpose of

these regulations.

"Dust Suppressant" means water, solution of water and chemical surfactants, foam, or any other dust palliative which is not prohibited for ground surface application by the EPA or NDEP or by any applicable law or regulation, as a treatment material for reducing fugitive dust emissions.

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one third (1/3) of its potential electric output capacity and more than twenty-five (25) MW of electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Eldorado Valley" means the geographical area that coincides with the boundary of the Hydrographic Area 167 as reported in the Hydrographic Areas Map, prepared by the Division of Water Resources, Rev. 9/71. An approximate map is contained in the definition of hydrographic areas.

"Emergency" means a situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including Acts of God.

"Emission(s)" or "Emit(s)" means the release or the passing into the ambient air of a regulated air pollutant.

“Emission Limit” or “Emission Limitation” means a requirement established by the Control Officer or the Administrator that limits the quantity, rate, or concentration of emission of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under these regulations or the Act.

“Emissions Unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant.

“Enforceable as a Practical Matter” or “Practicably Enforceable” or “Practically Enforceable” means that a permit meets the following criteria:

(a) The permit conditions are permanent and quantifiable;

(b) The permit includes a legally enforceable obligation to comply;

(c) The limits impose an objective and quantifiable operational or production limit, or require the use of in-place air pollution control equipment;

(d) The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;

(e) The permit conditions are enforceable and independent of any other applicable limitations; and

(f) The permit contains conditions for monitoring, recordkeeping, reporting, and testing to determine compliance as specified in Section 12.1, 12.2, 12.3, 12.4 and 12.5, as applicable.

"EPA" means the United States Environmental Protection Agency. "Ethanol" means an alcohol with the chemical formula CH3CH2OH. "Excess Emissions" means emissions in excess of an emission limitation.

"Existing Emissions Unit" means, unless otherwise specified in these regulations, an emissions unit that has either been authorized to commence construction or modification or has commenced construction or modification prior to the effective date of rule.

“Existing Gasoline Station” means a place capable of receiving, storing, and dispensing one or more grades of gasoline for use in motor vehicles and for which construction commenced prior to November 1, 1977.

"Existing Stationary Source" means, unless otherwise specified in these regulations, any stationary source that has either been authorized to commence construction or modification or has commenced construction or modification prior to the effective date of rule.

“Federal Land Manager” means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

"Federally Enforceable" means all limitations and conditions which are enforceable by the Administrator.

"Flood Control Construction" means construction of flood detention basins, flood diversion channels, box culverts, and excavations intended to capture or retain water.

"Fuel" means material which is capable of releasing energy or power by combustion or other chemical or physical reaction.

"Fuel Burning Equipment" means any device used for the burning of fuel for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with any other materials.

"Fuel Oil" means a liquid fuel derived from crude oil or petroleum, including distillate oil, residual oil, and used oil.

"Fugitive Dust" means particulate matter, that is not collected by a capture system, is entrained in the ambient air and is caused from human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting, and wind. For the purpose of these regulations, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, and from pile drivers, and does not

include emissions from process and combustion sources that are subject to other sections of these regulations.

"Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

“Fumes” means minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or may be generated by sublimation, distillation, calcination, or chemical reaction, when these processes create airborne particles.

"Gasoline" means any petroleum distillate having a Reid Vapor Pressure (RVP) of four 4 pounds per square inch or greater.

“Good Engineering Practice (GEP) Stack Height” means a stack height meeting the requirements described in Subsection 12.2.7.3 of the AQRs.

“Hazardous Air Pollutant" or “HAP” means any air pollutant listed in or pursuant to Section 112(b) of the Act.

“Hearing Officer” means the individual(s) appointed by the BCC to perform the functions set forth in the NRS, Clark County Code and these Regulations.

"Highway Construction" means construction of roadway systems including arterials, expressways, interstates, tunnels, overpasses, bridges, interchanges and airport runway improvements, but not residential streets within a subdivision.

"Hydrographic Area(s)" means the air quality planning regions within Clark County, Nevada as defined in the *State of Nevada Hydrographic Areas Map*, prepared by the Division of Water Resources, Rev. 9/71. An area may be designated as a Maintenance Area, Marginal Nonattainment Area, or Prevention of Significant Deterioration (PSD) Area. The following table shows the status of each air quality planning region by criteria air pollutant:

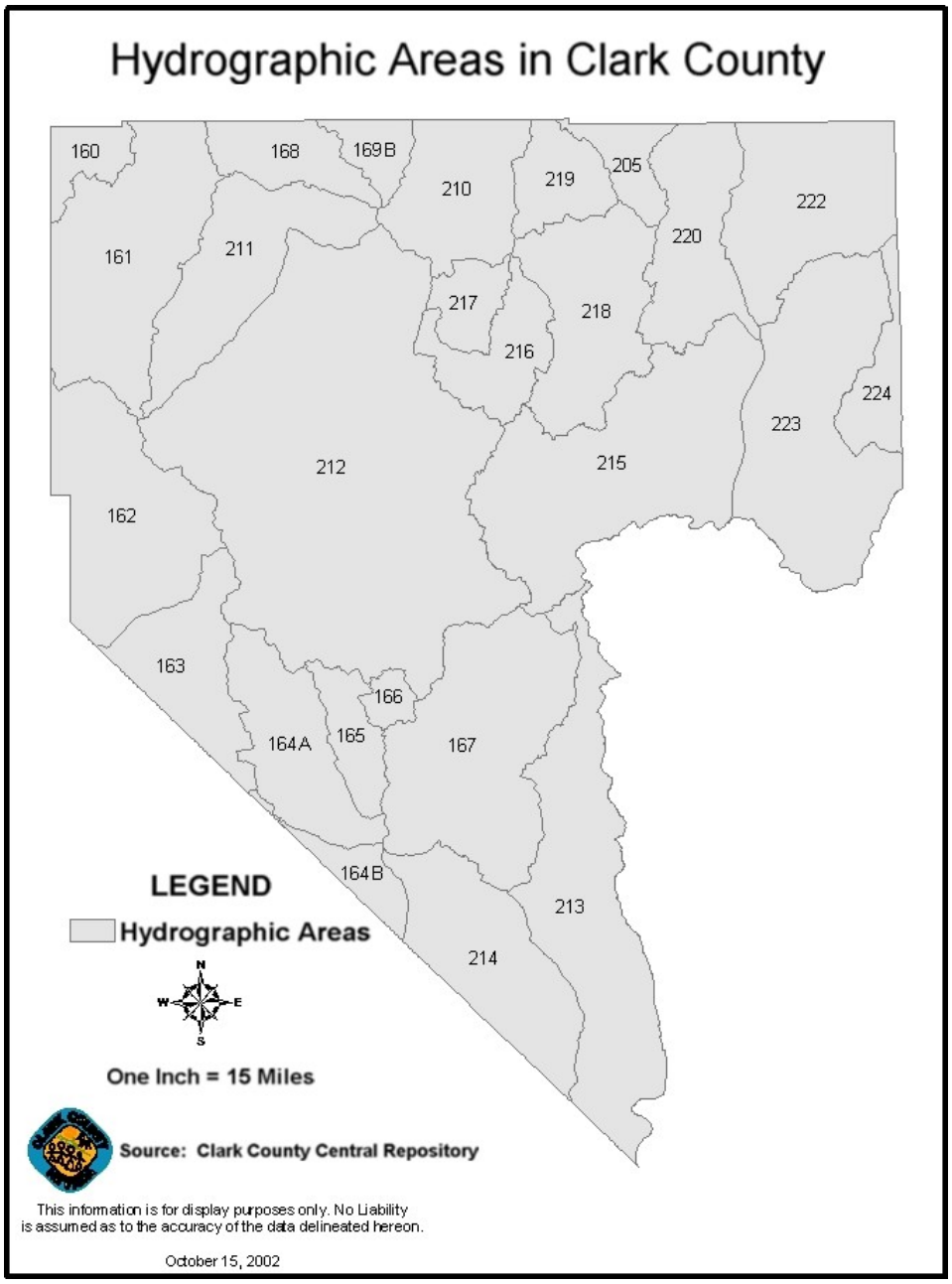
Status of each Air Quality Planning Region by Criteria Air Pollutant						
	PM_{10}	**CO**	**VOC^2**	**NO_x^2**	**SO_2 & Pb**	**Ozone**
Marginal Nonattainment Area						**LV**
Maintenance Area	**LV**	**LV**				

Prevention of Significant Deterioration (PSD) Area	**IV, SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA[1]**	**IV, SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA**	**SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA**	**SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA**	**LV, EV, IV, SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA**	**EV, IV, SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA**

[1]See Table "Airshed Regions within Clark County, Nevada" in the definition of "Airshed Region" in this Section for Air Quality Planning Region names and abbreviations.

[2]VOC and NO_x are precursors for Ozone.

A hydrographic area may extend into adjacent county(s), but the hydrographic area will terminate at the state boundary. The following map, provided for quick reference, represents the hydrographic areas and air quality planning regions within the Clark County boundary and excludes only the portion of the hydrographic area that is outside of the Nevada boundary:


Hydrographic Areas in Clark County
160
168
169B
210
219
205
222
161
211
220
217
218
216
224
223
212
215
162
163
166
164A
165
167
164B
213
214
LEGEND
Hydrographic Areas
N
W
E
S
One Inch = 15 Miles
Source: Clark County Central Repository
This information is for display purposes only. No Liability is assumed as to the accuracy of the data delineated hereon.
October 15, 2002

"Incinerator" means any furnace used in the process of burning waste for the primary purpose of reducing the volume of the waste by removing combustible matter.

"Insignificant Activities and Emissions" means those activities that meet the criteria set forth in subsection 12.5.2.5.

"Ivanpah Valley" means the geographical area that coincides with the boundary of the Hydrographic Area 164A (also known as North Ivanpah Valley) as reported in the Hydrographic Areas Map, prepared by the Division of Water Resources, Rev. 9/71. An approximate map is contained in the definition of hydrographic areas.

"Las Vegas Valley" means that geographical area that coincides with the boundary of the Hydrographic Area 212 as reported in the Hydrographic Areas Map, prepared by the Division of Water Resources, Rev. 9/71. An approximate map is contained in the definition of hydrographic areas.

“Mist” means liquid particulates or droplets, about the size of raindrops, such as fox, that formed by condensation or vapor, or atomization of a liquid by mechanical spraying.

"Motocross Race Course" means a closed loop course established on improved or unimproved property upon which the actual track may be dirt, gravel, pavements or other surface encompassing an area of less than fifty (50) acres.

"Motor Vehicle" means every device in, upon, or by which any person or property is, or may be, transported or drawn upon a road or highway, except devices moved by human power or used exclusively upon stationary rails.

“National Ambient Air Quality Standard” means all of the National Ambient Air Quality Standards contained in Part 50 of Title 40 of the Code of Federal Regulations, including the definitions, scope, reference conditions, and appendices thereto, which are incorporated herein by this reference as of July 1, 2013.

“New Gasoline Station” means a place capable of receiving, storing and dispensing one or more grades of gasoline for use in motor vehicles and for which construction commenced on or after November 1, 1977.

“New Source” means any single source of air contaminant on which construction or reconstruction has begun after August 25, 1971.

“Nonattainment Area" means any geographic region of the United States that has been designated as “nonattainment” under Section 107 of the Act for any pollutant for which a National Ambient Air Quality Standard exists.

"Non-metallic Mineral" means any of the following minerals or any mixture that contains more than fifty percent (50%) by weight any of the following minerals:

(a) Crushed and broken stone, including limestone, dolomite, granite, traprock, sandstone, quartz, quartzite, marl, marble,

slate, shale, oil shale, and shell;

(b) Sand and gravel;

(c) Clay, including kaolin, fireclay, bentonite, fuller's earth, ball clay, and common clay;

(d) Rock salt;

(e) Gypsum;

(f) Sodium compounds, including sodium carbonate, sodium chloride, and sodium sulfate;

(g) Pumice;

(h) Gilsonite;

(i) Talc and pyrophyllite;

(j) Boron, including borax, kernite, and colemanite;

(k) Barite;

(l) Fluorspar;

(m) Feldspar;

(n) Diatomite;

(o) Perlite;

(p) Vermiculite;

(q) Mica; and

(r) Kyanite, including andalusite, sillimanite, topaz, and dumortierite.

"Non-Road Easement" means an easement not utilized by the easement holder, or others with the permission of the easement holder, for travel by motor vehicle more often than twelve (12) times within any twelve (12) month period.

"Normal Farm Cultural Practice" means all activities by the owner, lessee, agent, independent contractor, and/or supplier conducted on any facility for the production of crops and/or nursery plants. Disturbances of the field surface caused by turning under stalks, tilling, leveling, planting, fertilizing, or harvesting are included in this definition.

"Nuisance" means anything that is injurious to health, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the reasonable or comfortable enjoyment of life or property.

"Odor" means those qualities of matter that make it perceptible to the olfactory senses of man.

"Off-Road Vehicle" means any self-propelled conveyance specifically designed for off-road use, including, but not limited to, off-road or all-terrain equipment, trucks, cars,

motorcycles, motorbikes, or motor buggies.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Open Areas and Vacant Lots" means any of the following described in paragraphs (a) through (e) below. For the purpose of these regulations, vacant portions of residential or commercial lots that are immediately adjacent and owned and/or operated by the same individual or entity are considered one vacant open area or vacant lot.

(a) An unsubdivided or undeveloped tract of land.

(b) A subdivided lot, which contains no approved or permitted buildings or structures of a temporary or permanent nature.

(c) An undeveloped or partially developed lot.

(d) Non-road easements.

(e) Unpaved parts of controlled access freeway right-of-ways, except those portions subject to Section 93 requirements.

"Open Fire" means any fire wherein the products of combustion are emitted into the open air and are not directed thereto through a stack or chimney.

“Operation and Maintenance Plan” means a plan for an emission control system that specifies the key system operating parameters, such as temperatures, pressures, and/or flow rates, necessary to monitor the emission control system to ensure its proper operation and maintenance. The plan should include recordkeeping requirements sufficient to verify that necessary maintenance activities have been performed and key system operating parameters were monitored.

“Operating Permit” means a permit issued pursuant to Sections 12.1, 12.2, 12.3, 12.5, or 94 of the Clark County Air Quality Regulations, signed and issued by the Control Officer or his/her designee.

"Owner” and/or “Operator" means any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation that directly or indirectly results or may result in emissions of any air pollutant for which a national, state of Nevada, or Clark County standard is in effect. For the purposes of Sections 90 through 94, "Owner” and/or “Operator" means any person who owns, leases, operates, maintains, controls, or supervises a fugitive dust source subject to the requirements of these regulations.

"Oxygenated Gasoline" means gasoline blended with a component or components containing oxygen, generally an alcohol or ether.

"Part 70 Operating Permit" means any permit or group of permits covering a Part 70 Source that are issued, renewed, amended, or revised pursuant to Section 12.5.

“Part 70 Source” means the following:

(a) Any source defined as a major stationary source under Sections 12.2.2(ff) or 12.3.2(y), or as a major source under 40 CFR § 70.2 as of July 20, 2011;

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act, but only if the Administrator has determined that the source is required to obtain a Part 70 Operating Permit;

(c) Any source, including an area source, subject to a standard or other requirement under Sections 112(d), (f), or (h) of the Act, but only if the Administrator has determined that the area source subject to such standards is required to obtain a Part 70 Operating Permit. A source is not a Part 70 Source solely because it is subject to regulations or requirements under Section 112(r) of the Act;

(d) Solid waste incineration units, including hospital/medical/infectious waste incinerators, municipal waste incinerators, and commercial and industrial waste incinerators, that are required by Section 129(e) of the Act to obtain a Part 70 Operating Permit;

(e) Any source with an affected unit, as defined in 40 CFR Part 72, that is subject to the requirements of the Title IV Acid Rain Program under the Act;

(f) Any source that is a non-major municipal solid waste landfill with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters; or

(g) Any source designated by the Administrator pursuant to 40 CFR § 70.3.

"Particulate Matter (PM)" means any material, except uncombined water, that exists in a finely divided form as a liquid or solid at referenced conditions of 25^{o} C and 760 mm mercury.

"Pave" or “Paved” means the application and maintenance of asphalt, concrete, or other similar material on a roadway, parking lot or storage area surface (e.g., asphaltic concrete, concrete pavement, or rubberized asphalt).

“Permanent” means an emission reduction which is federally enforceable for the life of a corresponding increase in emissions. For federal Emission Reduction Credits (ERCs), emission reductions for a stationary source are permanent if the reductions are federally enforceable and the reductions occur over the duration of the ERC rule.

"Person" means the United States of America, the state of Nevada, or any individual, group of individuals, partnership, firm, company, corporation, association, trust estate, political subdivision, administrative agency, public or quasi-public corporation, or other legal entity.

“PM2.5” means particulate matter, both filterable and condensable, with an aerodynamic diameter less than or equal to a nominal two and one half (2.5) micrometers. PM2.5 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures.

"PM10" means particulate matter, both filterable and condensable, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers. PM10 emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures.

"Potential to Emit" means the maximum capacity of a stationary source to emit any regulated air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is enforceable as a practical matter. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Prime Coat" means the first of two or more coatings applied to a surface.

"Process Weight" means the total weight of all materials introduced into any specific process, which process may cause any discharge into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. "Process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation thereof, excluding any time during which the equipment is idle.

“Public Road” means a road owned and/or operated by a governmental entity, who has accepted ownership of the road through a formal action of its governing board; and, who has also accepted maintenance responsibilities for the road through a separate action of its governing board or designee. All other roads are private.

“Quantifiable” means an emission reduction that can be reliably and replicably measured or determined.

“Reasonably Available Control Technology (RACT)” means the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economical feasibility. In determining RACT, the following shall be considered:

(a) Energy and environmental impacts and costs;

(b) Cost effectiveness;

(c) Control technology in use by similar sources; and

(d) Technical feasibility.

For the purposes of this definition, a control technology shall be deemed RACT if it is or meets an EPA control technology guideline limitation for the applicable source category, is a New Source Performance Standard, Maximum Achievable Control Technology standard, or any other federally enforceable limitation or condition relied upon as RACT in a nonattainment or maintenance plan.

RACT may be determined on a case-by-case or source category-specific basis, at the option of the person performing the control technology review, and shall take into

account relevant findings and determinations in EPA's RACT/BACT/LAER Clearinghouse. The determination of cost effectiveness may consider the analysis contained in the *EPA Office of Air Quality Planning and Standards Cost Control Manual*.

"Reclaimed Water" means waste water that, as a result of appropriate treatment, is suitable for subsequent beneficial use. Reclaimed water does not meet the State of Nevada standards for potable water.

"Reconstruction" or "Reconstruct" means: (1) for the purpose of meeting the requirements of 40 CFR Part 60 (“New Source Performance Standards”), the definition at 40 CFR

§ 60.15, or (2) for the purpose of meeting the requirements of 40 CFR Part 63 (“National Emission Standards for Hazardous Air Pollutants”), the definition at 40 CFR § 63.2.

"Regulated Air Pollutant(s)" means the following:

(a) Any air pollutant for which a standard has been adopted pursuant to Section 109 of the Act, or any precursor to such air pollutants;

(b) Any pollutant that is subject to any standard promulgated in Section 111 of the Act;

(c) Any pollutant that is otherwise subject to regulation under the Act, except that any or all hazardous air pollutants either listed in Section 112 of the Act or added to the list pursuant to Section 112(b)(2) of the Act, and which have not been delisted pursuant to Section 112(b)(3) of the Act, are not regulated New Source Review pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act;

(d) Any pollutant that is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(e) A regulated New Source Review pollutant, as defined in Section 12.2.2.

"Renewal" means the process by which a permit is reissued at the end of its term.

“Responsible Official” means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million in second quarter 1980 dollars; or

(B) The delegation of authority to such representative is approved in advance by the Control Officer.

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this definition, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(4) For Title IV affected sources, the designated representative, as defined in 40 CFR 72.2, insofar as actions, standards, requirements, or prohibitions under Title IV of the Act, “Acid Deposition Control,” or the regulations promulgated there under are concerned.

“Road Easement” means an easement utilized by the easement holder, or others with the permission of the easement holder, for travel by motor vehicle. In the case of a road easement, the owner and/or operator is the easement holder.

“Secondary Emissions” means emissions that occur as a result of the construction or operation of a stationary source or modification, but do not come from the stationary source or modification itself. Secondary emissions must be specific, well-defined, quantifiable, and impact the same general areas as the stationary source or modification that causes the secondary emissions. Secondary emissions include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the stationary source or modification. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

“Shutdown” means the cessation of operation of any air pollution control equipment or process equipment for any purpose.

"Slow Curing (SC)" means a cutback asphalt generally using a low volatility fuel oil as a solvent.

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct, but not including flares.

"State" means any nonfederal permitting authority, including any local agency, interstate association, or statewide program.

"Stationary Source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant.

“Surplus” means an emission reduction that has not been relied on in any air quality program related to any SIP; that is not a Nevada SIP requirement; that is not a requirement of a state air quality program that has been adopted but is not in the Nevada SIP; that is not credited in any federal reasonable further progress or other milestone

demonstration; that is not a requirement of a consent decree; that is not a requirement of a federal rule that focuses on reducing criteria air pollutants or their precursors, including any applicable NSPS or an applicable NESHAP, unless the state has not taken credit for emission reductions due to the NESHAP in its attainment demonstration or maintenance plan; and that has not already been credited in any other air quality program. The purpose of requiring that emissions offsets be surplus is to prohibit double counting of emission reductions.

"Trench" or "Trenching" means any activity associated with digging a long, narrow excavation at least two feet deep to install or remove equipment or materials such as pipes, casing, conduits, cable, and footers.

"Uncombined Water" means a visible mist of condensed water vapor.

"Unpaved Parking Lot" means any area of 5,000 square feet or larger that is not paved and that is used for parking, maneuvering, or storing motor vehicles; material handling and storage yards; or vehicle and equipment storage yards.

"Vapor" means the gaseous phases of a substance that, at normal temperature and pressures, is a liquid or solid.

"Vapor Control System" means a device, or combination of devices, into which vapors are passed before being vented into the ambient air.

"Vapor Tight" means a reading of less than 10,000 parts per million above background as methane when measured at a distance of one centimeter from the leak source with a portable hydrocarbon detection instrument. "Background" is defined as the ambient concentration of organic compounds determined at least three meters upwind from any equipment to be inspected and uninfluenced by any specific emissions unit.

"Volatile Organic Compound (VOCs)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) The following organic compounds shall not be defined as VOCs because of their negligible photochemical reactivity:

(1) methane;

(2) ethane;

(3) methylene chloride (dichloromethane);

(4) 1,1,1-trichloroethane (methyl chloroform);

(5) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);

(6) trichlorofluoromethane (CFC-11);

(7) dichlorodifluoromethane (CFC-12);

(8) chlorodifluoromethane (HCFC-22);

(9) trifluoromethane (HFC-23);

(10) 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);

(11) chloropentafluoroethane (CFC-115);

(12) 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);

(13) 1,1,1,2-tetrafluoroethane (HFC- 134a);

(14) 1,1-dichloro 1-fluoroethane (HCFC-141b);

(15) 1-chloro 1,1-difluoroethane (HCFC-142b);

(16) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);

(17) pentafluoroethane (HFC-125);

(18) 1,1,2,2-tetrafluoroethane (HFC-134);

(19) 1,1,1- trifluoroethane (HFC-143a);

(20) 1,1-difluoroethane (HFC-152a);

(21) parachlorobenzotrifluoride (PCBTF);

(22) cyclic, branched, or linear completely methylated siloxanes;

(23) acetone;

(24) perchloroethylene (tetrachloroethylene);

(25) 3,3- dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);

(26) 1,3-dichloro-1,1,2,2,3- pentafluoropropane (HCFC-225cb);

(27) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);

(28) difluoromethane (HFC-32);

(29) ethylfluoride (HFC-161);

(30) 1,1,1,3,3,3- hexafluoropropane (HFC-236fa);

(31) 1,1,2,2,3-pentafluoropropane (HFC-245ca);

(32) 1,1,2,3,3-pentafluoropropane (HFC-245ea);

(33) 1,1,1,2,3-pentafluoropropane (HFC- 245eb);

(34) 1,1,1,3,3-pentafluoropropane (HFC-245fa);

(35) 1,1,1,2,3,3- hexafluoropropane (HFC-236ea);

(36) 1,1,1,3,3-pentafluorobutane (HFC-365mfc);

(37) chlorofluoromethane (HCFC-31);

(38) 1 chloro-1-fluoroethane (HCFC-151a);

(39) 1,2- dichloro-1,1,2-trifluoroethane (HCFC-123a);

(40) 1,1,1,2,2,3,3,4,4-nonafluoro-4- methoxy-butane (C4F9OCH3 or HFE-7100);

(41) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3- heptafluoropropane ((CF3)2CFCF2OCH3);

(42) 1-ethoxy-1,1,2,2,3,3,4,4,4- nonafluorobutane (C4F9OC2H5 or HFE-7200);

(43) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3- heptafluoropropane ((CF3)2CFCF2OC2H5);

(44) Methyl acetate;

(45) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C3F7OCH3, HFE-7000);

(46) 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);

(47) 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);

(48) methyl formate (HCOOCH[3]);

(49) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300);

(50) dimethyl carbonate;

(51) propylene carbonate;

(52) *trans*-1,3,3,3-tetrafluoropropene;

(53) HCF2OCF2H (HFE-134);

(54) HCF2OCF2OCF2H (HFE-236cal2);

(55) HCF2OCF2CF2OCF2H (HFE-338pcc13);

(56) HCF2OCF2OCF2CF2OCF2H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));

(57) *trans* 1-chloro-3,3,3-trifluoroprop-1-ene;

(58) 2,3,3,3-tetrafluoropropene;

(59) perfluorocarbon compounds, which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) A VOC that is also a hazardous air pollutant listed pursuant to Section 112 of the Act shall be subject to the more stringent requirements applicable under either category of pollutant.

History: Amended: July 9, 1987; November 17, 1988; January 25, 1990; May 27, 1993; November 18, 1993; August 25, 1994; June 1995; May 23, 1996; September 26, 1996; December 19, 1996; January 23, 1997; April 24, 1997; January 22, 1998; April 23, 1998; June 22, 2000; November 16, 2000; May 24, 2001;November 20, 2001; December 4, 2001; June 3, 2003; July 1, 2004; October 7, 2004; November 3, 2009; May 18, 2010; November 16, 2010; March 6, 2012; March 18, 2014; December 18, 2018; December 17, 2019; January 21, 2020.

SECTION 1: DEFINITIONS

In these Air Quality Regulations, unless the context otherwise requires:

1.3 "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

1.4 "Dust" means minute solid particles released into the atmosphere by natural forces or by mechanical or chemical processes.

1.5 "Existing Gasoline Station" means a place capable of receiving, storing, and dispensing one or more grades of gasoline for use in motor vehicles and on which construction began before November 1, 1977.

1.6 "Fumes" means minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or by sublimation, distillation, calcination, or chemical reaction when these processes create airborne particles.

1.7 "Mist" means liquid particulates or droplets about the size of raindrops (such as fog) that are formed by condensation or vapor, or atomization of a liquid by mechanical spraying.

1.8 "New Gasoline Station" means a place capable of receiving, storing, and dispensing one or more grades of gasoline for use in motor vehicles and on which construction began on or after November 1, 1977.

1.9 "New Source" means any stationary source of air contaminant on which construction or reconstruction began after August 25, 1971.

1.10 "Single Source" means all similar process operations located at a single contiguous property that can technically be replaced by a single process that performs the same function.

1.11 "Standard Conditions" means a temperature of 20ºC (68ºF) and a pressure of 760 mm (29.92 inches) of mercury.

1.12 "Uncombined Water" means a visible mist of condensed water vapor.

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SECTION 2 - PROCEDURES FOR ADOPTION AND REVISION OF REGULATIONS AND FOR INCLUSION OF THOSE REGULATIONS IN THE STATE IMPLEMENTATION PLAN

2.1 Purpose.

(a) The purpose of this regulation is to set forth the general procedural requirements for the adoption and revision of Clark County Air Quality Regulations and for inclusion of certain of those regulations in the State Implementation Plan in accordance with NRS §§ 244.095-.119, NRS §§ 237.030-.110, NRS §§ 445B .215 and .500(2), Section 110 of the Act, and 40 C.F.R. Part 51. The Board of County Commissioners ("BCC") shall comply with any additional applicable procedural requirements pursuant to federal, state, or local law.

2.2 Procedures for Adoption and Revision of the Air Quality Regulations by Ordinance.

2.2.1 Enactment by Bill; Summary and Title.

- No ordinance shall be adopted by the BCC except by bill. When an ordinance is amended, the section or sections thereof shall be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.

- Every ordinance shall bear a summary, which shall appear before the title and which shall state in brief the subject matter of the ordinance.

- The subject of each ordinance shall be clearly indicated in the title. In any case in which the subject of the ordinance is not described in the title, the ordinance shall be void as to the matter not described.

2.2.2 Notice of Public Hearing; Introduction of Ordinance; Publication of Hearing Procedures for Enactment; Publication of Revised Ordinance.

(a) Notice of Public Hearing. Notice of the public hearing on an ordinance which is to be considered by the BCC must be given in any newspaper,

pursuant to the provisions of chapter 238 of NRS, once a week for three weeks commencing at least 30 days before the hearing. The notice must specify with particularity the reasons for the proposed ordinance and provide other informative details.

(b) Introduction of Ordinance. All proposed ordinances including ordinances proposed for inclusion in the SIP, when first proposed, must be read by title to the BCC, immediately after which at least one copy of the proposed ordinance must be filed with the County Clerk for public examination in each district in which it will apply.

(c) Publication of Hearing. Notice of the filing, together with the title and an adequate summary of the ordinance, and the date on which a public hearing will be held, must be published once in a newspaper published in the county at least 10 days before the date set for the hearing.

(d) Enactment. The BCC shall adopt or reject the ordinance, or the ordinance as amended, within thirty-five (35) days after the date of the close of the final public hearing, except that in cases of emergency, by unanimous consent of the whole BCC, final action may be taken immediately or at a special meeting called for that purpose.

(1) After adoption, the ordinance must be:

(i) Signed by the chairman of the BCC.

(ii) Attested by the County Clerk.

(iii) Published by title only, together with the names of the County commissioners voting for or against its passage, in a newspaper published in and having a general circulation in the County, at least once a week for a period of two (2) weeks before it goes into effect. Publication by title must also contain a statement to the effect that typewritten copies of the ordinance are available for inspection at the office of the County Clerk by all interested persons.

(e) Publication of Revised Ordinance. Whenever a revision is made and the revised ordinances are published in book or pamphlet form by authority of the BCC, no further publication is necessary.

(1) Except in an emergency, before acting upon a new or amended ordinance the BCC must hold a hearing at which interested persons may present their views. The public hearing may be held in conjunction with the meeting provided for in subsection 2.2.2(d).

2.2.3 Style of Ordinances.

(a) The style of the ordinances shall be as described in NRS § 244.110.

2.2.4 Adoption of ordinances affecting businesses; Economic Impact Analysis. The BCC shall comply with the provisions set forth in NRS §§ 237.030 through 237.110.

2.2.5 Variance between ordinance and published Notice of Proposed Ordinance.

(a) The BCC may not consider an ordinance that is substantially different from the proposed ordinance contained in the notice of proposed rulemaking filed with the County Clerk pursuant to subsection 2.2.2(b). However, the BCC may terminate a rule making proceeding and commence a new rule making proceeding for the purpose of making a substantially different rule.

(b) In determining whether an ordinance is substantially different from the published proposed ordinance on which it is required to be based, all of the following must be considered:

(1) The extent to which all persons affected by the ordinance should have understood that the published proposed ordinance would affect their interests.

(2) The extent to which the subject matter of the ordinance or the issues determined by that ordinance are different from the subject matter or issues involved in the published proposed ordinance.

(3) The extent to which the procedure contained in the ordinance or the effects of the ordinance differ from the procedure or effects of the published proposed ordinance if it had been made instead.

2.3 Additional procedures for the adoption and revision of regulations and other materials to be incorporated in the State Implementation Plan.

2.3.1 Applicability. To the extent an air quality regulation is also to be submitted to the Nevada Division of Environmental Protection (NDEP) for inclusion in the SIP under § 110 of the Act, the procedures described in this section 2.3 shall be followed. These procedures shall apply to submission of:

(a) Any revision to the SIP described by 40 C.F.R. § 51.104(a).

(b) Any individual compliance schedule under 40 C.F.R. § 51.260.

(c) Any other SIP revision submitted to NDEP pursuant to 40 C.F.R. § 51.104(d).

2.3.2 Additional Procedural Requirements.

(a) Public Notice. Any notice required by subsection 2.2.2(a) will also include notice to:

(1) The Administrator (through the appropriate regional office).

(2) Notification to each local air pollution control agency and tribal government which will be significantly impacted by such plan, schedule or revision;

(3) In the case of an interstate region, notification to any other States included, in whole or in part, in the regions which are significantly impacted by such plan or schedule or revision.

(4) In addition to the public notice requirements provided herein, the BCC may require that notice be given in an alternate publication or forum.

(b) Public hearings.

(1) Separate hearings may be held for plans to implement primary and secondary standards.

(2) No hearing will be required for any change to an increment of progress to an approved individual source compliance schedule unless that change is likely to cause the source to be unable to comply with the final compliance date in the schedule.

(c) Recording-keeping and Certification of Public Hearing.

(1) The department on behalf of the BCC, shall prepare and retain, for inspection by the Administrator upon request, a record of each hearing and each written comment. The hearing record must contain, at a minimum, a list of commenters together with the content of each presentation.

(2) The BCC shall submit to NDEP with the plan, revision, or schedule a certification that the hearing required by 40 C.F.R. § 51.102(a) was held in accordance with the notice required by 40 C.F.R. § 51.102(d).

2.3.3 Submission of Plans; Preliminary Review of Plans.

(a) The following items shall be included with ordinances, compliance plans or other SIP components to be submitted to NDEP for transmittal to EPA:

(1) SIP administrative materials:

(i) Evidence that the BCC has adopted the SIP in accordance with applicable state and local law or issued the permit, order, consent agreement or other SIP component in final form in accordance with 40 C.F.R. Part 51. That evidence must include the date of adoption or final issuance as well as the effective date of the revision or other component, if different from the adoption/issuance date.

(ii) Evidence that the BCC has the necessary legal authority to adopt and implement the SIP.

(iii) A copy of the actual ordinance, or document submitted for approval and incorporation by reference into the SIP, including indication of the changes made to the existing approved SIP, where applicable. The submittal may be a copy of the official ordinance/document signed, stamped, dated by the appropriate BCC official indicating that it is fully enforceable by the BCC. The effective date of the ordinance/document must, whenever possible, be indicated in the document itself.

(iv) Evidence that public notice was given of the proposed change consistent with EPA procedures, including the date of publication of that notice.

(v) Certification that public hearing(s) were held in accordance with information provided in the public notice and applicable state and local law, if required.

(vi) Compilation of public comments and the BCC's response.

(2) Technical Support.

(i) Identification of all regulated pollutants affected by the ordinance, compliance plan or other SIP component.

(ii) Identification of the locations of affected sources.

(iii) Quantification of the changes in SIP allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between

certain baseline levels and allowable emissions anticipated as a result of the revision.

(iv) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.

(v) Evidence that the plan contains emission limitations, work practice standards and record-keeping/reporting requirements, where necessary, to ensure compliance with emission levels.

(vi) Compliance/enforcement strategies, including how compliance will be determined in practice.

(b) The BCC, through its submission to NDEP for transmittal to the Administrator, may submit those elements of the SIP awaiting formal adoption for EPA's comment prior to adoption under the "parallel processing" procedures of 40 C.F.R. Part 51, § 51.103(b), Appendix V, Section 2.3.1. SIP provisions undergoing parallel processing are not subject to the requirements of subsection 2.3.3(a)(1) but must meet all requirements of subsection 2.3.3(a)(2). The following requirements apply to plans submitted for parallel processing:

(1) A letter requesting that EPA propose approval of the proposed plan by parallel processing.

(2) In lieu of subsection 2.3.3(a)(1)(i), the BCC shall submit a schedule for final adoption or issuance of the plan.

(3) In lieu of subsection 2.3.3(a)(1)(iii), the submission shall include a copy of the proposed/draft regulation or document, including indication of the proposed changes to be made to the existing approved plan, where applicable.

(4) The requirements of subsections 2.3.3(a)(1)(v)-(vi) do not apply to plans submitted for parallel processing.

(c) Parallel Processing applies only to EPA's determination of proposed action. The BCC must meet all requirements of subsection 2.3.3(a)(2) prior to publication of EPA's final determination of plan approvability.

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History: Amended: November 18, 1993; December 19, 1996; February 20, 2001; June 3, 2003; July 1, 2004; December 20, 2005; January 21, 2020.

SECTION 4: CONTROL OFFICER

4.1 Authority and Responsibilities

(a) The Control Officer shall have the power, duty, and authority to enforce the Clark County Air Quality Regulations (AQRs).

(b) The Control Officer shall take whatever action is necessary to prevent, abate, and control air pollution in accordance with the rules, regulations, and orders promulgated by the Clark County Board of County Commissioners.

(c) The Control Officer shall be responsible for air quality planning, and shall administer the program to ensure compliance with applicable state and federal laws and regulations governing air quality.

(d) The Control Officer may enter and inspect any property, premise, or place where an air contaminant source is located or being constructed, installed, or established at any reasonable time to ascertain compliance with the AQRs.

(1) No person shall:

(i) Refuse access if the Control Officer requests entry for inspection and presents appropriate credentials.

(ii) Obstruct, hamper, or interfere with an inspection.

(2) The Control Officer may apply to any magistrate for a search warrant if entry is refused.

(e) At the owner or operator's request, the Control Officer shall provide a report setting forth all facts related to a source's compliance status.

(f) The Control Officer may require any person to provide information on or analyses of their source of air contaminates, and may require these be certified by a professional engineer registered in the state, disclosing:

(1) The nature, extent, quantity, or degree of air contaminants that are or may be discharged by the source.

(2) The type or nature of control equipment in use.

(g) The Control Officer may designate an authorized agent to make an independent study and report the nature, extent, quantity or degree of any air contaminants that are or may be discharged from any source for the purpose of ascertaining regulatory compliance. Such agent may inspect any article, machine, equipment, or device needed to comply with these regulations and shall report back to the Control Officer.

(h) The Control Officer may revise, or reopen for cause and reissue, any permit issued in accordance with these regulations.

(i) The Control Officer may revoke, suspend, or terminate a permit for cause; terminate a permit after receiving a written request from the Responsible Official for the permitted source; or terminate a permit after its expiration date if no renewal application has been received.

4.2 Testing

(a) The Control Officer may require the owner or operator responsible for air contaminant emissions to determine the extent of emissions from any source whenever the Control Officer has reason to believe those emissions exceed regulatory thresholds and limitations. The Control Officer:

(1) May specify testing methods to be used in accordance with good professional practice.

(2) May observe the testing. All tests shall be conducted by reputable, qualified personnel.

(3) Shall be given a written copy of the test results signed by the person responsible for the tests.

(b) The Control Officer may test emissions of air contaminants from any source.

(c) At the Control Officer's request, the person responsible for the source to be tested shall provide the necessary holes in stacks or ducts and all other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, needed to determine air contaminant emissions.

4.3 Alleged Violations

(a) Whenever the Control Officer believes that a statute or regulation for the prevention, abatement, or control of air pollution has been violated, the Control Officer shall serve written notice in person or by certified mail on those responsible for the alleged violation.

(b) The notice shall specify:

(1) The statute or regulation alleged to have been violated; and

(2) The facts alleged to constitute the violation.

(c) The notice may include an order to take corrective action within a reasonable time, which shall specify that:

(1) The order becomes final unless appealed within 10 days by the person ordered to take the corrective action.

(2) An appealed order is temporarily stayed pending its disposition.

(3) An appealed order becomes final immediately upon its affirmation by the Hearing Officer.

(4) Failure to comply with the terms of a final order is a violation of these regulations.

(d) The Control Officer shall:

(1) Notify those responsible for the alleged violation to appear before the Hearing Officer at a specified time and place, and

(2) Initiate proceedings before the Hearing Officer to levy an appropriate penalty.

(e) Nothing in this section prevents the Control Officer from attempting to obtain voluntary compliance through warnings, conferences, or other means.

4.4 Injunctive Relief

The Control Officer may apply to a court of competent jurisdiction for other equitable and injunctive relief to enforce compliance with, or to restrain violations of, any provision of these regulations.

4.5 Public Notification

(a) The Control Officer will notify the public regularly of times or places in which any ambient air quality standard was exceeded during any portion of the preceding calendar year.

(b) The Control Officer will advise the public of the health hazards associated with exceedance of an ambient air quality standard.

(c) The Control Officer will seek to increase public awareness of:

(1) Measures that can be taken to prevent an ambient air quality standard from being exceeded.

(2) Ways in which the public can participate in regulatory and other efforts to improve air quality.

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History: Amended: April 24, 1980; September 3, 1981; May 15, 1985; July 25, 1991; December 19, 1996; December 21, 2000; June 3, 2003; July 1, 2004, December 17, 2019.

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SECTION 5 - INTERFERENCE WITH CONTROL OFFICER

5.1 **It is unlawful for any person:**

5.1.1 To hinder, obstruct, delay, resist, interfere with, or attempt to interfere with, the CONTROL OFFICER, or any individual to whom authority has been duly delegated for the performance of any duty by these Regulations.

5.1.2 To refuse to permit the CONTROL OFFICER or any individual to whom such authority has been delegated, to administer or perform any function provided for herein, by refusing him at any reasonable time entrance to property or premises, except a private residence, containing equipment or open fire, discharging, or suspected and believed to be discharging, smoke, dust, gas, vapor, or odor into the open air.

5.1.3 To fail to disclose information when requested under oath or otherwise, to the CONTROL OFFICER or any individual to whom such authority has been delegated.

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History: Amended: December 21, 2000; June 3, 2003; July 1, 2004.

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CLARK COUNTY

AIR QUALITY REGULATIONS

SECTION 6 - INJUNCTIVE RELIEF

6.1 In addition to any remedy of law hereunder, the CONTROL OFFICER may apply to a court of competent jurisdiction for other equitable and injunctive relief to enforce compliance with, or to restrain violations of any provision of these Regulations, or of any regulation or rule made and adopted pursuant thereto.

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History: February 20, 2001; June 3, 2003; July 1, 2004.

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SECTION 7: AIR POLLUTION CONTROL HEARING BOARD AND HEARING OFFICER

7.1 Appointments

(a) Hearing Officer

(1) The Clark County Board of County Commissioners (BCC), in accordance with Chapter 2.68 of the Clark County Code, may appoint Hearing Officers from a list of qualified applicants, prepared by the department, that meet the following criteria:

(A) An individual appointed as a Hearing Officer shall not be an employee of the state of Nevada or any of its political subdivisions.

(B) Hearing Officer(s) shall have a working knowledge of air quality issues, arbitration, law, and/or engineering.

(C) A Hearing Officer will be an independent contractor who serves at the pleasure of the BCC.

(D) When multiple Hearing Officers have been appointed, each one shall make decisions independently.

(b) Air Pollution Control Hearing Board (Hearing Board)

(1) In accordance with Chapter 445B.275 of the Nevada Revised Statutes, (NRS 445B.275) the Hearing Board shall consist of seven members selected from a list of qualified applicants submitted by the department that meet the following criteria:

(A) Members cannot be employees of the state of Nevada or any of its political subdivisions.

(B) One member must be an attorney admitted to practice law in Nevada.

(C) One member must be a professional engineer licensed in Nevada.

(D) One member must be licensed in Nevada as a general engineering or building contractor, as defined in NRS 624.215.

(E) Hearing Board members shall serve a term of three years.

(F) Hearing Board members will serve at the pleasure of the BCC.

(G) Hearing Board members shall have a working knowledge of air quality issues, arbitration, law, and/or engineering.

(H) The Hearing Board shall select a Chair, Vice-chair, and any other officers it deems necessary.

(I) Four members of the Hearing Board must be present to hold a hearing, and a majority of those present must concur in any decision when they sit en banc. At the request of the Control Officer a panel of three or more members may conduct hearings.

(J) The Chair shall preside over the hearing and make all procedural rulings. Rulings are subject to appeal before the Hearing Board and may be reversed by a majority vote of the members considering the matter.

(K) All Hearing Board public hearings shall comply with the requirements of the Nevada Open Meeting Laws.

7.2 Ethical Service

(a) The Hearing Officer and members of the Hearing Board shall not conduct or participate in any hearing or decision in which they or any of the following persons has a direct or substantial financial interest: spouse; brother; sister; child; parent; in-laws; and parents of business associates. The Hearing Officer shall not participate in a hearing concerning any business with which the officer is negotiating, or has an arrangement or understanding concerning, possible partnership or employment. Any actual or potential interest shall be disclosed prior to the hearing.

(b) A Hearing Officer and members of the Hearing Board may vote upon or consider a matter if the accruing benefit or detriment resulting from the decision, either individually or as a member of a general business profession, occupation or group, is not greater than that of any other member of the general business, profession, occupation or group.

(c) A Hearing Officer and members of the Hearing Board shall not vote upon, consider, or advocate the passage or failure of, but may otherwise participate in the consideration of a matter in which a reasonably objective observer might conclude that independent judgment would be materially affected by:

(1) Acceptance of a gift or loan;

(2) Pecuniary interest; or

(3) A private commitment to the interest of others.

(d) If a member of the Hearing Board declares an intent to abstain from voting because of the requirements of Section 7.2(a), the necessary quorum and votes necessary to act upon the matter at hand shall be reduced as though the abstaining member were not on the Hearing Board.

(e) If a Hearing Officer declares an intent to abstain from rendering a decision because of the requirements of Section 7.2(a), the scheduled hearing will be forwarded to a second Hearing Officer. If there are no qualified Hearing Officer(s), then the matter will be referred to the Hearing Board to take action on the item as the reviewing administrative body.

7.3 Procedures – Hearing Officer

(a) The Control Officer shall specify the time and place for each hearing in accordance with Section 4.3(d).

(b) All affected parties shall be notified of a Hearing Officer hearing no less than five days before the date is set.

(c) The Hearing Officer shall consider cases with:

(1) Non-contested facts and penalties.

(2) Non-contested facts and contested penalties.

(3) Contested facts and penalties.

(d) A Hearing Officer shall affirm, modify or reject:

(1) The alleged violation of the AQRs.

(2) The recommended administrative penalty.

(3) Any appealed Control Officer Order to take corrective action.

(e) A written order of the Hearing Officer shall be final 10 days after its receipt by all affected parties unless the respondent or Control Officer appeals the decision to the Hearing Board. <u>The Notice of Appeal of a Hearing Officer Order must:</u>

(1) Be received by the department within 10 days of receipt of the Hearing Officer's decision.

(2) Be on a form provided by the department, to include an original signature (no copies) and reason(s) for the appeal. Form must be mailed or delivered to the department front desk.

(3) Include the applicable fee (AQR 18.12).

7.4 Procedures – Air Pollution Control Hearing Board

(a) The Hearing Board shall be convened at the request of the Control Officer to consider appeals of Hearing Officer Orders and Control Officer permitting determinations, as specified in Section 7.3(e).

(b) The Hearing Board shall consider Petitions of Appeals for:

(1) Hearing Officer Orders

(2) Control Officer's permit determinations.

(c) The Hearing Board shall affirm, modify or rescind appealed:

(1) Hearing Officer Orders.

(2) Control Officer's permit determinations.

(3) Terms and conditions of a permit issued by the Control Officer.

(d) A written order of the Hearing Board shall be final 10 days after receipt by all parties.

7.5 Appeals to Hearing Board

(a) An aggrieved party may file a written Notice of Appeal to the Hearing Board within 10 days of the date of the department's notice of action, except as otherwise provided by law. The applicable filing fee must accompany the Notice of Appeal.

(b) The Notice of Appeal must:

(1) Be received by the department within 10 days of receipt of the Hearing Officer's decision.

(2) Specify the reason(s) for appealing the order. The Notice must have an original signature and include the appropriate fee.

(3) Be on a form provided by the department, including original signature (no copies). Form must be mailed or delivered to the department front desk.

(4) Include the applicable fee (AQR 18.12).

(c) An aggrieved party may appeal:

(1) The issuance, denial, renewal, modification, revision, suspension, or revocation of an operating permit.

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

(d) The Control Officer shall determine the time and manner in which appeals are taken to the Hearing Board.

(e) The Hearing Board shall decide all appeals, and may order the affirmation, modification, or reversal of any action taken by a Hearing Officer that is a subject of appeal.

(f) Appeals of Hearing Officer Order shall be heard “de novo” (i.e., from the beginning), with testimony and exhibits presented and the appeal conducted in the same manner as before the Hearing Officer.

(g) Any rehearing of a matter previously before the Hearing Board must be based upon a mistake of fact or misapplication of the law made by the Hearing Board, or the Hearing Board not completely disposing of the matter before it.

7.6 Procedures—Hearing Officer Meetings

(a) General

(1) The Control Officer shall notify the person(s) responsible for an alleged violation they must appear before the Hearing Officer.

(2) The Control Officer shall determine the time and manner in which cases and appealed corrective action orders are presented before the Hearing Officer, in accordance with Section 4.3.

(3) All testimony shall be given under oath and recorded verbatim (by human or electronic means). Upon request, the department shall provide a transcript at the expense of the requesting party.

(b) The department may make an opening statement briefly describing the nature of the case, after which the cited party may briefly state the nature of any defense.

(c) The parties shall present their cases through the sworn testimony of witnesses and exhibits, with the department proceeding first.

(d) The Hearing Officer may inquire of any witness following any segment of testimony.

(e) Each party may conduct direct examination of its own witnesses and cross-examination of the other party's witnesses.

(f) Exhibits will be presented to the other party before a request for admission is made to the Hearing Officer. Strict adherence to the technical rules of evidence is not required, but the Hearing Officer reserves the right to exclude irrelevant, immaterial, or unduly repetitious testimony or other evidence.

(g) Each party may present a closing summary, after which the Hearing Officer shall either find that a violation has occurred and impose a penalty, or find that no violation has occurred.

(h) Hearings Pursuant to Notices of Violation

(1) Non-contested cases:

(A) When the Control Officer and cited party have agreed on the facts and penalty submitted to the Hearing Officer, the Hearing Officer may approve the non-contested agenda item and impose the agreed-upon penalty.

(B) If the Hearing Officer rejects the non-contested agenda item, the Notice of Violation shall be removed from the non-contested agenda and, unless good cause otherwise exists, set for a hearing before the same Hearing Officer at a subsequent meeting.

(2) Non-contested facts and contested penalties:

(A) When the Control Officer and cited party agree on facts submitted to the Hearing Officer but disagree on the penalty, the Control Officer shall place the Notice of Violation on the contested agenda before the Hearing Officer.

(B) The Hearing Officer shall consider the supporting reasons and recommendations presented by both parties and impose a penalty.

(3) Contested facts and penalties:

(A) When the Control Officer and cited party disagree on the facts and the penalty, the Control Officer shall place a Notice of Violation on the contested agenda before the Hearing Officer.

(B) The Hearing Officer shall consider the supporting reasons and recommendations presented by both parties and shall either determine a violation has occurred and levy an appropriate penalty, or determine that no violation has occurred.

7.7 Procedures—Air Pollution Control Hearing Board Meeting

(a) The Control Officer shall specify the time and place for each Hearing Board Meeting.

(b) The Chair of the Hearing Board shall call the meeting to order if a quorum is present.

(c) The minutes of the previous Hearing Board meeting shall be presented for approval, disapproval, or modification.

(d) Department staff shall report on relevant matters and recent developments relating to air quality.

(e) Legal counsel for the Hearing Board shall report on relevant matters.

(f) The Hearing Board shall consider relevant matters, including but not limited to appeals from orders issued by the Hearing Officer(s) and/or the appeal of the Control Officer's final action on an operating permit.

(g) Except for appeals of Hearing Officer Orders, the Hearing Board shall conduct itself according to the administrative procedures set forth in NRS 223(B) and/or any special procedures the Hearing Board has adopted. If the Administrative Procedures Act set forth in NRS 233(B) or special procedures do not apply, the Hearing Board shall use *Robert's Rules of Order*.

(h) The public shall be allowed to participate at Hearing Board meetings.

7.8 Procedures—Public Hearings

(a) The Control Officer shall specify the time and place for each Public Hearing.

(b) All testimony given before the Hearing Board shall be given under oath and recorded verbatim (by human or electronic means). Upon request, the Chair shall provide for a transcript at the expense of the requesting party.

(c) The Hearing Board shall hear presentations by staff and the applicant, and then testimony by the public.

(d) The applicant may present rebuttal testimony, after which the Chair shall close the public meeting.

(e) The Hearing Board shall make its decision following discussion and a majority of those present must concur in any decision.

7.9 Judicial Review

Any person aggrieved by an order or decision of the Hearing Board may seek judicial review in accordance with the law.

History: Amended: September 3, 1981; July 8, 1985; April 23, 1987; November 18, 1993; May 26, 1994; December 19, 1996; April 24, 1997; December 21, 2000; June 3, 2003; July 1, 2004; December 17 2019; January 21, 2020.

SECTION 8 - PERSONS LIABLE FOR PENALTIES - PUNISHMENT: DEFENSE

8.1 All PERSONS owning, operating, or in control of any equipment or property who shall cause, permit, or participate in, any violation of these Regulations shall be individually and collectively liable to any penalty or punishment imposed by and under these Regulations.

8.2 It shall be a defense to any prosecution instituted against any employee or a PERSON owning, operating, or conducting any business, industry, or operation that the acts complained of were done and performed pursuant to the orders and directions of such OWNER OR OPERATOR, or his agent or representative, conducting such business, industry or operation.

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History: Amended: December 28, 1978; February 20, 2001; June 3, 2003; July 1, 2004.

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SECTION 9: PENALTIES

9.1 Penalties for Violation of Regulation

(a) Any person who is determined to be in violation of an applicable Nevada Revised Statute or any provision of these Regulations, shall pay a civil penalty levied by the Hearing Officer, or the Hearing Board upon appeal, of not more than $10,000 per day, per violation. These violations include, but are not limited to any of the following:

(1) Failure to comply with requirements to obtain a permit.

(2) Failure to comply with a permit condition.

(3) Failure to pay an applicable fee or to meet a filing requirement.

(4) Failure to grant entry, to allow or perform inspection, or perform monitoring activities.

(b) For lesser violations, administrative fines shall not exceed $2,000 per violation of any provision of these Regulations. These violations include, but are not limited to:

(1) Late notification and/or late reporting associated with a stationary source, with or without a permit.

(2) Recordkeeping deficiencies associated with a stationary source, with or without a permit.

(3) Open Burning.

(4) Lesser violations associated with Dust Control Operating Permits include, but are not limited to:

(A) Dust monitor required but not present on site.

(B) Site superintendent has not completed dust class.

(C) Water truck operator has not completed dust class.

(D) Failure to post Dust Control Operating Permit signage.

(c) All lesser violations become subject to the penalty in Section 9.1(a) upon the occurrence of the fourth violation of the same section within a period of sixty (60) consecutive months.

(d) Any person aggrieved by an order issued pursuant to this section is entitled to file notice of appeal to the Hearing Board as provided in Sections 7.5(a) and 7.5(c) of these Regulations.

(e) Nothing contained in this section shall be construed as limiting the authority of the Hearing Officer or the Hearing Board to take other appropriate remedies besides monetary penalties that may benefit air quality.

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History: Amended : September 3, 1981; January 25, 1990; May 28, 1992; November 18, 1993; December 19, 1996; April 24, 1997; June 22, 2000; December 21, 2001; June 3, 2003; July 1, 2004: December 17, 2019.

SECTION 12.0: APPLICABILITY AND GENERAL REQUIREMENTS

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12.0 Applicability and General Requirements

12.0.1 Applicability

The requirements of Section 12 apply as follows:

(a) Section 12 is applicable to any Stationary Source located in Clark County, Nevada, except for a plant which generates electricity by using steam produced by the burning of fossil fuel, or an electrical generating facility constructed on a site previously used for the production of electricity from a coal fired electric generating plant, which shall be permitted under the jurisdictional requirements of the Nevada Division of Environmental Protection (NDEP).

(b) Section 12.1 is applicable to any Stationary Source located in Clark County that has a potential to emit a regulated air pollutant that is equal to or greater than the thresholds listed in Section 12.1.1(c) but has a potential to emit less than necessary for it to be a major Stationary Source under Sections 12.2.2.1(ff) or 12.3.2(y), or a major source under 40 CFR § 70.2. This includes any Part 70 source that is exempt from the requirement to obtain a Part 70 Permit and that has a PTE equal to or greater than the thresholds listed in 12.1.1(c).

(c) Section 12.2 is applicable to any Stationary Source located in Clark County that has the potential to emit a regulated air pollutant that is equal to or greater than the thresholds listed in Section 12.2.2.1(ff) or makes any change that meets the definition of a major modification in Section 12.2.2.1(dd) and is located in an area designated attainment or unclassified for the specific pollutant emitted.

(d) Section 12.3 is applicable to any Stationary Source located in Clark County that has a potential to emit a regulated air pollutant that is equal to or greater than the thresholds listed in Section 12.3.2(y) or makes any change that meets the definition of a major modification in Section 12.3.2(x) and is located in an area designated nonattainment for the specific pollutant emitted.

(e) Sections 12.4 and 12.5 are applicable to any Stationary Source that is required to obtain a Part 70 Operating Permit. Section 12.4 contains the application requirements for any major source subject to the requirements of Sections 12.2, 12.3 or 12.5.

(f) Section 12.11 is applicable to any Stationary Source that is not a major Stationary Source, with a potential to emit that equals or exceeds the thresholds listed in Section 12.1.1(c) and that meets the applicability requirements specified in Section 12.11.1.

12.0.2 General Requirements

(a) All Stationary Sources, including any Stationary Source not required to obtain a permit to operate under these regulations, shall be subject to other Applicable Requirements that regulate activities at Stationary Sources, even though a permit to operate is not required. Such Applicable Requirements include, but are not limited to, Opacity standards, Nuisance prohibitions, and Fugitive Dust control.

12.0.3 Reserved

12.0.4 Permittee Responsibility To Comply With Control Strategy

(a) No approval of an Authority to Construct or authority to operate Permit issued pursuant to Section 12 shall affect the responsibility of the permittee to comply with the Applicable Requirements of the Nevada State Implementation Plan.

12.0.5 Stack Height

(a) The degree of Emission Limitation required of any source of any pollutant shall not be affected by so much of any source's Stack height that exceeds good engineering practice or by any other dispersion technique as determined by the procedures of 40 CFR § 51.118 and the EPA regulations cross-referenced therein as in effect on July 1, 2012 and as incorporated herein by this reference.

12.0.6 General Requirements for Records and Reports

(a) The Owner or Operator of any source operating under a permit issued pursuant to the provisions of Section 12, shall maintain records on the nature and amount of Emissions from such source and any other information deemed necessary by the Control Officer to determine whether such source is in compliance with an applicable Emission Limitation or other Applicable Requirement. Records and any supporting information required under Section 12.0.6(a) shall be retained for at least 5 years from the date of the monitoring sample, measurement, report or application. Support information includes all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and all copies of all reports required by the permit.

(b) The information required by Section 12.0.6(a) shall be reported as specified and required by the applicable condition(s) of the permit issued to the Owner or Operator of the source or facility. Upon a written request from the Control Officer, the Owner or Operator shall submit the information required by Section 12.0.6(a) within 30 days.

(c) Emission data obtained pursuant to Section 12.0.6(b) from Owners or Operators of any source permitted under the provisions of Section 12 shall be correlated with applicable Emission Limitations and/or other applicable Control Measures. The data and the results of the correlation shall be made available to the public for review during normal business hours at the department office located at 4701 West Russell Road, Las Vegas, Nevada 89118.

History: Adopted November 3, 2009.
Amended March 18, 2014; December 18, 2018; January 21, 2020.

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12.1 Permits for Minor Sources

12.1.0 Applicability

Section 12.1 is applicable to any stationary source located in Clark County that has the potential to emit (PTE) a regulated air pollutant equal to or greater than the thresholds listed in Section 12.1.1(d), but less than the major source thresholds listed in 12.2.2.(ff) or 12.3.2(y). Section 12.1 is also applicable to any Part 70 source that is exempt from the requirement to obtain a Part 70 Permit and has a PTE that equals or exceeds the thresholds listed in Section 12.1.1(d) or any source that takes a voluntarily accepted emission limit or standard pursuant to Section 12.1.7 to avoid obtaining a Part 70 operating permit.

12.1.1 Definitions

Unless the context requires otherwise, the following terms shall have the meanings set forth below for purposes of Sections 12.1 and 12.11. When a term is not defined, it shall have the meaning provided in Section 0, Nevada Revised Statutes (NRS) § 445B, the Federal Clean Air Act, or common usage, in that order of priority.

(a) "Exempt stationary source" means any stationary source with a potential to emit lower than the levels listed in Section 12.1.1(d) below or any stationary source who performs only those activities listed in Section 12.1.2(a) and/or (b).

(b) "Existing minor source" means any minor source that has been issued a minor source permit under this Section 12.1 and is not a new minor source.

(c) "Like-kind" means the entire replacement of an existing emissions unit with an identical one or one similar in design and function, and neither increases the potential to emit of the emissions unit nor triggers a new applicable requirement.

(d) "Minor source" means a stationary source that is not required to obtain an "Authority to Construct" pursuant to Section 12.4.3 or a Part 70 Operating Permit and that has a potential to emit equal to or greater than the following levels for any listed pollutant (excluding fugitive emissions unless it is a categorical source in Section 12.2.2(j) or belongs to any other source category which, as of August 7, 1980, is regulated under Section 111 or 112 of the Act):

Type of Air Pollutant	Potential to Emit (tpy)
$PM_{2.5}$	5
PM_{10}	5
CO	25
VOC	5
NO_x	5
SO_2	25
Lead (Pb)	0.3
H_2S	1

(e) “Minor Source Permit” means a single permit that authorizes the construction and operation of a minor source.

(f) "Modification" or "Modify" means a physical change in, or a change in the method of operation, of a minor source that increases the source’s potential to emit any regulated air pollutant.

(g) “New minor source” means any minor source for which no minor source permit has been issued or whose minor source permit has expired and six months have elapsed without an application for renewal having been submitted.

(h) “Portable source” means a minor stationary source that is specifically designed to be transferred to a new site as need warrants. Portable sources may be subject to other applicable federal requirements under the Act.

(i) “Responsible Official” means the person who is authorized by the owner of the source to sign all documents and to make decisions that:

(1) Govern the operation of the regulated facility;

(2) Initiate and direct measures to assure compliance with air quality laws and regulations; and

(3) Ensure actions are taken to gather complete and accurate information for permit application requirements.

(j) “Significant” means an increase at a minor source in the potential to emit of any of the following pollutants, including fugitive emissions, at a rate that would equal or exceed any of the following:

Type of Air Pollutant	Potential to Emit (tpy)
$PM_{2.5}$	7.5

PM_{10}	7.5
CO	35
VOC	20
NO_x	20
SO_2	40
Lead (Pb)	0.6
H_2S	5
Total Reduced Sulfur (including H_2S)	5

(k) "Temporary" means remains or will remain at a location for less than 12 months or a shorter period of time if located at a seasonal source; except as specifically defined elsewhere in this section.

(l) "Voluntarily accepted emission limitation" means those permit emission limitations or other standards proposed by a source to avoid being subject to New Source Review, having to obtain a Part 70 Operating Permit, becoming a major source of Hazardous Air Pollutants, RACT, or other applicable requirements.

12.1.2 Exempt and Insignificant Emission Units and Activities

(a) All exempt and insignificant units and activities shall remain subject to any other applicable requirements.

(b) The following emission units and activities are exempt from the permitting requirements of Section 12.1:

(1) A laboratory, which means a place or activity, such as a medical, analytical, or veterinary laboratory, devoted to experimental study or teaching or to the testing and analysis of drugs, chemicals, chemical compounds, or other substances, or to similar activities, provided that these activities are conducted on a laboratory scale and not sold or distributed commercially. Support activities necessary to the operation of the laboratory are considered part of the laboratory. Support activities do not include the provision of power to the laboratory from emission units that provide power to multiple projects or that would otherwise require permitting, such as boilers providing power to a source or solid waste disposal units (such as incinerators).

(2) Emissions associated with paved and unpaved roads and parking lots that have public access, as well as activities associated with the repair and maintenance of paved and unpaved roads, including paving or sealing, or both, of parking lots and

roadways. Such activities and emissions are subject to the requirements of Sections 91 and 92 of the AQRs.

(3) Temporary activities at a project that is being performed under the conditions of a Dust Control Permit issued pursuant to Section 94 that meet the following criteria:

(A) "Padding" machines used on an underground utility project, including the engine that powers them, provided there is no crusher.

(B) On-site demolition debris "grinders," including the engine that powers them.

(C) Trenching machines, including the engine that powers them.

(D) Portable crushing and/or screening operation supporting an on-site single construction activity, including the engine(s) that power them.

(4) Temporary operations and experimental trials that involve construction, reconstruction, or modification of a source or emission unit and that meet all of the following criteria:

(A) The construction, reconstruction, or modification will not increase the affected stationary source's potential to emit in excess of the applicable major source threshold as defined in Section 12.2.2(ff) or 12.3.2(y).

(B) The cumulative potential to emit from the construction, reconstruction, or modification of an emission unit or a stationary source will not increase the cumulative potential to emit of the affected stationary source by more than fifteen (15) tons of all regulated pollutants for the duration of the operation.

(C) The duration of the temporary operation or experimental trial is less than thirty (30) consecutive days.

(D) If the construction, reconstruction, or modification activities are part of a soil or water remediation project, and their purpose is to identify parameters necessary to design the project, the activities are exempt from permitting if their duration is less than twenty-four (24) hours or, as determined necessary by the Control Officer, a greater period, not to exceed seventy-two (72) hours, based on the nature of the activities.

(E) If the construction, reconstruction, or modification would otherwise require a permit revision, the owner or operator shall provide the Control Officer written notice of the proposed construction, reconstruction, or modification at least seven (7) days before it begins. The notice shall contain all of the following information:

(i) A description of the purpose of the construction, reconstruction, or modification.

(ii) A description of how the construction, reconstruction, or modification is experimental or not part of the normal operation or production of the facility or the source.

(iii) The dates the owner or operator anticipates the construction, reconstruction, or modification will begin, operations will begin, and operations will cease.

(iv) An estimate of the potential emissions increase resulting from the construction or reconstruction.

(v) The equipment involved in the construction, reconstruction, or modification.

(F) If the construction, reconstruction, or modification would otherwise require a permit revision, the owner or operator shall provide the Control Officer with written notice of the proposed construction, reconstruction, or modification no more than seven (7) days after concluding the temporary operation or experimental trial. The notice shall contain all of the following information:

(i) The actual start date of the construction, reconstruction, or modification.

(ii) The duration of the temporary operation or experimental trial.

(iii) The actual emissions during the temporary operation or experimental trial.

(G) The exemption provided by Section 12.1.2(b)(4) shall not apply to facilities or sources whose normal course of business involves operations that are experimental in nature, part of pilot plants, or characterized by frequent product changes.

(5) Combustion emissions from propulsion of mobile sources;

(6) Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act.

(7) Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process.

(8) Noncommercial food preparation.

(9) Ancillary commercial food preparation equipment such as oven, grill, vent hoods.

(10) Consumer use of office equipment and products, not including printing establishments or businesses primarily involved in photographic reproduction.

(11) Janitorial services and consumer use of janitorial products.

(12) Internal combustion engines used for landscaping purposes.

(13) Laundry activities, except for dry-cleaning and steam boilers.

(14) Bathroom/toilet vent emissions.

(15) Emergency (backup) electrical generators at residential locations.

(16) Tobacco smoking rooms and areas.

(17) Blacksmith forges.

(18) Plant maintenance and upkeep activities (e.g., groundskeeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and would not otherwise trigger a permit revision. Cleaning and painting activities qualify as insignificant activities if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners/operators must still get a permit if otherwise required.

(19) Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating or degreasing (solvent metal cleaning) activities, and not otherwise triggering a permit revision.

(20) Handheld equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic.

(21) Brazing, soldering, and welding equipment and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals.

(22) Air compressors and pneumatically operated equipment, including hand tools.

(23) Batteries and battery charging stations, except at battery manufacturing plants.

(24) Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOCs or HAPs.

(25) Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.

(26) Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.

(27) Drop hammers or hydraulic presses for forging or metalworking (excluding engines).

(28) Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment.

(29) Vents from continuous emissions monitors and other analyzers.

(30) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.

(31) Handheld applicator equipment for hot melt adhesives with no VOCs in the adhesive formulation.

(32) Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOCs or HAPs.

(33) CO_2 lasers used only on metals and other materials that do not emit HAPs in the process.

(34) Consumer use of paper trimmers/binders.

(35) Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam.

(36) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants.

(37) Laser trimmers using dust collection to prevent fugitive emissions.

(38) Bench-scale laboratory equipment used for physical or chemical analysis, but not lab fume hoods or vents.

(39) Routine calibration and maintenance of laboratory equipment or other analytical instruments.

(40) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.

(41) Hydraulic and hydrostatic testing equipment.

(42) Environmental chambers not using HAP gases.

(43) Shock chambers.

(44) Humidity chambers.

(45) Solar simulators.

(46) Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted.

(47) Process water filtration systems and demineralizers.

(48) Demineralized water tanks and demineralizer vents.

(49) Boiler water treatment operations, not including cooling towers.

(50) Oxygen scavenging (deaeration) of water.

(51) Ozone generators.

(52) Fire suppression systems.

(53) Emergency road flares.

(54) Steam vents and safety relief valves.

(55) Steam leaks.

(56) Steam cleaning operations.

(57) Steam sterilizers.

(c) The following emission units and activities are deemed to be insignificant and shall be listed in the application with the throughput, energy capacity, rating or similar description, but without other identifying information:

(1) Boilers and water heaters rated at less than 1 million Btu per hour heat input.

(2) Non-industrial cooling towers with recirculation capacity of less than 1,000 gallons per minute with a drift loss rating of 0.05 percent or less.

(3) All internal combustion engines rated less than 35 horsepower.

(4) Indirect heat exchangers or water heaters rated at less than 1 million Btu per hour actual heat input that use #2 fuel oil, wood, natural gas, LP gas or refinery fuel gas.

(5) Gas-fired space heaters or ovens rated at less than 1 million Btu per hour actual heat input.

(6) Ancillary woodworking operations for maintenance and repair, for educational purposes, or as part of minor construction or research-related activities.

(7) Ancillary parts washers that uses only certified clean air solvents. (List of certified clean air solvents and distributors available.)

(8) Degreasers that uses only certified clean air solvents. (List of certified clean air solvents and distributors available.)

(9) Each tank, reservoir, or other container with a capacity less than 40,000 gallons containing any petroleum liquid having a true vapor pressure of 1.5 psia or less.

(10) Any other emission unit or activity deemed by the Control Officer on a case-by-case basis to be insignificant for purposes of this Section 12.1.2(c).

(d) The potential to emit of all insignificant units and activities shall be considered in determining if a stationary source is required to obtain a permit.

(e) If a new or existing minor source, based on information submitted in its application by its Responsible Official, is determined by the Control Officer to be an exempt stationary source, the Responsible Official may request a certificate of exemption confirming that status. The certificate shall list all insignificant emission units and activities considered in the determination.

12.1.3 Permit Application

12.1.3.1 Duty to Apply For a Minor Source Permit

(a) Except as provided in Section 12.1.6, no person shall commence construction of, operate, or make a modification to a minor source except in compliance with a minor source permit that authorizes such construction, operation, or modification.

(b) For the renewal of an existing minor source permit, a timely application shall be submitted to the Control Officer. An application for renewal shall be deemed to be timely if it is submitted at least one hundred twenty (120) days, but no more than two hundred seventy (270) days, before the date of permit expiration.

(c) If the submittal of an application for renewal of an existing minor source permit is not timely, there is no permit application shield as provided in Section 12.1.3.4, and the source loses its authority to operate upon permit expiration until the renewal permit is issued.

(d) If an application for renewal of an existing minor source permit is submitted within six months after permit expiration, the source loses its authority to operate upon permit expiration until the renewal permit is issued.

(e) If an application for the renewal of an existing minor source permit is submitted six months or more after permit expiration, the source loses its authority to operate upon permit expiration, and the

source will be treated as a new minor source and the application will be subject to all of the requirements of Section 12.1.3.6.

12.1.3.2 [Reserved]

12.1.3.3 Complete Application

(a) To be deemed complete, an application must contain all information required under Section 12.1.3.6 and must be accompanied by payment of the applicable fee(s) established in Section 18.

(b) Unless the Control Officer determines that an application is not complete within sixty (60) days of receipt, any application for a new, renewal, or significant revision permit shall be deemed complete. Unless the Control Officer determines that an application for a minor revision is not complete within seven (7) days of receipt, an application for a minor revision shall be deemed complete.

(c) If, while processing an application that has been deemed complete, the Control Officer determines that additional information is necessary to evaluate or take final action on the application, he or she may request such information in writing and set a reasonable deadline for its submission.

(d) Failure to provide the additional information required by the Control Officer by the deadline could result in denial of the application.

12.1.3.4 Permit Application Shield

If an existing minor source submits a timely and complete application for renewal of a minor source permit, the source's continued operation after permit expiration and before issuance of the renewed permit is not a violation of the AQRs. The application shield shall cease to apply if, after a completeness determination, the applicant fails to submit any additional information identified as needed to process the application by a deadline the Control Officer has specified in writing or the renewed permit is denied for any other reason.

12.1.3.5 Duty to Supplement or Correct Application

Any applicant who fails to submit any relevant facts or submits incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submission, submit such supplementary facts or corrected information promptly. An applicant shall also provide additional information as necessary to address any requirements that become applicable to the source after the date the applicant files a complete application, but before issuance of the permit.

12.1.3.6 Application Contents

An application for a minor source permit shall contain all the information necessary to be a complete application. An application for 1) a new minor source permit must include the information required by Section 12.1.3.6(a), (b), and (c), as needed; 2) a renewal of an existing minor source permit must include all the information in Section 12.1.3.6(a); and 3) any revision to a minor source permit must include the information listed in Section 12.1.3.6(a), (b), and (c) for those emission units and activities being added or revised.

(a) Identifying information that includes, but is not limited to:

(1) The company name and address (and the source name and address, if different).

(2) The owner's and Responsible Official's name, email address, telephone number and the name(s) of plant site manager/contact with associated email addresses and telephone numbers.

(3) A declaration signed by the Responsible Official under penalty of perjury stating that, the statements and information in the application are true, accurate, and complete. Signature of the declaration statement shall subject the Responsible Official to liability for perjury under NRS 199.145.

(b) Identifying information that includes, but is not limited to:

(1) A description of the source's processes and products using the North American Industrial Classification System (NAICS).

(2) The following emissions-related information:

(A) The potential to emit of all regulated air pollutants emitted from each emission unit and activity, including fugitive emissions.

(B) Identification and description, including but not limited to manufacturer, model, rating and serial number of each emission unit in sufficient detail to establish the applicable requirements.

(C) The following information, to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, material usage rates, production rates, and operating schedules.

(D) Identification and description of air pollution control equipment and compliance monitoring devices or activities, including design specifications.

(E) Any limitations on source operation affecting emissions or on any work practice standards affecting emissions.

(F) Other information required by any applicable requirement.

(G) The calculations on which the information in Sections 12.1.3.6(b)(2)(A) through (F) is based.

(H) A justification for any exemption sought from any otherwise applicable requirement.

(3) For a new or modified source, a schedule of construction, if applicable.

(4) A list of emission limitations and other requirements applicable to the source.

(5) A list of emission units or activities claimed as exempt under 12.1.2(b).

(c) In addition to the information required by Section 12.1.3.6(a), the following information is required as applicable where the application proposes the following:

(1) A new minor source that will have a potential to emit that is significant for any regulated air pollutant shall include a demonstration of RACT for the affected pollutant shall be proposed and shall include the methodology by which RACT was determined and how compliance with RACT will be demonstrated.

(2) A modification to an existing minor source that requires a significant permit revision pursuant to Section 12.1.6(a)(7) shall contain the following:

(A) A description and quantification of the increase in the potential to emit resulting from the modification.

(B) A proposed RACT for each affected pollutant, the methodology by which RACT was determined and how compliance with RACT is to be demonstrated, including material usage limits, performance testing, or continuous emissions monitoring, if applicable.

(3) A revision proposing a voluntarily accepted emission limitation shall include enough detail to demonstrate that the voluntarily accepted emission limitation is enforceable as a practical matter, and such detail shall include, at minimum, how the limitation affects each emission unit and each air pollutant from that emission unit.

(4) A significant revision or a renewal for a source that is not in compliance at the time the application is submitted, shall include a compliance plan to address the non-compliant issue(s). The plan shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any requirements that the source is not in compliance at the time of permit issuance. Any such plan shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(d) An application for a minor permit revision for a minor source shall contain the information necessary to demonstrate that the change qualifies as a minor permit revision pursuant to Section 12.1.6(b).

12.1.4 Permit Content

12.1.4.1 Terms and Conditions

A minor source permit issued by the Control Officer shall include terms and conditions that contain all of the following:

(a) Identification of all applicable requirements.

(b) A physical description of each emission unit(s) and operating information consistent with the application information.

(c) Emission limitations for any source of emissions or emission unit that ensure all of the following:

(1) The National Ambient Air Quality Standards will be attained or maintained.

(2) The public health will be protected.

(3) Compliance with the requirements of these AQRs and the Act.

(d) Monitoring, testing, reporting, and recordkeeping requirements that ensure adequate information is provided to evaluate compliance with the permit terms and conditions including, at a minimum, all of the following:

(1) Applicable and appropriate monitoring and testing requirements, such as:

(A) Emissions monitoring and analysis procedures or test methods.

(B) Where an applicable regulation does not require periodic testing or monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring specifications sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit. Such monitoring requirements shall ensure that terms, test methods, units, averaging periods, and other statistical conventions are consistent with the applicable regulation. Recordkeeping provisions may be sufficient to meet the requirements of Section 12.1.4.1(d)(2).

(C) As necessary, requirements concerning the use, maintenance and, where appropriate, installation of monitoring equipment or methods.

(D) The Control Officer may require monitoring, or testing to assure compliance with all applicable requirements. Any monitoring or testing shall be performed in accordance with Section 12.10, an applicable requirement, or other methods approved by the Control Officer.

(2) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements, including the following:

(A) Records of required monitoring information that includes:

(i) The date, place, as listed in the permit, and time of sampling or measurements.

(ii) The date(s) analyses were performed.

(iii) The person and/or company, if a third party, that performed the monitoring, sampling, measurements or analyses.

(iv) The analytical techniques or methods used.

(v) The results of such analyses.

(vi) The operating conditions at the time of sampling or measurement.

(vii) Calibration and maintenance of instrumentation and equipment.

(viii) Raw data relating to calculation of emissions.

(B) Retention of all records required to be kept under the conditions of the permit for a period of at least five (5) years from the creation of the record.

(3) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(A) Submittal of reports of any required monitoring at a frequency determined by the Control Officer. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a Responsible Official consistent with section 12.1.4.1(d)(3)(C).

(B) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The Control Officer shall define "prompt" in the permit in relation to the degree and type of deviation likely to occur and the applicable requirements.

(C) Any report, compliance certification, or protocol submitted pursuant to the AQRs or the permit shall contain a declaration by a Responsible Official of truth, accuracy, and completeness. This certification, and any other certification required under this section, shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(e) A requirement that any revision of an emission limitation, monitoring, testing, reporting, or recordkeeping requirement be made consistent with the permit revision requirements in Section 12.1.6.

(f) Emission and operational limitations and standards necessary to ensure:

(1) Compliance with any RACT determination, if one has been required.

(2) The source does not require a major source Authority to Construct or Part 70 Operating Permit.

(3) Compliance with all applicable requirements at the time of permit issuance.

(4) That any ambient air increment as prescribed by Section 12.2.3 is not exceeded.

(5) Compliance with a voluntarily accepted emission limitation.

(g) The following conditions shall also apply:

(1) The permit shall specify and reference the origin of and authority for each term or condition.

(2) If the AQRs allow a determination of an alternative emission limit for a source (equivalent to that contained in the AQRs) to be made in the permit issuance, renewal, or significant revision process, and the Control Officer elects to use this limit, any permit containing an alternative emission limit based on such an equivalency determination shall include provisions to ensure that the emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(3) If emission limitations are to be applicable to startup and shutdown, they shall be addressed on a case-by-case basis in the permit. Such limitations shall be designed to minimize the frequency of such events and the excess emissions they cause to the extent feasible, taking into consideration available technologies, safety, cost, and other applicable requirements. The limitations shall specify the allowable duration of the startup or shutdown and the maximum total hours allowed for startup and shutdown in a 12 month period

(h) A permit term not to exceed five (5) years from the date of issuance.

(i) A severability clause to ensure the continued validity of permit requirements in the event of a challenge to any portion of the permit.

(j) A list of insignificant activities pursuant to Section 12.1.2(c).

(k) A provision to ensure the source pays fees to the Control Officer consistent with the approved fee schedule in Section 18.

(l) Terms and conditions that allow for changes by the source among reasonably anticipated operating scenarios identified in its application, as approved by the Control Officer. Such terms and conditions shall require the source:

(1) To record in a log at the permitted facility, while making a change from one operating scenario to another, the scenario under which the facility is operating.

(2) For each such alternative operating scenario, to comply with all applicable requirements and the requirements of Section 12.1.

(m) Any compliance plan required to be included in the application under Section 12.1.3.6(c)(4).

(n) Where the permit is for a new minor source or a modification to an existing minor source that requires a significant permit revision, the permit shall require that the permittee provide a written notice to the Control Officer if the source as constructed or modified differs from the source or modification authorized by the permit or revision issued. The source shall include a complete list and description of the differences, and provide this notification to the Control Officer no later than thirty (30) days prior to the commencement of operation. A source may be subject to enforcement action as a result of differences between the permitted and constructed source.

(o) A condition stating that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions in a permit issued pursuant to Section 12.1.

(p) A condition stating that the permit may be revised, revoked, reopened and reissued, or terminated for cause by the Control Officer. The filing of a request by the permittee for a permit revision, termination, or of a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(q) Provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit may be reopened and revised under any of the following circumstances:

(1) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Control Officer, excess emissions offset plans shall be deemed to be incorporated into the permit.

(2) The Control Officer determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

(3) The Control Officer determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(4) Proceedings to reopen and issue a permit shall follow the same requirements as apply to any permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(r) A condition that specifies the permittee must comply with all conditions of the permit and that any permit noncompliance constitutes a violation of the AQRs and is grounds for enforcement action; for permit termination, or revocation; or for denial of a permit renewal application.

(s) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Control Officer or an authorized representative to enter the permittee's premises where a source is located or emissions related activity is conducted and to:

(1) Have access to and copy any records that must be kept under the conditions of the permit.

(2) Inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

(3) Sample or monitor substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(4) Document alleged violations using devices such as cameras or video equipment.

(t) A statement that issuance of the permit does not convey any property rights of any sort, or any exclusive privilege.

(u) A requirement that the permittee must furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall

also furnish to the Control Officer copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Control Officer along with a claim of confidentiality pursuant to Section 12.6 and NRS 445B.570.

(v) A requirement that any person who has been issued a permit pursuant to this section shall post such permit in compliance with the requirements of Section 12.13

(w) A requirement that the permit will not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the Nevada SIP, or that are otherwise federally enforceable.

(x) A requirement that the permit shall not affect the responsibilities of the permittee to comply with the applicable portions of a control strategy in the SIP.

(y) A requirement that the permittee shall provide notification of the date of commencement of operation of any new emission unit no later than fifteen (15) days after commencing its operation.

(z) At the Control Officer's discretion, conditions for a portable source permit can be required to include:

(1) Written prior notification of any change in location to be submitted in accordance with 12.1.6(d)(5).

(2) Written notification of any operation exceeding two years duration shall be provided to the Control Officer no less than seven (7) days prior to exceeding two years from the relocation date.

(3) Extension of the operational period at a location to greater than two years shall not proceed if the Control Officer objects within the seven (7) days.

(4) Operation of any emission unit or conducting any emissions related activity shall be authorized by the relocation notice or identified in the application.

(5) Operation of emission units in combination with emission units authorized by a separate Minor Source Permit is prohibited.

(aa) The Control Officer may impose additional conditions necessary to ensure compliance with any applicable requirement.

12.1.4.2 Acknowledgment of Responsibility for Compliance

The permit shall contain a statement that the permittee's commencement of operation constitutes an acknowledgment that the permittee assumes the responsibility of ensuring that the source's emission units and emission control equipment have been constructed and will be operated in compliance with all applicable requirements.

12.1.5 Permit Application Processing Procedures

12.1.5.1 Action on Application

(a) A new minor source permit, permit revision, or permit renewal may be issued only after the Control Officer has:

(1) Received the correct and complete application as prescribed by Section 12.1.3.3.

(2) Complied with the requirements for public participation under Section 12.1.5.3 as applicable.

(3) Determined that the conditions of the permit provide for compliance with all applicable requirements.

(4) Determined that the source or emission units will not interfere with attainment and maintenance of the NAAQS, and has imposed emission limitations in accordance with Sections 12.1.4.1(c) and 12.1.4.1(f).

(5) Determined that all required fees have been paid.

(b) Following the close of any public participation process prescribed by Section 12.1.5.3, the Control Officer shall issue or deny the permit or significant permit revision.

(c) The Control Officer shall deny a permit or permit revision if the applicant fails to submit the correct application or to demonstrate that the source will be designed, controlled, and operated in a manner that meets all applicable requirements.

(d) If the Control Officer denies the permit or permit revision, a notice of denial shall be served on the applicant by method providing evidence of receipt. The notice shall detail the grounds for denial and describe the applicant's right to appeal the denial under Section 7.

(e) If the Control Officer issues the permit or permit revision, the new or revised permit shall be provided to the applicant. The permit or revision becomes effective upon issuance unless stayed by the Air Pollution Control Hearing Board.

12.1.5.2 Permit Processing Deadlines

The Control Officer shall either issue or deny the permits listed in the table below within the following deadlines, commencing after the date on which the application is determined to be complete. These issuance time frames are exclusive of the days required for public participation, as specified in Section 12.1.5.3.

Permit	Deadline
(1) Permit for a new minor source	150 days
(2) Permit renewal	75 days
(3) Permit renewal with revision[1]	120 days
(4) Significant permit revision	120 days
(5) Minor permit revision	60 days

[1]Revision does not include an Administrative Revision

12.1.5.3 Public Participation

The Control Officer shall provide for public notice, comment, and an opportunity for a hearing in accordance with the following procedures:

(a) Notice of Proposed Action.

(1) After receipt of a complete application for any of the following proposed actions for minor source permits, a Notice of Proposed Action shall be posted on the Department's website.

(A) A new minor source with a potential to emit any pollutant that exceeds 50 tons per year (tpy) for CO; 40 tpy for VOCs, SO_2, or NO_X; 10 tpy for $PM_{2.5}$; 15 tpy for PM_{10}; 10 tpy for H_2S; or 0.6 tpy for lead.

(B) A new minor source that will be located within 1,000 feet of the outer boundary of a school, hospital, or residential area.

(C) A significant permit revision that is required because of a significant increase in an existing minor source's potential to emit.

(D) A new portable source.

(E) A voluntarily accepted emissions limitation as provided in Section 12.1.7(c).

(2) The Notice of Proposed Action on the application shall containing all of the following:

(A) The name and address of the permittee or permit applicant and, if different, of the facility regulated by the permit.

(B) The date the Control Officer received the complete application.

(C) The location where documents relevant to the application, including the application, the proposed permit conditions, and determinations of RACT, if applicable, will be available.

(D) The nature of the source involved in the permit action.

(E) The pollutants to be emitted by the source and the projected quantities of those pollutants.

(F) The name, address, and telephone number of the Department representative whom interested persons may contact for instructions on how to obtain additional information, such as a copy of the draft permit, the statement of basis, the application, relevant supporting materials, and other materials available to the Control Officer that are relevant to the permitting decision.

(G) The location of the administrative record, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant (except confidential information, in accordance with NRS 445B.570 and Section 12.6) are available as part of the administrative record.

(H) The Control Officer's preliminary determination whether the application for a permit should be approved or disapproved.

(I) An opportunity for any person to submit written comments on the application for a permit and any relevant documents.

(J) An opportunity for any person to request a public hearing, consistent with the requirements of Section

12.1.5.3(b) below, at which oral and written comments on the application will be received, or notice of such a hearing if one has been scheduled.

(3) The Notice of Proposed Action and the draft permit shall be posted on the Department's web site during the thirty (30) day public comment period, except in the case of relocating portable sources. For a relocating portable source, the portable source relocation notice shall be posted during a seven (7) day public comment period. All written comments must be received by the Control Officer before expiration of the public comment period.

(4) The Control Officer shall consider all written and oral comments, and all other documents on the administrative record, before taking final action on the permit.

(5) The Control Officer shall send a copy of the Notice of Proposed Action to the applicant and to officials and agencies having jurisdiction over the location where the proposed construction would occur, including:

(A) The U.S. Environmental Protection Agency (EPA), if requested, except that the Notice of Proposed Action (NPA) shall be sent to EPA if the subject of the NPA is a voluntarily accepted emission limit pursuant to Section 12.1.7 that an applicant requests to avoid having to obtain a Part 70 Operating Permit.

(B) Any other person who requests such notice.

(b) During the public comment period specified in Section 12.1.5.3(a)(3), any person may petition the Control Officer in writing for a public hearing. All such petitions shall contain the petitioner's name, address, daytime telephone number, email address, and reason for requesting a hearing.

(1) If a proper petition is filed and the Control Officer determines that there is a significant degree of public interest, the Control Officer shall hold a public hearing no sooner than thirty (30) days, but no later than seventy (70) days, after the date of the Notice of Proposed Action. In determining if a significant degree of public interest exists, the Control Officer shall consider all relevant factors, including, but not limited to, the number of petitioners, the nature of their concerns as stated in their petitions, the type and quantity of emissions emitted by the source

and the proximity of the source to sensitive areas such as parks, schools, hospitals or residential areas.

(2) At least seven (7) days prior to the public hearing, notice of the public hearing shall be given to the petitioner, to the applicant and to those listed in Section 12.1.5.3(a)(5) in the same manner as required for the notice of proposed action.

(3) If the petition for hearing is denied, the Control Officer shall notify the petitioner within 30 days of receipt of the petition.

12.1.5.4 Permit Transfers

A minor source permit issued under Section 12.1 may be transferred from the existing permittee to a new permittee if the applicable permit transfer fee is paid pursuant to Section 18 and all the applicable requirements of Section 12.12 are met.

12.1.6 Revisions to an Existing Minor Source Permit

(a) **Significant Permit Revision.** The following changes at a minor source require a significant permit revision and are subject to the permit application requirements in Section 12.1.3 and the public participation requirements in Section 12.1.5.3, if applicable:

(1) Establishing or revising a voluntarily accepted emission limitation or standard, as described in Section 12.1.7.

(2) A change in fuel not authorized by the permit, except for a switch from fuel oil or coal to natural gas or propane.

(3) A change that relaxes monitoring, testing, recordkeeping, or reporting requirements, except when such change results from either:

(A) Equipment removal that results in a permanent decrease in actual emissions, if the source keeps on-site records of the change in a log that meets the requirements of Section 12.1.6(e) below and if the relaxed requirements in the permit apply solely to the equipment that was removed.

(B) Newly applicable requirements specified in 40 CFR Part 60, Part 61, or Part 63.

(4) A change that will cause the source to violate an existing requirement if the permit was not revised.

(5) A change that will require any of the following:

(A) Except for a RACT determination required by Section 12.1.6.(a)(7), a case-by-case determination of an emission limitation or other standard.

(B) A source-specific determination of ambient impacts, or a visibility or increment analysis.

(C) A case-by-case determination of a monitoring, record-keeping, and reporting requirement.

(6) Replacement of a piece of air pollution control equipment listed in the permit with one that the permittee cannot demonstrate will have the same or better pollutant removal efficiency. In determining the comparative removal efficiency of air pollution control equipment, the Control Officer shall rely upon relevant performance testing results, vendor performance guarantees, and emissions factors or data that meet the requirements of Section 12.9(c).

(7) A modification that increases the source's potential to emit a regulated air pollutant, by an amount equal to or exceeding a significant increase. The modification shall apply RACT to each emissions unit to which the increase applies, except the following emission increases are exempt:

(A) Emissions of a regulated air pollutant that are subject to an emissions standard promulgated by the Administrator under Section 112 of the Act after November 15, 1990.

(B) Emissions from an emissions unit subject to a general permit issued under Section 12.11 that establishes RACT.

(b) **Minor Permit Revision.** If the proposed change at a minor source is not listed in Section 12.1.6(a), but is listed below in Sections 12.1.6(b)(1)(A) through (E), such change requires a minor permit revision and is subject to the permit application requirements in Section 12.1.3.

(1) The following changes require a minor permit revision:

(A) The construction of a new emission unit that is not a like-kind replacement.

(B) Increasing operating hours or rates of production above the permitted level, any other physical change or change in method of operation that will result in an increase in the source's PTE that is less than the significant levels listed in Section 12.1.1(j).

(C) A change in fuel from fuel oil or coal to natural gas or propane, if not authorized in the permit.

(D) A change that results in emissions subject to any new or revised monitoring, recordkeeping, or reporting requirement that is not already in the permit if the revision proposes monitoring, recordkeeping, and/or reporting that provides the required quantification.

(E) Replacement of an item of air pollution control equipment listed in the permit with one that has the same or better efficiency, but that employs a different technology or substantially different design. The application for the minor permit revision must demonstrate the efficiency of the replacement air pollution control equipment.

(2) The changes listed above in Sections 12.1.6(b)(1)(A) through (E) may be implemented seven (7) calendar days after filing a complete application on a form obtained from the Control Officer. The application shall specify how the change qualifies as a minor permit revision under this Section 12.1.6(b) and propose language for the permit revision sought. No change listed in this Section 12.1.6(b) shall proceed if the Control Officer objects or deems the application incomplete within the seven (7) day waiting period.

(3) The Control Officer may deny the minor revision because:

(A) The change does not qualify as a minor permit revision because it is a significant permit revision.

(B) The change does not otherwise qualify as a minor permit revision under the criteria in Section 12.1.6(b) above.

(C) There is insufficient information to determine if it qualifies as a minor permit revision.

(c) **Administrative Permit Revision.** The following changes require a permit revision, are considered administrative, and may be initiated by either the source or the Control Officer. These changes are not subject to the revision processes in Sections 12.1.6(a) and (b):

(1) Correcting typographical errors.

(2) Changing the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source (except transfers of ownership, which are subject to the requirements of Section 12.12).

(3) Correcting a permit condition, including but not limited to emission standards and compliance demonstration requirements, consistent with an existing requirement.

(4) Incorporating newly applicable requirements due to an amendment to an existing rule or adoption of a new rule.

(5) Incorporating alternative testing or compliance monitoring requirements that have received the Administrator's approval under 40 CFR Part 60, Part 61, or Part 63.

(6) Incorporating newly applicable monitoring or testing requirements specified in 40 CFR Part 60, Part 61, or Part 63 that apply because of a change in applicability of those requirements to the source, including removal from the permit of monitoring or testing requirements that no longer apply as a result of the change.

(7) Incorporating test methods or monitoring requirements specified in an applicable requirement that the source may use as an alternative to the testing or monitoring requirements in the permit.

(8) Revising a permit condition adopted pursuant to Title IV of the Act which shall be governed by regulations promulgated by the Administrator under Title IV.

(d) **Changes That Can Be Made With Notice.** The following changes at a minor source may be made without a permit revision if the source provides prior written notice of the change, within the applicable timeframe for the change listed below, on a form specified by the Control Officer, unless the Control Officer objects within the applicable timeframe.

(1) Replacing an item of air pollution control equipment listed in the permit with one that is not identical, but is substantially similar and has the same or better pollutant removal efficiency: thirty (30) days after the date of receipt of the written notice by the Control Officer. The Control Officer may require a verification of the efficiency of the new equipment by performance tests.

(2) A physical change, or a change in the method of operation, that does not increase the source's potential to emit: seven (7) days after the date of receipt of the written notice by the Control Officer (includes a like-kind replacement of an emission unit).

(3) A change that would trigger an applicable requirement that already exists in the permit: thirty (30) days after the date of receipt of the written notice by the Control Officer, unless otherwise required by the applicable requirement.

(4) A change that amounts to reconstruction of the source or an individual emission unit, unless the reconstruction triggers a new applicable requirement: seven (7) days after the date of receipt of the written notice by the Control Officer. For purposes of this requirement, reconstruction of a source or an emission unit shall be presumed if the fixed capital cost of the new component(s) exceeds fifty (50) percent of the fixed capital cost of a comparable entirely new source or emission unit.

(5) A change of location of a portable source:

(A) To within 1,000 feet of the outer boundary of a school, hospital, or residential area, the permittee shall submit a portable source relocation notice at least 15 days prior to the change.

(B) For all other relocations, the permittee shall submit the portable source relocation notice at least seven (7) days prior to the change.

(6) Removal of one or more emission unit(s) or activity that is part of an existing minor source permit. This change will not affect the source's potential to emit until it is incorporated into the permit through a permit renewal, permit revision, or the Control Officer action identified in Section 12.1.6(f).

(7) Replacing an item of air pollution control equipment listed in the permit with an identical (i.e., same model, different serial number) item. The Control Officer may require verification of the efficiency of the new equipment by performance tests.

(e) The Control Officer may revise a permit annually for a minor source without notice or public input to incorporate changes in notices filed pursuant to Sections 12.1.6(c) and (d) above.

(f) Any modification at a minor source that results in an increase in PTE equal to or greater than the emissions of a major stationary source (as defined in Sections 12.2 and 12.3) is subject to the applicable

permit requirements in Section 12.4, as well as those in Sections 12.2 and/or 12.3.

12.1.7 Permits Containing Voluntarily Accepted Emission Limitations and Standards

(a) A source may voluntarily propose in its application, and accept in its permit, emission limitations or other standards that are enforceable as a practical matter to avoid being subject to any of the following:

(1) New Source Review under Sections 12.2 or 12.3.

(2) Having to obtain a Part 70 Operating Permit under Section 12.5.

(3) Becoming a major Hazardous Air Pollutants (HAPs) source.

(4) Becoming subject to RACT.

(5) Meeting other applicable requirements (excluding air quality fees).

(b) A source that proposes a voluntarily accepted emission limitation or other standard shall comply with the requirements of Section 12.1.3.6(c)(3).

(c) The public participation procedures set forth in Section 12.1.5.3 apply to sources proposing to establish an initial voluntarily accepted emission limitation or standard as described in Sections 12.1.7(a)(1), (2), and (3).

(d) A source that proposes a voluntarily accepted emission limitation or other standard to avoid becoming a major stationary source, including a major source of fugitive emissions of any such pollutant under Sections 12.2 or 12.3 as described in Section 12.1.7(a)((1), or becoming a new Part 70 source as described in Section 12.1.7(a)(2), must determine if the proposed stationary source is a major source as defined in Section 12.2.2(ff) and is listed as belonging to one of the source categories described in Section 12.2.2(J). If it is not listed, fugitive emissions must not to be included in the source-wide PTE to determine if it is a major source.

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12.2 Prevention of Significant Deterioration in Attainment Areas

12.2.1 Applicability Procedures

12.2.1.1 Preconstruction Review Requirements

The preconstruction review requirements of Section 12.2 shall apply to the construction of any new major stationary source, or any project at an existing major stationary source, within the limits set forth in Section 12.2.1.4, in an area designated as attainment or unclassifiable under Sections 107(d)(1)(A)(ii) or (iii) of the Act.

12.2.1.2 Construction of Major Stationary Sources or Modifications

The requirements of Sections 12.2.9 through 12.2.17 apply to the construction of any new major stationary source, or the major modification of any existing major stationary source, except as Section 12.2 otherwise provides.

12.2.1.3 Authority to Construct Permit Requirement

No new major stationary source or major modification to which the requirements of Sections 12.2.9 through 12.2.17 apply shall begin actual construction without an Authority to Construct Permit issued pursuant to Section 12.4 that states that the major stationary source or major modification will meet those requirements.

12.2.1.4 Projects

The requirements of Section 12.2 apply to projects at major stationary sources in accordance with the principles set out in paragraphs (a) through (e) below:

(a) Except as otherwise provided in Section 12.2.1.5, a project is a major modification for a regulated NSR pollutant if it causes two (2) types of emissions increases: a significant emissions increase, and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase will occur depends upon the type of emissions units being added or modified as part of the project, according to paragraphs (c) through (e) of Section 12.2.1.4. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major

stationary source is contained in the definition of net emissions increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) **Actual-to-Projected-Actual Applicability Test for Projects that only involve Existing Emissions Units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each existing emissions unit equals or exceeds the significant amount for that pollutant.

(d) **Actual-to-Potential Test for Projects that Only Involve Construction of a New Emissions Unit(s).** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.

(e) **Hybrid Test for Projects That Involve Multiple Types of Emissions Units.** A significant emissions increase of a regulated NSR Pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraph (c) or (d) of Section 12.2.1.4, as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

12.2.1.5 Major Sources with Plantwide Applicability Limitations

For any major stationary source for a Plantwide Applicability Limitation (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements under Section 12.2.19.

12.2.1.6 Existing Emission Unit Projects

The provisions of this paragraph apply when a project occurs at an existing emissions unit at a major stationary source, other than a source with a PAL, and the project is not a part of a major modification, and the owner or operator elects to use the method specified in paragraphs (1)(A-D) of the definition of projected actual emissions, found in Section 12.2.2(nn).

(a) Before beginning actual construction of the project, and as a condition of the source's Authority to Construct Permit, the owner or operator shall document and maintain a record of the following information:

(1) A description of the project;

(2) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(3) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (1)(C) of the definition of projected actual emissions, as found in Section 12.2.2(nn) and an explanation for why such amount was excluded, and any netting calculations if applicable.

(b) If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Section 12.2.1.6(a) to the Control Officer. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Control Officer before beginning actual construction.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in Section 12.2.1.6(a)(2); and calculate and maintain a record of the annual emissions, in tpy, for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at any emissions unit.

(d) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer within sixty (60) days after the end of each calendar year during which records must be generated under Section 12.2.1.6(c) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(e) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer if the annual emissions, in tpy, from the project identified in Section 12.2.1.6(a) exceed the baseline actual emissions (as documented and maintained pursuant to Section 12.2.1.6(a)(3)) by a significant amount for that regulated NSR pollutant, and if such emissions differ from the projected actual emissions (prior to exclusion of the amount of emissions under the definition of projected actual emissions) as documented and maintained pursuant to Section 12.2.1.6(a)(3). Such report shall be submitted to the Control Officer within sixty (60) days after the end of such year. The report shall contain the following:

(1) The name, address, and telephone number of the major stationary source;

(2) The annual emissions, as calculated pursuant to Section 12.2.1.6(c); and

(3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

12.2.1.7 Availability of Information

The owner or operator of the source shall make the information required to be documented and maintained pursuant to Section 12.2.1.6 available for review upon a request for inspection by the Control Officer.

12.2.1.8 Secondary Emissions

Secondary emissions shall not be considered in determining whether a stationary source would qualify as a major stationary source. If a stationary source is subject to Section 12.2 on the basis of the direct emissions from the stationary source, the requirements of Section 12.2.10, but no other provisions of Section 12.2, must also be met for secondary emissions.

12.2.2 Definitions

Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.2. When a term is not defined in these paragraphs, it shall have the meaning given in Section 0, or the Act, in that order of priority.

(a) "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with this definition.

(1) In general, actual emissions as of a particular date shall equal the average rate, in tpy, at which the emissions unit actually emitted the regulated NSR pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Control Officer may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, projected actual emissions and baseline actual emissions shall apply for those purposes.

(b) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to practicably enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) Any applicable standards set forth in these AQRs and 40 CFR Parts 60, 61 or 63;

(2) Any applicable emission limitation in the Nevada SIP, including those with a future compliance date; or

(3) The emissions rate specified as a practicably enforceable permit condition, including those with a future compliance date.

(c) "Baseline actual emissions" means the rate of emissions, in tpy, of a regulated NSR pollutant, as determined in accordance with paragraphs (1) through (4) of this definition.

(1) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that

was legally enforceable during the consecutive 24-month period.

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of the particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (ii)(1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraph (1)(C) of this definition.

(2) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Control Officer for a permit required under these regulations, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

(A) The average rate shall include fugitive emissions to the extent quantifiable.

(B) The average rate shall include emissions associated with startups, shutdowns, and malfunctions.

(C) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(D) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source mustcomply as of the particular date had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (ii)(1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(E) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(F) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraphs (2)(C) and (D) of this definition.

(3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(4) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (1) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (2) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (3) of this definition.

(d) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under 40 CFR Part 81 and Section 107(d)(1)(A)(ii) or (iii) of the Act in which the major stationary source or major modification establishing the minor source baseline date would construct, or in which it would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$.

(1) Area redesignations under 40 CFR Part 81 and Section 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(A) Establishes a minor source baseline date; or

(B) Is subject to Section 12 of the AQRs.

(2) Any baseline area established originally for the Total Suspended Particulates (TSP) increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if the Control Officer rescinds the corresponding minor source baseline date.

(e) "Baseline concentration" means:

(1) That ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established, and shall include:

(A) The actual emissions, representative of sources in existence on the applicable minor source baseline date, except as otherwise provided in paragraph (2) of this definition; and

(B) The allowable emissions of major stationary sources that commenced construction before the major source baseline

date, but were not in operation by the applicable minor source baseline date.

(2) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(A) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(B) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

(f) "Basic design parameter" means:

(1) Except as provided in paragraph (3) of this definition, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate, or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units (Btu) content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.

(2) Except as provided in paragraph (3) of this definition, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

(3) If the owner or operator believes the basic design parameter(s) in paragraphs (1) and (2) of this definition is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Control Officer an alternative basic design parameter(s) for the source's process unit(s). If the Control Officer approves of the use of an alternative basic design parameter(s), the Control Officer shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).

(4) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (1) and (2) of this definition.

(5) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the 5-year period immediately preceding the planned activity.

(6) Efficiency of a process unit is not a basic design parameter.

(7) The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.

(g) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(h) "Best Available Control Technology (BACT)" means an emission limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Control Officer, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set

forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(i) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same SIC or NAICS code) as described in either the Standard Industrial Classification manual, 1972, as amended by the 1977 supplement or the North American Industrial Classification System manual.

(j) "Categorical stationary source" means any stationary source of air pollutants that belongs to one of the following categories:

(1) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;

(2) Coal cleaning plants (with thermal dryers);

(3) Kraft pulp mills;

(4) Portland cement plants;

(5) Primary zinc smelters;

(6) Iron and steel mills;

(7) Primary aluminum ore reduction plants;

(8) Primary copper smelters;

(9) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(10) Hydrofluoric, sulfuric, or nitric acid plants;

(11) Petroleum refineries;

(12) Lime plants;

(13) Phosphate rock processing plants;

(14) Coke oven batteries;

(15) Sulfur recovery plants;

(16) Carbon black plants (furnace process);

(17) Primary lead smelters;

(18) Fuel conversion plants;

(19) Sintering plants;

(20) Secondary metal production plants;

(21) Chemical process plants;

(22) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

(23) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(24) Taconite ore processing plants;

(25) Glass fiber processing plants; and

(26) Charcoal production plants.

(k) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage at a new or existing facility, which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen (NO_x) associated with the utilization of coal in the generation of electricity or process steam which was not in widespread use as of November 15, 1990.

(l) "Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The federal contribution for a qualifying project shall be at least twenty (20) percent of the total cost of the demonstration project.

(m) "Commence," as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits, including an Authority to Construct Permit, and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(n) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Control Officer from requesting or accepting any additional information.

(o) "Construction" means any physical change, or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, that would result in a change in emissions.

(p) "Continuous Emissions Monitoring System (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of Section 12.2 to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(q) "Continuous Emissions Rate Monitoring System (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(r) "Continuous Parameter Monitoring System (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of Section 12.2, to monitor process and control device operational parameters and other information, and to record average operational parameter value(s) on a continuous basis.

(s) "Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity, and more than 25 MW electrical output, to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(t) "Emissions unit" means any part of a stationary source that emits, or would have the potential to emit, any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of Section 12.2, there are two types of emissions units, as described in paragraphs (1) and (2) of this definition:

(1) A "new emissions unit" is any emissions unit which is (or will be) newly constructed and which has existed for less than two (2) years from the date such emissions unit first operated. For the purposes of this definition, the date an emissions unit first operated shall not be extended by any shakedown period established pursuant to paragraph (ii)(6) of Section 12.2.2.

(2) An "existing emissions unit" is any emissions unit that does not meet the requirements in paragraph (1) of this definition. A replacement unit is an existing emissions unit.

(u) “Federally Enforceable” means all limitations and conditions which are enforceable by the Administrator.

(v) “Federal Land Manager” means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

(w) “Fugitive emissions” means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(x) “High terrain” means any area having an elevation 900 feet or more above the base of the stack of a source.

(y) “Indian governing body” means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing the power of self-government.

(z) “Indian reservation” means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

(aa) “Innovative control technology” means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air-quality environmental impacts.

(bb) “Lowest Achievable Emission Rate (LAER)” means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed major stationary source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the LAER for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

For purposes of this definition only, the term "any state" means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and includes the Commonwealth of the Northern Mariana Islands.

(cc) "Low terrain" means any area other than high terrain.

(dd) "Major modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.

(1) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(2) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair, and replacement;

(B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(D) Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;

(E) Use of an alternative fuel or raw material by a stationary source which:

(i) The source was capable of accommodating before January 6, 1975, unless such change is prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to Section 12 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, or

(ii) The source is approved to use under any permit issued under Section 12 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, or 40 CFR 52.21.

(F) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to Subpart I of 40 CFR Part 51.

(G) Any change in ownership at a stationary source;

(H) The installation, operation, cessation, or removal of a Temporary Clean Coal Technology Demonstration Project, provided that the project complies with:

(i) The Nevada SIP; and

(ii) Other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(I) The installation or operation of a permanent Clean Coal Technology Demonstration Project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis; or

(J) The reactivation of a very clean coal-fired electric utility steam generating unit.

(3) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Section 12.2.19 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification shall apply.

(4) The fugitive emissions of a major stationary source shall be included in determining, for any of the purposes of Section 12.2,

whether a particular physical change or change in the method of operation is a major modification.

(ee) "Major source baseline date" means:

(1) In the case of PM_{10} and sulfur dioxide, January 6, 1975;

(2) In the case of nitrogen dioxide, February 8, 1988; and

(3) In the case of $PM_{2.5}$, October 20, 2010.

(ff) "Major stationary source"

(1) Means:

(A) Any of the categorical stationary sources of air pollutants which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant;

(B) Notwithstanding the stationary source size otherwise specified in paragraph (1)(A) of this definition, any non-categorical stationary source which emits, or has the potential to emit, 250 tpy or more of a regulated NSR pollutant; or

(C) Any stationary source specified in paragraphs (1)(A) or (1)(B) of this definition which emits, or has the potential to emit, greenhouse gases ("GHGs") that are subject to regulation as defined in 40 CFR § 52.21(b)(49) as of July 19, 2011; or

(D) Any physical change that would occur at a stationary source not qualifying under paragraphs (1)(A) or (1)(B) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

(2) A major stationary source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone.

(3) The fugitive emissions of a stationary source shall not be included in determining, for any of the purposes of Section 12.2, whether it is a major stationary source, unless the source is a categorical stationary source or belongs to any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

(gg) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification sub-

ject to Section 12 of the AQRs submits a complete application under the relevant regulations.

(1) The trigger date is:

(A) In the case of particulate matter and sulfur dioxide, August 7, 1977;

(B) In the case of nitrogen dioxide, February 8, 1988; and

(C) In the case of $PM_{2.5}$, October 20, 2011.

(2) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(A) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under 40 CFR Part 81 and Section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under Section 12.2 of the AQRs; and

(B) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(3) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the Control Officer shall rescind a minor source baseline date where it can be shown, to the satisfaction of the Control Officer, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

(hh) "Necessary preconstruction approvals or permits" means those permits or approvals required under air quality control laws and regulations which are part of the Nevada SIP, these regulations, or federal air quality control laws and regulations, including the Authority to Construct Permits issued pursuant to Section 12.4.

(ii) "Net emissions increase (NEI)" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the following:

(1) The amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change, or change in the method of operation, at a stationary source as calculated pursuant to Sections 12.2.1.4(a) through (e); and

(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable.

(C) For the purposes of calculating increases and decreases under paragraph (1)(B) of this definition, baseline actual emissions shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (1)(C) and (2)(E) of that definition shall not apply.

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five (5) years before construction on the particular change commences and the date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if the Control Officer has not relied on it in issuing a permit for the source under Section 12 or any other regulation approved by the Administrator pursuant to 40 CFR Part 51, which permit is in effect when the increase in actual emissions from the particular change occurs.

(4) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(5) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(C) The Control Officer has not relied on it in issuing any permit under Section 12, or any other regulations approved pursuant to 40 CFR Part 51, Subpart I, nor has the state of Nevada relied on it in demonstrating attainment or reasonable further progress; and

(D) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(6) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown, or any new emissions unit that replaces an existing emissions unit and that requires shakedown, becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.

(jj) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the types or amounts of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is enforceable as a practical matter. Secondary emissions do not count in determining the potential to emit of a stationary source.

(kk) "Predictive Emissions Monitoring System (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters and other information, and calculate and record the mass emissions rate on a continuous basis.

(ll) "Prevention of Significant Deterioration (PSD) Permit" means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the Nevada SIP to implement the requirements of Part C, Subchapter I of the Act. Any permit issued under such a program is a major NSR permit.

(mm) "Project" means a physical change in, or change in the method of operation of, an existing stationary source.

(nn) "Projected actual emissions" means the maximum annual rate, in tpy, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five (5) years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the ten (10) years following that date if (1) the project involves increasing the design capacity or potential to emit of any emissions unit for that regulated NSR pollutant, and (2) full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(1) In determining the projected actual emissions (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including, but not limited to historical operational data, the company's own representations, the company's expected business activity and highest projections of business activity, the company's filings with the county, state, or federal regulatory authorities, and compliance plans under these regulations;

(B) Shall include fugitive emissions to the extent quantifiable;

(C) Shall include emissions associated with startups, shutdowns, and malfunctions; and

(D) Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth.

(E) In lieu of using the method set out in paragraphs (1)(A)-(D) of this definition, the owner or operator of the major stationary source may elect to use the emissions unit's potential to emit, in tpy.

(oo) "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change, or change in the method of operation, associated with commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the 2-year period prior to the enactment of the Act Amendments of 1990, and the emissions from such unit continue to be carried in the Clark County emissions inventory at the time of enactment;

(2) Was equipped prior to shutdown with a continuous system of emissions control that achieved a removal efficiency for sulfur dioxide of no less than eighty-five (85) percent and a removal efficiency for particulates of no less than ninety-eight (98) percent;

(3) Is equipped with low-NOx burners prior to the time of commencing operations following reactivation; and

(4) Is otherwise in compliance with the requirements of these regulations.

(pp) "Regulated NSR pollutant," for purposes of Section 12.2, means the following:

(1) Any pollutant for which a National Ambient Air Quality Standard has been promulgated. This includes, but is not limited to, the following:

(A) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included;

(B) Any pollutant identified as a constituent or precursor to a pollutant for which a National Ambient Air Quality Standard has been promulgated. The Administrator has identified the following precursors for the purposes of NSR:

(i) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(ii) Sulfur dioxide is a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas.

(iii) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all attainment and unclassifiable areas unless the state or county demonstrates to the Administrator's satisfaction, or EPA demonstrates, that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(iv) Volatile organic compounds are presumed not to be precursors to $PM_{2.5}$ in any attainment or unclassifia-

ble area unless the state or county demonstrates to the Administrator's satisfaction, or EPA demonstrates, that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(2) Any pollutant that is subject to any standard promulgated under Section 111 of the Act;

(3) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or

(4) Except as provided in Section 12.2.2(pp)(5),any pollutant that otherwise is subject to regulation under the Act as defined in 40 CFR § 52.21(b)(49) as of July 19, 2011,

(5) The term "Regulated NSR Pollutant" shall not include any or all hazardous air pollutants either listed in Section 112 of the Act, or added to the list pursuant to Section 112(b)(2) of the Act and not delisted pursuant to Section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Act.

(qq) "Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (1) through (4) of this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. The criteria are:

(1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(2) The emissions unit is identical to, or functionally equivalent to, the replaced emissions unit.

(3) The replacement does not alter the basic design parameters of the process unit.

(4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(rr) "Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressur-

ized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells or—as determined by the Administrator, in consultation with the Secretary of Energy—a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(1) Repowering shall also include any oil and/or gas-fired unit which has been awarded Clean Coal Technology Demonstration Project funding as of January 1, 1991, by the U.S. Department of Energy.

(2) The Control Officer shall give expedited consideration to permit applications for any source that satisfies the requirements of Section 12.2.2(rr) and is granted an extension under Section 409 of the Act.

(ss) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of Section 12.2, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(tt) "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

(uu) "Significant" means:

(1) In reference to a net emissions increase or a source's potential to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- Carbon monoxide: 100 tpy;
- NO_x: 40 tpy;

- Sulfur dioxide: 40 tpy;
- Particulate matter: 25 tpy;
- PM_{10}: 15 tpy;
- $PM_{2.5}$: 10 tpy of direct $PM_{2.5}$ emissions or 40 tpy of sulfur dioxide emissions or 40 tpy of nitrogen oxide emissions;
- Ozone: 40 tpy of volatile organic compounds or nitrogen oxides;
- Lead: 0.6 tpy;
- Fluorides: 3 tpy;
- Sulfuric acid mist: 7 tpy;
- Hydrogen sulfide (H_2S): 10 tpy;
- Total reduced sulfur (including H_2S): 10 tpy;
- Reduced sulfur compounds (including H_2S): 10 tpy;
- Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tpy).
- Municipal waste combustor metals (measured as Particulate Matter): 14 megagrams per year (15 tpy);
- Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tpy);
- Municipal solid waste landfills emissions (measured as non-methane organic compounds): 45 megagrams per year (50 tpy); and
- Ozone-depleting substances: 100 tpy.
- GHG: The sum of the six well-mixed GHGs on a mass basis greater than 0 tpy and the sum of the six well-mixed GHGs equal to or greater than 75,000 tpy CO2e as defined in 40 CFR § 52.21(b)(49) as of July19, 2011.

(2) "Significant" means, in reference to a net emissions increase or a source's potential to emit a regulated NSR pollutant that is not listed in this definition, any emissions rate.

(3) Notwithstanding the pollutant-specific significance levels specified in this definition "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 10

kilometers of a Class I area and have an impact on such area equal to or greater than 1 microgram per cubic meter (24-hour average).

(vv) "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

(ww) "Startup" means the setting into operation of any air pollution control equipment or process equipment for any purpose except the routine phasing in of process equipment.

(xx) "Stationary source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(yy) "Temporary Clean Coal Technology Demonstration Project" means a Clean Coal Technology Demonstration Project that is operated for a period of five (5) years or less, and which complies with the requirements of these regulations and other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

12.2.3 Ambient Air Increments

In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Table 12.2-1. Increment Limits

Pollutant		Maximum allowable increases ($\mu g/m^3$)
Class I		
Particulate Matter	$PM_{2.5}$, annual arithmetic mean	1
	$PM_{2.5}$, 24-hr maximum	2
	PM_{10}, annual arithmetic mean	4
	PM_{10}, 24-hr maximum	8
Sulfur Dioxide	Annual arithmetic mean	2
	24-hr maximum	5
	3-hr maximum	25
Nitrogen Dioxide	Annual arithmetic mean	2.5
Class II		
Particulate Matter	$PM_{2.5}$, annual arithmetic mean	4
	$PM_{2.5}$, 24-hr maximum	9
	PM_{10}, annual arithmetic mean	17
	PM_{10}, 24-hr maximum	30
Sulfur Dioxide	Annual arithmetic mean	20

Pollutant		Maximum allowable increases ($\mu g/m^3$)
	24-hr maximum	91
	3-hr maximum	512
Nitrogen Dioxide	Annual arithmetic mean	25
Class III		
Particulate Matter	$PM_{2.5}$, annual arithmetic mean	8
	$PM_{2.5}$, 24-hr maximum	18
	PM_{10}, annual arithmetic mean	34
	PM_{10}, 24-hr maximum	60
Sulfur Dioxide	Annual arithmetic mean	40
	24-hr maximum	182
	3-hr maximum	700
Nitrogen Dioxide	Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

12.2.4 Ambient Air Ceilings

No concentration of a pollutant shall exceed the concentration permitted under the secondary National Ambient Air Quality Standard or the primary National Ambient Air Quality Standard, whichever is lowest for the pollutant, for a period of exposure.

12.2.5 Restrictions On Area Classifications

12.2.5.1 Class I Areas

All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

(a) International parks,

(b) National wilderness areas which exceed 5,000 acres in size,

(c) National memorial parks which exceed 5,000 acres in size, and

(d) National parks which exceed 6,000 acres in size.

12.2.5.2 Redesignation of Class I Areas

Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in 40 CFR Part 51.

12.2.5.3 Class II Areas

Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in 40 CFR Part 51.

12.2.5.4 Redesignating Areas

The following areas may be redesignated only as Class I or II:

(a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

12.2.5.5 Exclusions from Increment Consumption

(a) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

(1) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

(2) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

(3) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(4) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

(5) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources which are affected by plan revisions approved by the Administrator as meeting the criteria specified in paragraph (a)(3) of Section 12.2.5.5.

(b) If the plan provides that the concentrations to which paragraphs (a)(1) or (a)(2) of Section 12.2.5.5 refers shall be excluded, it shall also provide that no exclusion of such concentrations shall apply more than five (5) years after the effective date of the order to which paragraph (a)(1) of Section 12.2.5.5 refers or the plan to which paragraph (a)(2) of Section 12.2.5.5, refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five (5) years after the later of such effective dates.

(c) For purposes of excluding concentrations pursuant to paragraph (a)(5) of Section 12.2.5.5, the Administrator may approve a plan revision that:

(1) Specifies the time over which the temporary emissions increase of sulfur dioxide, particulate matter, or nitrogen oxides would occur. Such time is not to exceed two (2) years in duration unless a longer time is approved by the Administrator.

(2) Specifies that the time period for excluding certain contributions in accordance with paragraph (c)(1) of Section 12.2.5.5, is not renewable;

(3) Allows no emissions increase from a stationary source which would:

(A) Impact a Class I area or an area where an applicable increment is known to be violated; or

(B) Cause or contribute to the violation of a National Ambient Air Quality Standard.

(4) Requires limitations to be in effect the end of the time period specified in accordance with paragraph (c)(1) of Section 12.2.5.5, which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

12.2.6 Redesignation

12.2.6.1 Clark County

All areas of Clark County (except as otherwise provided under Section 12.2.5) are designated Class II as of December 5, 1974. Redesignation of any area of the county (except as otherwise precluded by Section 12.2.5) may be proposed by the Control Officer, as provided below and subject to approval by the Administrator, as a revision to the Nevada SIP.

12.2.6.2 Requirements

(a) Clark County, through the state of Nevada, may submit to the Administrator a proposal to redesignate areas of the county Class I or Class II provided that:

(1) At least one public hearing has been held in accordance with the procedures established in Section 12.2.16;

(2) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least thirty (30) days prior to the public hearing;

(3) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least thirty (30) days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(4) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the county, through the state of Nevada, has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of sixty (60) days) to confer with the county respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the county shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

(5) The county, through the state of Nevada, has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(b) Any area other than an area to which Section 12.2.5 refers may be redesignated as Class III if:

(1) The redesignation would meet the requirements of Section 12.2.6.2;

(2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the county and the governor, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless state law provides that the redesignation must be specifically approved by state legislation), and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

(3) The redesignation would not cause or contribute to a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any National Ambient Air Quality Standard; and

(4) Any permit application for any major stationary source or major modification, subject to review under Section 12.2.11, which could receive a permit under Section 12.2 only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

12.2.6.3 Reserved

12.2.6.4 Administrator Approval

The Administrator will disapprove, within ninety (90) days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of Section 12.2.6 or is inconsistent with Section 12.2.5. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

12.2.6.5 Resubmitting Disapproved Proposal

If the Administrator disapproves any proposed redesignation, the county may resubmit the proposal after correcting the deficiencies noted by the Administrator.

12.2.7 Stack Heights

12.2.7.1 Emission Limitation

The degree of emission limitation required for control of any air pollutant under Section 12.2 shall not be affected in any manner by:

(a) So much of the stack height of any source as exceeds good engineering practice; or

(b) Any other dispersion technique.

12.2.7.2 Time Frame

Section 12.2.7.1 shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

12.2.7.3 Stack Height Limitation

(a) The limitations set forth herein shall not apply to stacks or dispersion techniques used by the owner or operator prior to December 31, 1970, for which the owner or operator had:

(1) Begun, or caused to begin, a continuous program of physical on-site construction of the stack;

(2) Entered into building agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack, to be completed in a reasonable time; or

(3) Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act, which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.

(b) Good engineering practice stack height is calculated as the greater of the four numbers in paragraphs (b)(1) through (b)(4) of Section 12.2.7.3:

(1) 213.25 feet (65 meters);

(2) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 CFR Part 51 or 52, Hg = 2.5H;

(3) For all other stacks, Hg = H + 1.5L, where:

Hg = Good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = Height of nearby structure, measured from the ground-level elevation at the base of the stack;

L = Lesser dimension (height or projected width) of nearby structure;

provided that the EPA, the Control Officer, or a local control agency may require the use of a field study or fluid model to verify good engineering practice (GEP) stack height for the source; or

(4) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain obstacles.

(5) For a specific structure or terrain feature, "nearby" shall be:

(A) For purposes of applying the formulae in paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile);

(B) For conducting demonstrations under paragraph (b)(4) of Section 12.2.7.3, not greater than 0.8 km (1/2 mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height (H+) of the feature, not to exceed two (2) miles if such feature achieved a height (H+) 0.8 km from the stack. The height shall be at least forty (40) percent of the GEP stack height as determined by the formula provided in paragraph (b)(3) of Section 12.2.7.3 or 85 feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.

(6) "Excessive concentrations" means, for the purpose of determining GEP stack height under paragraph (b)(4) of Section 12.2.7.3:

(A) For sources seeking credit for stack height exceeding that established under paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, a maximum ground-level concentration due to emissions from a stack due in whole or in part to down-

wash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects, and which contributes to a total concentration due to emissions from all sources that is greater than a National Ambient Air Quality Standard. For sources subject to the requirements for permits or permit revisions under Section 12.2.7.3, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects, and greater than the applicable maximum allowable increase contained in Section 12.2.3. The allowable emissions rate to be used in making demonstrations under paragraph (b)(4) of Section 12.2.7.3 shall be prescribed by the new source performance standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Control Officer, an alternative emission rate shall be established in consultation with the source owner or operator;

(B) For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, either:

(i) A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in paragraph (b)(4) of Section 12.2.7.3, except that the emission rate specified by any applicable SIP shall be used; or

(ii) The actual presence of a local nuisance caused by the existing stack, as determined by the Control Officer.

(C) For sources seeking credit after January 12, 1979, for a stack height determined under paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, where the Control Officer requires the use of a field study or fluid model to verify GEP stack height; for sources seeking stack height credit after No-

vember 9, 1984, based on the aerodynamic influence of cooling towers; and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(c) The degree of emission limitation required of any source after the respective date given in paragraph (a) of Section 12.2.7.3 for control of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice, or by any other dispersion technique.

(d) Before the Control Officer issues an Authority to Construct Permit or permit revision under Section 12.2 to a source based on a good engineering practice stack height that exceeds the height allowed by paragraph (b) of Section 12.2.7.3, the Control Officer shall notify the public of the availability of the demonstration study and provide the opportunity for a public hearing in accordance with the requirements of Section 12.2.16.

12.2.8 Exemptions

The requirements of Sections 12.2.9 through 12.2.17 shall not apply to a particular major stationary source or major modification if:

(a) The major stationary source or major modification would be a nonprofit health or nonprofit educational institution, or the major modification would occur at such an institution; or

(b) The source is a portable stationary source which has previously received a permit, and:

(1) The owner or operator proposes to relocate the major stationary source, and emissions of the major stationary source at the new location would be temporary;

(2) The emissions from the major stationary source would not exceed its allowable emissions;

(3) The emissions from the major stationary source would impact no Class I area and no area where an applicable increment is known to be violated; and

(4) Reasonable notice is given to the Control Officer prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Control Officer not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the Control Officer.

12.2.8.1 Nonattainment Areas

The requirements of Sections 12.2.9 through 12.2.17 shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the major stationary source or major modification is located in an area designated as nonattainment under 40 CFR 81.329.

12.2.8.2 Class I Areas

The requirements of Sections 12.2.10, 12.2.12, and 12.2.14 shall not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the major stationary source or the net emissions increase of that pollutant from the major modification:

(a) Would impact no Class I area and no area where an applicable increment is known to be violated; and

(b) Would be temporary.

12.2.8.3 Class II Areas

The requirements of Sections 12.2.10, 12.2.12, and 12.2.14 as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than fifty (50) tpy.

12.2.8.4 Threshold Limits

The Control Officer may exempt a major stationary source or major modification from the requirements of Section 12.2.12, with respect to monitoring for a particular pollutant, if:

(a) The emissions increase of the pollutant from the new source, or the net emissions increase of the pollutant from the modification, would

cause, in any area, air quality impacts less than the following amounts.

Table 12.2-2. Air Quality Impact Limits

Pollutant	Emissions Increase (µg/m ^{3})
Carbon monoxide, 8-hour average	575
Nitrogen dioxide, annual average	14
$PM_{2.5}$,	0 (in accordance with *Sierra Club vs EPA,* 706 F.3d 428 D.C. Circuit 2013,no exemption is available with regard to $PM_{2.5}$)
$PM_{10,}$ 24-hour average	10
Sulfur dioxide, 24-hour average	13
Ozone	No *de minimis* air quality level is provided for ozone. However, any net increase of 100 tpy or more of VOCs or NO_x subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data.
Lead, 3-month average	0.1
Fluorides, 24-hour average	0.25
Total reduced sulfur, 1-hour average	10
Hydrogen sulfide, 1-hour average	0.2
Reduced sulfur compounds, 1-hour average	10

(b) The concentrations of the pollutant in the area that the major stationary source or major modification would affect are less than the concentrations listed in paragraph (a) of Section 12.2.8.4; or

(c) The pollutant is not listed in paragraph (a) of Section 12.2.8.4.

12.2.9 Control Technology Review

A major stationary source or major modification shall meet each applicable requirement.

12.2.9.1 Major Stationary Sources

A new major stationary source shall apply BACT for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

12.2.9.2 Major Modifications

A major modification shall apply BACT for each regulated NSR pollutant for which it would result in a significant net emissions increase at the stationary source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change, or change in the method of operation, in the emissions unit.

12.2.9.3 Phased Construction Projects

For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

12.2.10 Source Impact Analysis

12.2.10.1 Demonstration of Impact

The owner or operator of the proposed major stationary source or major modification shall demonstrate that allowable emissions increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(a) Any NAAQS in any air quality control region; or

(b) Any applicable maximum allowable increase over the baseline concentration in any area.

12.2.10.2 Violation of Standard

A major stationary source or major modification will be considered to cause or contribute to a violation of a National Ambient Air Quality Standard when such source or modification would, at a minimum, exceed the significance levels listed in Table 12.2-3 at any locality that does not (or would not) meet the applicable national standard.

Table 12.2-3. Significance Levels

Pollutant	Annual	Significance Levels Averaging time (hours)			
		24	8	3	1
SO_2	1.0 µg/m^3	5 µg/m^3		25 µg/m^3	
PM_{10}	1.0 µg/m^3	5 µg/m^3			
NO_2	1.0 µg/m^3				
CO			0.5 mg/m^3		2 mg/m^3

12.2.11 Air Quality Models

12.2.11.1 Model Applicability

All estimates of ambient concentrations required under Section 12.2 shall be based on applicable air quality models, databases, and other requirements specified in 40 CFR Part 51, Appendix W ("Guideline on Air Quality Models").

12.2.11.2 Model Modifications and Substitutions

Where an air quality model specified in 40 CFR Part 51, Appendix W ("Guideline on Air Quality Models") is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with Section 12.2.16.

12.2.12 Air Quality Analysis

12.2.12.1 Preapplication Analysis

(a) Any application for an Authority to Construct Permit under Section 12.2 shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following :

(1) For the source, each pollutant that it would have the potential to emit in a significant amount; or

(2) For the modification, each pollutant for which it would result in a significant net emissions increase.

(b) With respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Control Officer determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(c) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(d) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one (1) year and shall represent at least the year preceding receipt of the application; except that, if the Control Officer determines that a complete and adequate analysis can be accomplished with monitoring data gathered

over a period shorter than one (1) year (but not to be less than four (4) months), the data that is required shall have been gathered over at least that shorter period.

(e) The owner or operator of a proposed new stationary source or modification of an existing stationary source of volatile organic compounds who satisfies all conditions of 40 CFR Part 51, Appendix S, Section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Section 12.2.12.1.

(f) With respect to any requirements for air quality monitoring of PM_{10}, the owner or operator of the major stationary source or major modification shall use a monitoring method approved by the Administrator and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Control Officer.

12.2.12.2 Post-Construction Monitoring

The owner or operator of a major stationary source or major modification shall, after construction of the major stationary source or major modification, conduct such ambient monitoring as the Control Officer determines is necessary to determine the effect emissions from the major stationary source or major modification may have, or are having, on air quality in any area.

12.2.12.3 Operations of Monitoring Stations

The owner or operator of a major stationary source or major modification shall meet the requirements of 40 CFR Part 58, Appendix B during the operation of monitoring stations for purposes of satisfying Section 12.2.12.

12.2.13 Source Information

The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to perform any analysis or make any determination required under Section 12.2.13.

12.2.13.1 Required Information

With respect to a major stationary source or major modification to which Sections 12.2.9, 12.2.11, 12.2.13, and 12.2.15 apply, such information shall include:

(a) A description of the nature, location, design capacity, and typical operating schedule of the major stationary source or major modification,

including specifications and drawings showing its design and plant layout;

(b) A detailed schedule for construction of the major stationary source or major modification;

(c) A detailed description as to what system of continuous emission reduction is planned for the major stationary source or major modification, emission estimates, and any other information necessary to determine that BACT would be applied.

12.2.13.2 Information on Air Quality Impacts

Upon request of the Control Officer, the owner or operator shall also provide information on:

(a) The air quality impact of the major stationary source or major modification, including meteorological and topographical data necessary to estimate such impact; and

(b) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since the major source baseline date in the area the major stationary source or major modification would affect.

12.2.14 Additional Impact Analyses

12.2.14.1 Visibility, Soils, and Vegetation

The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the proposed major stationary source or major modification, and general commercial, residential, industrial and other growth associated with the major stationary source or major modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

12.2.14.2 Commercial, Residential, Industrial, and Other Growth

The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

12.2.15 Additional Requirements for Sources Impacting Class I Areas

12.2.15.1 Notice to EPA

The Control Officer shall transmit to the Administrator a copy of each permit application relating to a major stationary source or major modification, and provide notice to the Administrator of every action related to the consideration of such permit.

12.2.15.2 Federal Land Manager

The Federal Land Manager and the federal official charged with direct responsibility for management of Class I lands have an affirmative responsibility to protect the air quality-related values (including visibility) of any such lands and to consider, in consultation with the Administrator, whether a proposed source or modification would have an adverse impact on such values. The Control Officer shall consult with the Federal Land Manager on a proposed major stationary source or major modification that may impact visibility in any Class I Area, in accordance with 40 CFR 51.307.

12.2.15.3 Impact of Denial on Air Quality-Related Values

A Federal Land Manager of any Class I lands may present to the county, after the Control Officer's preliminary determination (required under procedures developed in accordance with Section 12.2.16), a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the county, through the state of Nevada, concurs with such demonstration, the Control Officer shall not issue the permit.

12.2.15.4 Class I Variances

The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source would have no adverse impact on the air quality-related values of such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and so certifies to the state of Nevada, the Control Officer may, provided that applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the fol-

lowing maximum allowable increases over baseline concentration for such pollutants.

Table 12.2-4. Maximum Allowable Pollutant Increases

Pollutant	Maximum allowable increase ($\mu g/m^3$)
Particulate Matter:	
$PM_{2.5}$, annual arithmetic mean	4
$PM_{2.5}$, 24-hr maximum	9
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

12.2.15.5 Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence

(a) The owner or operator of a proposed source or modification which cannot be approved under procedures developed pursuant to Section 12.2.16 may demonstrate to the governor, through the Control Officer, that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of twenty-four (24) hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility).

(b) The Control Officer, through the governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant, after notice and an opportunity for a public hearing, a variance from such maximum allowable increase.

(c) If such variance is granted, the Control Officer may issue a permit to such source or modification in accordance with provisions developed pursuant to Section 12.2.16, provided that the applicable requirements of the Nevada SIP are otherwise met.

12.2.15.6 Variance by the Governor with the President's Concurrence

(a) The recommendations of the Control Officer, through the governor, and the Federal Land Manager shall be transferred to the president

in any case where the governor recommends a variance in which the Federal Land Manager does not concur.

(b) The president may approve the governor's recommendation if he finds that such variance is in the national interest.

(c) If such a variance is approved, the Control Officer may issue a permit in accordance with provisions developed pursuant to the requirements of Section 12.2.16, provided that the applicable requirements of the Nevada SIP are otherwise met.

12.2.15.7 Emission Limitations for Presidential or Gubernatorial Variance

In the case of a permit issued under procedures developed pursuant to Section 12.2.16, the source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the maximum allowable increases over the baseline concentration shown in Table 12.2-5, and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period.

Table 12.2-5. Maximum Allowable Increase ($\mu g/m^3$)

Period of exposure	Low Terrain	High Terrain
24-hr maximum	36	62
3-hr maximum	130	221

12.2.16 Public Participation

12.2.16.1 Notice of Proposed Action

(a) An application shall be deemed to be complete unless, within sixty (60) days of receipt, the Control Officer notifies the applicant by certified mail that the application is deficient and not complete. In the event of a deficiency, the date of receipt of the application shall be the date on which the Control Officer received all required information.

(b) Within one (1) year after receipt of a complete application, the Control Officer shall:

(1) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved; and

(2) Make available in at least one (1) location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(c) After receipt of a complete application for an Authority to Construct Permit under Sections 12.2, or 12.3 and 12.4, the Control Officer shall publish in a newspaper of general circulation within Clark County, Nevada, within each region in which the proposed source would be constructed, and on the department's web site a Notice of Proposed Action on the application containing the following:

(1) The date of the department's receipt of the completed application;

(2) The location where documents relevant to the application will be available;

(3) For an Authority to Construct Permit reviewed pursuant to Section 12.2, a summary of the following:

(A) The results of air quality modeling and any other air quality impact analyses;

(B) The results of the analysis of alternatives;

(C) The determination of BACT; and

(D) The level of PSD increments to be consumed by the source, as determined under Section 12.2.3.

(4) For an Authority to Construct Permit reviewed pursuant to Section 12.3, a summary of the following:

(A) Statewide compliance demonstration;

(B) Air quality impact analysis;

(C) Determination of the LAER; and

(D) Description of the emissions offsets relied upon in the application.

(5) The department's preliminary determination of whether the application should be approved or disapproved;

(6) The proposed Authority to Construct Permit conditions;

(7) A determination by the Control Officer that the approval of the construction will not cause or contribute to a violation of a National Ambient Air Quality Standard, a PSD increment identified in Section 12.2.3, or otherwise violate any provisions of the Nevada SIP;

(8) The total PTE of each regulated NSR pollutant, as applicable;

(9) An opportunity for any person to submit written comments on the application and any documents relevant to the application; and

(10) An opportunity for any person to request a public hearing at which oral and written comments on the application will be received, or notice of such a hearing if one has been scheduled.

(d) All written comments must be received by the Control Officer within thirty (30) days from the publication date of the Notice of Proposed Action.

12.2.16.2 Distribution of Notice

The Control Officer shall send a copy of the Notice of Proposed Action to the applicant and to officials and agencies having jurisdiction over the location where the proposed construction would occur, including:

(a) Any other state or local air pollution control agencies;

(b) The chief executives of the city and county where the source would be located;

(c) Any comprehensive regional land use planning agency;

(d) Any state, Federal Land Manager, and Indian governing body whose lands may be affected by emissions from the source or modification;

(e) The Regional Administrator for EPA's Region 9; and

(f) Any other person who requests such notice.

12.2.16.3 Public Hearings

During the Notice of Proposed Action public comment period specified in Section 12.2.16.1, any person may petition the Control Officer, in writing, for a public hearing. All such petitions shall contain the petitioner's name, address, daytime telephone number, and the reason for requesting a hearing.

12.2.16.4 Time Frame

If a proper petition is filed, and the Control Officer determines that there is a significant degree of public interest, the Control Officer shall hold a public hearing no sooner than thirty (30) days after the date of the Notice of Proposed Action but no later than seventy (70) days, after the date of the Notice of Proposed Action. In determining if a significant degree of public interest exists, the Control Officer shall consider all relevant factors, including, but not limited to, the number of petitioners, the nature of their concerns as stated in their petitions, the type and quantity of pollutants emitted by the source and the proximity of the source to sensitive areas like parks, schools, hospitals, residential areas or Class 1 air sheds.

The petitioner and the applicant shall receive no less than seven (7) days' prior written notice of the date and location of the public hearing. Any notice of hearing shall also be posted on the department's website no less than seven (7) days prior to the public hearing.

12.2.16.5 Comments and Approvals

The Control Officer shall also:

(a) Consider all written comments submitted within a time specified in the notice of public comment, and all comments received at any public hearing(s), in making a final decision on the approvability of the application. The Control Officer shall make all comments available for public inspection in the same locations where the Control Officer made available preconstruction information relating to the proposed source or modification;

(b) Make a final determination whether construction should be approved, approved with conditions, or disapproved; and

(c) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Control Officer made available preconstruction information and public comments relating to the source.

12.2.16.6 Enhanced Public Participation Procedures

If the terms and conditions of an Authority to Construct Permit are to be incorporated into a Part 70 Operating Permit through an administrative permit revision, as provided in paragraph (a)(5) of Section 12.5.2.13, in addition to the foregoing public participation procedures, the applicant shall comply with the requirements of Section 12.5.2.17.

12.2.17 Source Obligation

12.2.17.1 Enforcement

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to Section 12.2 and with any changes to the application as required by the Control Officer, or with the terms of its Authority to Construct Permit, or any owner or operator of a source or modification subject to Section 12.2 who begins actual construction after the effective date of these AQRs without applying for and receiving an Authority to Construct Permit, shall be subject to enforcement action.

12.2.17.2 Termination

An Authority to Construct Permit shall terminate if construction is not commenced within eighteen (18) months after receipt of such permit if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The Control Officer may extend the 18-month period upon a satisfactory showing of good cause why an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

12.2.17.3 Compliance

The issuance of an Authority to Construct Permit shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Nevada SIP and any other requirements under local, state, or federal law.

12.2.17.4 Relaxation in Enforceable Limitations

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification otherwise to emit a pollutant, then the requirements of Sections 12.2.9 through 12.2.17 shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

12.2.18 Innovative Control Technology

12.2.18.1 Request for Approval

An owner or operator of a proposed major stationary source or major modification may request the Control Officer to approve a system of innovative control technology.

12.2.18.2 Requirements for Approval

The Control Officer may, with the consent of the governor of the state of Nevada and the governors of other affected states, determine that the major stationary source or major modification may employ a system of innovative control technology if:

(a) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(b) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 12.2.9.2 by a date specified by the Control Officer. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

(c) The major stationary source or major modification would meet the requirements of Sections 12.2.9 and 12.2.10, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Control Officer;

(d) The major stationary source or major modification would not, before the date specified by the Control Officer:

(1) Cause or contribute to a violation of an applicable National Ambient Air Quality Standard; or

(2) Impact any area where an applicable increment is known to be violated.

(e) All other Applicable Requirements, including those for public participation, have been met; and

(f) The provisions of Section 12.2.15 (relating to Class I areas) have been satisfied with respect to all periods during the life of the major stationary source or major modification.

12.2.18.3 Withdrawal of Approval

The Control Officer shall withdraw any approval to employ a system of innovative control technology made under Section 12.2.18.2 if:

(a) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

(b) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(c) The Control Officer decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

12.2.18.4 BACT Extension for Failure or Withdrawal

If a major stationary source or major modification fails to meet the required level of continuous emission reduction within the specified time period, or the approval is withdrawn in accordance with Section 12.2.18.3, the Control Officer may allow the major stationary source or major modification up to an additional three (3) years to meet the requirement for the application of BACT through use of a demonstrated system of control.

12.2.19 Plantwide Applicability Limits (PALs)

The provisions in Sections 12.2.19.1 through 12.2.19.15 of this section govern actuals PALs.

12.2.19.1 Applicability

(a) The Control Officer may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 12.2.19.1 through 12.2.19.15. The term “PAL” shall mean “actuals PAL” throughout Section 12.2.19.

(b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Section 12.2.19, and complies with the Authority to Construct Permit:

(1) Is not a major modification for the PAL pollutant;

(2) Does not have to be approved through the PSD program; and

(3) Is not subject to the provisions in Section 12.2.17.4.

(c) Except as provided under paragraph (b)(3) of Section 12.2.19.1, a major stationary source shall continue to comply with all applicable federal, state or county requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

12.2.19.2 Definitions

(a) Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.2.19. When a term is not defined in these paragraphs, it shall have the meaning given in Section 12.2.2, Section 0, Section 12.4, or the Act.

(1) "Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit, or have the potential to emit, the PAL pollutant.

(2) "Allowable emissions" means "allowable emissions" as defined in paragraph (a)(3) of Section 12.2.2, except as that definition is modified according to paragraph (A) of this definition:

(A) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(3) "Major emissions unit" means:

(A) Any emissions unit that emits, or has the potential to emit, 100 tpy or more of the PAL pollutant in an attainment area; or

(B) Any emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.

(4) "PAL" means an emission limitation, expressed in tpy, for a pollutant at a major stationary source that is enforceable as a practical matter and established source-wide in accordance with Sections 12.2.19.1 through 12.2.19.15.

(5) "PAL effective date" generally means the date of issuance of the Authority to Construct Permit. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(6) "PAL effective period" means the period beginning with the PAL effective date and ending ten (10) years later.

(7) "PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change in, or change in the method of operation of, the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(8) "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

(9) "Significant emissions unit" means an emissions unit that emits, or has the potential to emit, a PAL pollutant in an amount that is equal to or greater than the significant level as defined in these AQRs or the Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

(10) "Small emissions unit" means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level for that PAL pollutant as defined in these AQRs or the Act, whichever is lower.

12.2.19.3 Permit Application Requirements

As part of a an application for a Part 70 Operating Permit requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Control Officer for approval:

(a) A list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal, state or county applicable requirements, emission limitations, or work practices apply to each unit;

(b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction; and

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (a) of Section 12.2.19.13.

12.2.19.4 General Requirements for Establishing PALs

(a) The Control Officer may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(1) through (a)(7) of Section 12.2.19.4 are met.

(1) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter for the entire major stationary source. For each month during the PAL effective period after the first twelve (12) months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve (12) consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven (11) months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2) The PAL shall be established in an Authority to Construct Permit that meets the public participation requirements in Section 12.2.19.5.

(3) The Authority to Construct Permit shall contain all the requirements of Section 12.2.19.7.

(4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit, or have the potential to emit, the PAL pollutant at the major stationary source.

(5) Each PAL shall regulate emissions of only one pollutant.

(6) Each PAL shall have a PAL effective period of ten (10) years.

(7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 12.2.19.12 through 12.2.19.14 for each emissions unit under the PAL through the PAL effective period.

(b) At no time during or after the PAL effective period are emissions reductions of a PAL pollutant which occur during the PAL effective period creditable as decreases for purposes of offsets under Section 12.3.6 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

12.2.19.5 Public Participation Requirements for PALs

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 12.2.16.

12.2.19.6 Setting the 10-year Actuals PAL Level

(a) Except as provided in paragraph (b) of Section 12.2.19.6, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source plus an amount equal to the applicable significant level for the PAL pollutant under these AQRs or under the Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Control Officer shall specify a reduced PAL level(s) (in tpy) in the Authority to Construct Permit, to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Control Officer is aware of prior to issuance of the permit.

(b) For newly constructed units (this does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (a) of Section 12.2.19.6, the emissions must be added to the PAL level in an amount equal to the PTE of the units.

12.2.19.7 Contents of a Part 70 Operating Permit Containing a PAL

The contents shall include the information in paragraphs Section 12.2.19.7 (a) through (j) as listed below:

(a) The PAL pollutant and the applicable source-wide emission limitation in tpy.

(b) The effective date and the expiration date of the PAL conditions (i.e., PAL effective period).

(c) Specification in the permit that if a major stationary source owner or operator applies to renew the PAL conditions in accordance with Section 12.2.19.10 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised Part 70 Operating Permit is issued by the Control Officer;

(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;

(e) A requirement that, once the PAL conditions expire, the major stationary source is subject to the requirements of Section 12.2.19.9;

(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total, as required by paragraph (a) of Section 12.2.19.13;

(g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 12.2.19.12;

(h) A requirement to retain the records required under Section 12.2.19.13 on-site. Such records may be retained in an electronic format;

(i) A requirement to submit the reports required under Section 12.2.19.14 by the required deadlines; and

(j) Any other requirements that the Control Officer deems necessary to implement and enforce the PAL conditions.

12.2.19.8 PAL Effective Period and Reopening of the PAL Conditions in a Part 70 Operating Permit

The conditions in a Part 70 Operating Permit that contain a PAL shall include the following information:

(a) **PAL Effective Period.** The Control Officer shall specify a PAL effective period of ten (10) years from the date of issuance.

(b) **Reopening of the PAL Conditions in a Part 70 Operating Permit**

(1) During the PAL effective period, the permit shall require the Control Officer to reopen the PAL conditions in a Part 70 Operating Permit to:

(A) Correct typographical/calculation errors made in setting the PAL, or reflect a more accurate determination of emissions used to establish the PAL;

(B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 12.3; or

(C) Revise the PAL to reflect an increase in the PAL, as provided under Section 12.2.19.11.

(2) The Control Officer may reopen the conditions of a Part 70 Operating Permit authorizing a PAL for the following:

(A) Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

(B) Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the Control Officer may impose on the major stationary source under the Nevada SIP.

(C) Reduce the PAL if the Control Officer determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air quality-related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

(3) Except for the permit reopening in paragraph (b)(1)(A) of Section 12.2.19.8 for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out as significant permit revisions to a Part 70 Operating Permit.

12.2.19.9 Expiration of a PAL

Any PAL which is not renewed in accordance with the procedures in Section 12.2.19.10 shall expire at the end of the PAL effective period, and the requirements in paragraphs (a) through (e) of Section 12.2.19.9 shall apply.

(a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised Part 70 Operating Permit established according to the procedures in paragraphs (a)(1) and (a)(2) of Section 12.2.19.9:

(1) Within the time frame specified for PAL renewals in paragraph (b) of Section 12.2.19.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Control Officer) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an

applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of Section 12.2.19.10, such distribution shall be made as if the PAL had been adjusted.

(2) The Control Officer will decide whether and how the PAL allowable emissions will be distributed and issue a revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Control Officer determines is appropriate.

(b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Control Officer may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the Control Officer issues the revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(2) of Section 12.2.19.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change in, or change in the method of operation at, the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification.

(e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period, except for those limitations that were eliminated by the PAL in accordance with the provisions of paragraph (b)(3) of Section 12.2.19.1.

12.2.19.10 Renewal of a PAL

(a) The Control Officer will follow the procedures specified in Sections 12.2.19.5 and 12.4 in approving any request to renew the PAL conditions in a Part 70 Operating Permit, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Control Officer.

(b) **Application Deadline.** A major stationary source owner or operator shall submit a timely application to the Control Officer to request renewal of the PAL conditions in a Part 70 Operating Permit. A timely

application is one that is submitted at least six (6) months prior to, but not earlier than eighteen (18) prior to, the date of expiration of the Part 70 Operating Permit containing the PAL. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL conditions in a Part 70 Operating Permit within this time period, then the PAL conditions shall continue to be effective until the revised permit with the renewed PAL conditions is issued.

(c) **Application Requirements.** The application to renew PAL conditions shall be incorporated into the application for renewal of the affected Part 70 Operating Permit, and shall contain the information required in paragraphs (c)(1) through (c)(4) of Section 12.2.19.10:

(1) The information required in paragraphs (a) through (c) of Section 12.2.19.3;

(2) A proposed PAL level;

(3) The sum of the PTE of all emissions units under the PAL (with supporting documentation); and

(4) Any other information the owner or operator wishes the Control Officer to consider in determining the appropriate level for renewing the PAL conditions.

(d) **PAL Adjustment.** In determining whether and how to adjust the PAL, the Control Officer will consider the options outlined in paragraphs (d)(1) and (d)(2) of this Section 12.2.19.10. However, in no case may any such adjustment fail to comply with paragraph (d)(3) of Section 12.2.19.10.

(1) If the emissions level calculated in accordance with Section 12.2.19.6 is equal to or greater than eighty (80) percent of the PAL level, the Control Officer may renew the PAL at the same level without considering the factors set forth in paragraph (d)(2) of Section 12.2.19; or

(2) The Control Officer may set the PAL at a level that he determines to be more representative of the source's baseline actual emissions, or that he or she determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Control Officer in his or her written rationale.

(3) Notwithstanding paragraphs (d)(1) and (d)(2) of Section 12.2.19:

(A) If the PTE of the major stationary source is less than the PAL, the Control Officer shall adjust the PAL to a level no greater than the PTE of the source; and

(B) The Control Officer shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 12.2.19.11.

(e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the Control Officer has not already adjusted for such requirement, the PAL shall be adjusted at the time of the PAL permit renewal or Part 70 Operating Permit renewal, whichever occurs first.

12.2.19.11 Increasing a PAL during the PAL Effective Period

(a) The Control Officer may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(1) through (a)(4) of Section 12.2.19.11:

(1) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit as a significant revision to the affected Part 70 Operating Permit. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls), plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten (10) years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3) The owner or operator obtains an Authority to Construct Permit pursuant to Section 12.4 for all emissions unit(s) identified in

paragraph (a)(1) of Section 12.2.19.11, regardless of the magnitude of the emissions increase resulting from them. The emissions unit(s) shall comply with any emissions requirements resulting from the Authority to Construct Permit issuance process, even though it has also become subject to the PAL or continues to be subject to the PAL.

(4) The PAL conditions in a Part 70 Operating Permit shall require that the increased PAL level be effective on the day any emissions unit that is part of the significant permit revision becomes operational and begins to emit the PAL pollutant.

(b) The Control Officer shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(2) of Section 12.2.19.11), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL conditions in a Part 70 Operating Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 12.2.19.5.

12.2.19.12 Monitoring Requirements for PALs

(a) **General Requirements**

(1) The PAL conditions in a Part 70 Operating Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL conditions must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL conditions.

(2) The PAL monitoring system must employ one (1) or more of the four (4) general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(1) through (b)(4) of Section 12.2.19.12, and must be approved by the Control Officer.

(3) Notwithstanding paragraph (a)(2) of Section 12.2.19.12, the PAL monitoring system may also employ an alternative monitoring

approach that meets paragraph (a)(1) of Section 12.2.19.12 if approved by the Control Officer.

(4) Failure to use a monitoring system that meets the requirements of Section 12.2.19 renders the PAL invalid.

(b) **Minimum Performance Requirements for Approved Monitoring Approaches.** The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 12.2.19.12:

(1) Mass balance calculations for activities using coatings or solvents;

(2) CEMS;

(3) CPMS or PEMS; and

(4) Emission factors.

(c) **Mass Balance Calculations.** An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:

(1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in, or created by all materials used in or at, the emissions unit;

(2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Control Officer determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) **CEMS.** An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

(2) The CEMS must sample, analyze, and record data at least every fifteen (15) minutes while the emissions unit is operating.

(e) **CPMS or PEMS.** An owner or operator using a CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen (15) minutes, or at another, less frequent interval approved by the Control Officer, while the emissions unit is operating.

(f) **Emission Factors.** An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(1) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(2) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six (6) months of permit issuance unless the Control Officer determines that testing is not required.

(g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the Authority to Construct Permit.

(h) Notwithstanding the requirements in paragraphs (c) through (g) of Section 12.2.19.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Control Officer shall, at the time of permit issuance:

(1) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(i) **Revalidation.** All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the Control Officer. Such testing must occur at least once every five (5) years after issuance of the Part 70 Operating Permit containing the PAL conditions.

12.2.19.13 Recordkeeping Requirements

(a) The PAL conditions in a Part 70 Operating Permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 12.2.19 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five (5) years from the date of such record.

(b) The PAL conditions in a Part 70 Operating Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five (5) years:

(1) A copy of the PAL provisions in a permit application for a Part 70 Operating Permit and any applications for revisions to the affected Part 70 Operating Permit relevant to the PAL; and

(2) Each annual certification of compliance pursuant to the conditions in the affected Part 70 Operating Permit and the data relied on in certifying the compliance.

12.2.19.14 Reporting and Notification Requirements

The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the Control Officer, in accordance with the conditions in the affected Part 70 Operating Permit. The reports shall meet the requirements in paragraphs (a) through (c) of Section 12.2.19.14.

(a) **Semiannual Report.** The semiannual report shall be submitted to the Control Officer within thirty (30) days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(1) through (7) of Section 12.2.19.14:

(1) The identification of the owner and operator and the permit number;

(2) Total annual emissions (in tpy), based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (a) of Section 12.2.19.14;

(3) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

(4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

(5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;

(6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 12.2.19.12; and

(7) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(b) **Deviation Report.** The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL conditions, including periods where no monitoring was available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected Part 70 Operating Permit. The reports shall contain the following information:

(1) The identification of owner and operator and the permit number;

(2) The PAL requirement that experienced the deviation or that was exceeded;

(3) Emissions resulting from the deviation or the exceedance; and

(4) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(c) **Revalidation Results.** The owner or operator shall submit to the Control Officer the results of any revalidation test or method within three (3) months after completion of such test or method.

12.2.19.15 Transition Requirements

(a) The Control Officer may not issue a PAL that does not comply with the requirements in Sections 12.2.19.1 through 12.2.19.15 after the Administrator has approved regulations incorporating these requirements into the Nevada SIP.

(b) The Control Officer may supersede any PAL which was established prior to the date of approval of the Nevada SIP by the Administrator with a PAL that complies with the requirements of Sections 12.2.19.1 through 12.2.19.15.

12.2.20 Invalidation

If any provision of Section 12.2.19, or the application of such provision to any person or circumstance, is held invalid, the remainder of Section 12.2.19, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

History: Adopted May 18, 2010. Amended November 16, 2010; March 6, 2012; March 18, 2014.

SECTION 12.3: PERMIT REQUIREMENTS FOR MAJOR SOURCES IN NONATTAINMENT AREAS

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12.3 Permit Requirements for Major Sources in Nonattainment Areas

12.3.1 Applicability Procedures

12.3.1.1 Preconstruction Review Requirements

The preconstruction review requirements of Section 12.3 shall apply to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as nonattainment for any National Ambient Air Quality Standard under Section 107(d)(1)(B) of the Act [42 USC § 7407(d)(1)(B)].

12.3.1.2 Construction of Major Sources or Modifications

The requirements of Sections 12.3.3 through 12.3.8 apply to the construction of any new major stationary source or the major modification of any existing major stationary source if the stationary source or modification is major for the regulated NSR pollutant for which the area is designated nonattainment under 40 CFR Part 81, except as Section 12.3 otherwise provides.

12.3.1.3 Authority to Construct Permit Requirement

No new major stationary source or major modification to which the requirements of Sections 12.3.3 through 12.3.8 apply shall begin actual construction without an Authority to Construct Permit issued pursuant to Section 12.4 that states that the major stationary source or major modification will meet those requirements.

12.3.1.4 Projects

The requirements of Section 12.3.1.4 apply to projects at major stationary sources in accordance with the principles set out in paragraphs (a) through (e) of Section 12.3.1.4.

(a) Except as otherwise provided in Section 12.3.1.5, a project is a major modification for a regulated NSR pollutant if it causes two (2) types of emissions increases: a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase will occur depends upon the type of emissions units being added or modified as part of the pro-

ject, according to paragraphs (c) through (e) of Section 12.3.1.4. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source is contained in the definition of net emissions increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) **Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emissions Units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.

(d) **Actual-to-Potential Test for Projects that Only Involve Construction of a New Emissions Unit(s).** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the PTE from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.

(e) **Hybrid Test for Projects that Involve Multiple Types of Emissions Units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (c) or (d) of Section 12.3.1.4, as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

12.3.1.5 Major Sources with Plantwide Applicability Limitations

For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with the requirements in Section 12.3.9.

12.3.1.6 Existing Emission Unit Projects

The provisions of this paragraph apply when a project occurs at an existing emissions unit at a major stationary source, other than a source with a PAL; the project is not a part of a major modification; and the owner or operator elects to use the method specified in paragraphs (1)(A) through (1)(D) of the definition of projected actual emissions.

(a) Before beginning actual construction of the project, and as a condition of the source's Authority to Construct Permit, the owner or op-

erator shall document and maintain a record of the following information:

(1) A description of the project;

(2) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(3) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (1)(D) of the definition of projected actual emissions and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (a) of Section 12.3.1.6 to the Control Officer. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Control Officer before beginning actual construction, except such owner or operator may still be subject to the requirements of Section 12.1, Section 12.4, or other applicable requirements.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in paragraph (a)(2) of Section 12.3.1.6; and calculate and maintain a record of the annual emissions (in tpy) for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity of, or potential to emit that regulated NSR pollutant at, any emissions unit.

(d) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer within sixty (60) days after the end of each calendar year during which records must be generated under paragraph (c) of Section 12.3.1.6 setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(e) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer if the annual emissions, in tpy, from the project identified in paragraph (a) of Section 12.3.1.6 exceed the baseline actual emissions (as documented and maintained pursuant

to paragraph (a)(3) of Section 12.3.1.6), by a significant amount for that regulated NSR pollutant, and if such emissions differ from the projected actual emissions (prior to exclusion of the amount of emissions under the definition of projected actual emissions) as documented and maintained pursuant to paragraph (a)(3) of Section 12.3.1.6. Such report shall be submitted to the Control Officer within sixty (60) days after the end of such year. The report shall contain the following:

(1) The name, address, and telephone number of the major stationary source;

(2) The annual emissions, as calculated pursuant to paragraph (c) of Section 12.3.1.6; and

(3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

12.3.1.7 Availability of Information

The owner or operator of the source shall make the information required to be documented and maintained pursuant to Section 12.3.1.6 available for review upon a request for inspection by the Control Officer.

12.3.1.8 Secondary Emissions

Secondary emissions shall not be considered in determining whether a stationary source would qualify as a major stationary source. If a stationary source is subject to Section 12.3 on the basis of the direct emissions from the stationary source, the requirements of Section 12.3.6, but no other provisions of Section 12.3, must also be met for secondary emissions.

12.3.2 Definitions

Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.3. When a term is not defined in these paragraphs, it shall have the meaning given in Section 0, or in the Act, in that order of priority.

(a) "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with this definition.

(1) In general, actual emissions as of a particular date shall equal the average rate, in tpy, at which the emissions unit actually emitted the regulated NSR pollutant during a consecutive 24-month period which precedes the particular date and which is

representative of normal source operation. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Control Officer may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the PTE of the unit on that date.

(4) This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Section 12.3.9. Instead, projected actual emissions and baseline actual emissions shall apply for those purposes.

(b) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, hours of operation, or both) and the most stringent of the following:

(1) Any applicable standards set forth in these AQRs and 40 CFR Parts 60, 61, or 63;

(2) Any applicable emission limitation in the Nevada SIP, including those with a future compliance date; or

(3) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(c) "Baseline actual emissions" means the rate of emissions, in tpy, of a regulated NSR pollutant, as determined in accordance with paragraphs (c)(1) through (c)(4) of this definition.

(1) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(A) The average rate shall include fugitive emissions, to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of the particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by this definition.

(2) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator

begins actual construction of the project, or the date a complete permit application is received by the Control Officer for a permit required under these AQRs, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

(A) The average rate shall include fugitive emissions to the extent quantifiable.

(B) The average rate shall include emissions associated with startups, shutdowns, and malfunctions.

(C) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(D) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of a particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the State of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(E) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(F) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for

adjusting this amount if required by paragraphs (2)(B) and (2)(C) of this definition.

(3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's PTE.

(4) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (1) of this definition; for other existing emissions units, in accordance with the procedures contained in paragraph (2) of this definition; and for a new emissions unit, in accordance with the procedures contained in paragraph (3) of this definition.

(d) "Basic design parameter" means:

(1) Except as provided in paragraph (3) of this definition, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.

(2) Except as provided in paragraph (3) of this definition, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

(3) If the owner or operator believes the basic design parameter(s) in paragraphs (1) and (2) of this definition is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Control Officer an alternative basic design parameter(s) for the source's process unit(s). If the Control Officer approves of the use of an alternative basic

design parameter(s), the Control Officer shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).

(4) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (1) and (2) of this definition.

(5) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the 5-year period immediately preceding the planned activity.

(6) Efficiency of a process unit is not a basic design parameter.

(7) The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.

(e) "Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(f) "Best Available Control Technology (BACT)" means an emission limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Control Officer, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If the Control Officer determines that technological or economic limitations on the applica-

tion of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(g) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same SIC or NAICS code) as described in either the *Standard Industrial Classification* (SIC) manual, 1972, as amended by the 1977 supplement or the *North American Industry Classification System* (NAICS) manual.

(h) "Categorical stationary source" means any stationary source of air pollutants that belongs to one of the following categories of stationary sources:

(1) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;

(2) Coal cleaning plants (with thermal dryers);

(3) Kraft pulp mills;

(4) Portland cement plants;

(5) Primary zinc smelters;

(6) Iron and steel mills;

(7) Primary aluminum ore reduction plants;

(8) Primary copper smelters;

(9) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(10) Hydrofluoric, sulfuric, or nitric acid plants;

(11) Petroleum refineries;

(12) Lime plants;

(13) Phosphate rock processing plants;

(14) Coke oven batteries;

(15) Sulfur recovery plants;

(16) Carbon black plants (furnace process);

(17) Primary lead smelters;

(18) Fuel conversion plants;

(19) Sintering plants;

(20) Secondary metal production plants;

(21) Chemical process plants;

(22) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

(23) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(24) Taconite ore processing plants;

(25) Glass fiber processing plants; and

(26) Charcoal production plants.

(i) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(j) "Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading “Department of Energy-Clean Coal Technology,” up to a total amount of $2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The federal contribution for a qualifying project shall be at least twenty (20) percent of the total cost of the demonstration project.

(k) "Commence," as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits, including an Authority to Construct Permit, and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source, to be completed within a reasonable time.

(l) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Control Officer from requesting or accepting any additional information.

(m) "Construction" means any physical change, or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit), that would result in a change in emissions.

(n) "Continuous Emissions Monitoring System (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of Section 12.3, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(o) "Continuous Emissions Rate Monitoring System (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(p) "Continuous Parameter Monitoring System (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of Section 12.3, to monitor process and control device operational parameters and other information and to record average operational parameter value(s) on a continuous basis.

(q) "Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity, and more than 25 MW of electrical output, to any utility power distribution system. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce

electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(r) "Emission Reduction Credit (ERC)" means a unit of emission reduction (in tpy) that has been issued by the Control Officer in accordance with the provisions set forth in Sections 12.3.6 and 12.7.

(s) "Emissions Unit" means any part of a stationary source that emits, or would have the potential to emit, any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of Section 12.3, there are two types of emissions units as described in paragraphs (1) and (2) of this definition:

(1) A “new emissions unit” is any emissions unit which is (or will be) newly constructed and which has existed for less than two (2) years from the date such emissions unit first operated. For the purposes of this definition, the date an emissions unit first operated shall not be extended by any shakedown period established pursuant to paragraph (aa)(6) of Section 12.3.2.

(2) An “existing emissions unit” is any emissions unit that does not meet the requirements in paragraph (1) of this definition. A replacement unit is an existing emissions unit.

(t) "Federally Enforceable" means all limitations and conditions which are enforceable by the Administrator.

(u) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

(v) "Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(w) "Lowest Achievable Emission Rate (LAER)" means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed major stationary source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a major modification, means the LAER for the new or modified emissions units within the sta-

tionary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

For purposes of this definition only, the term “any state” means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and includes the Commonwealth of the Northern Mariana Islands.

(x) "Major Modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.

(1) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.

(2) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for nitrogen oxides shall be considered significant for ozone unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.

(3) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair, and replacement;

(B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(D) Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;

(E) Use of an alternative fuel or raw material by a stationary source which:

(i) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to Section 12 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.

(ii) The source is approved to use under any permit issued under Section 12.

(F) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976;

(G) Any change in ownership at a stationary source;

(H) The installation, operation, cessation, or removal of a Temporary Clean Coal Technology Demonstration Project, provided that the project complies with:

(i) The Nevada SIP; and

(ii) Other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(4) This definition shall not apply with respect to a particular regulated NSR pollutant when the Major Stationary Source is complying with the requirements under Section 12.3.9 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification shall apply.

(5) The fugitive emissions of a major stationary source shall . be included in determining, for any of the purposes of Section 12.3, whether a particular physical change or change in the method of operation is a major modification.

(y) "Major Stationary Source" means:

(1) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant except:

(A) For an area designated nonattainment for PM_{10} and classified as “serious,” a major stationary source is a stationary source which emits, or has the potential to emit, seventy (70) tpy or more of PM_{10}.

(B) A major stationary source is a stationary source which emits, or has the potential to emit, fifty (50) tpy or more in an area classified as “serious” nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under regulations issued by EPA pursuant to the Act.

(C) For an area designated nonattainment for ozone, a source with the potential to emit VOC or NOx in the following amounts shall be considered a major stationary source:

(i) ≥100 tpy in areas classified as “marginal” or “moderate”;

(ii) ≥50 tpy in areas classified as “serious”;

(iii) ≥25 tpy in areas classified as “severe”; and

(iv) ≥10 tpy in areas classified as “extreme.”

(2) Any physical change that would occur at a stationary source not qualifying as a major stationary source under paragraph (1) of this definition, if the change would constitute a major stationary source by itself under paragraph (1).

(3) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(4) A major stationary source that is major for nitrogen oxides shall be considered major for ozone, unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.

(5) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of Section 12.3 whether it is a major stationary source, unless the source is a categorical stationary source or belongs to any other stationary source category which, as of August 7, 1980, was being regulated under Section 111 or 112 of the Act.

(z) "Necessary preconstruction approvals or permits" means those permits or approvals required under air quality control laws and regulations that are part of the Nevada SIP, these AQRs, or federal air quality control laws and regulations, including the Authority to Construct Permits issued pursuant to Section 12.4.

(aa) "Net Emissions Increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the following:

(1) The amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change, or change in the method of operation, at a stationary source as calculated pursuant to paragraphs (a) through (e) of Section 12.3.1.4; and

(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable.

(i) For the purposes of calculating increases and decreases under paragraph (1)(B) of this definition, baseline actual emissions prior to the contemporaneous project shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (1)(D) and (2)(E) of that definition shall not apply.

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five (5) years before construction on the particular change commences and the date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if the Control Officer has not relied on it in issuing a permit for the source under Section 12, or any other regulation approved by the Administrator pursuant to 40 CFR Part 51 or 40 CFR Part 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.

(4) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(5) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(C) The Control Officer has not relied on it in issuing any permit under Section 12 or any other regulations approved pursuant to 40 CFR Part 51, Subpart I, nor has the state of Nevada relied on it in demonstrating attainment or reasonable further progress; and

(D) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(6) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown, or any new emissions unit that replaces an existing emissions unit and that requires shakedown, becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.

(bb) "Nonattainment Major New Source Review (NSR) Program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the Nevada SIP, or a program that implements 40 CFR Part 51, Appendix S, Sections I through VI. Any permit issued under such a program is a major NSR permit.

(cc) "Permanent" means an emission reduction which is federally enforceable for the life of a corresponding increase in emissions. For federal Emission Reduction Credits (ERCs), emission reductions for a stationary source are permanent if the reductions are federally enforceable and the reductions occur over the duration of the ERC rule.

(dd) "Potential to Emit (PTE)" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the types or amounts of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is enforceable as a practical matter. Secondary emissions do not count in determining the PTE of a stationary source.

(ee) "Predictive Emissions Monitoring System (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters and other information, and calculate and record the mass emissions rate on a continuous basis.

(ff) "Prevention of Significant Deterioration (PSD) Permit" means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the Nevada SIP to implement the requirements of Part C, Subchapter I of the Act.

(gg) "Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

(hh) "Projected Actual Emissions" means the maximum annual rate, in tpy, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five (5) years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the ten (10) years following that date, if the project involves increasing the design capacity or PTE of any emissions unit for that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(1) In determining the projected actual emissions (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the county, state or federal regulatory authorities, and compliance plans under these AQRs;

(B) Shall include fugitive emissions to the extent quantifiable;

(C) Shall include emissions associated with startups, shutdowns, and malfunctions; and

(D) Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth.

(2) In lieu of using the method set out in paragraphs (1)(A) through (1)(D) of this definition, the owner or operator of the

major stationary source may elect to use the emissions unit's PTE in tpy.

(ii) "Regulated NSR Pollutant," for purposes of Section 12.3, means:

(1) Nitrogen oxides or any volatile organic compounds;

(2) Any pollutant for which a National Ambient Air Quality Standard has been promulgated;

(3) Any pollutant that is identified as a constituent or precursor of a general pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. The Administrator has identified the following precursors for the purposes of NSR:

(A) Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.

(B) Sulfur dioxide is a precursor to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas.

(C) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas, unless the State or county demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(D) Volatile organic compounds and ammonia are presumed not to be precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area, unless the State or county demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(4) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for

condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

(jj) "Replacement Unit" means an emissions unit for which all the criteria listed in paragraphs (1) through (4) of this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. The criteria are:

(1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(2) The emissions unit is identical to, or functionally equivalent to, the replaced emissions unit.

(3) The replacement does not alter the basic design parameters of the process unit.

(4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(kk) "Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of Section 12.3, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(ll) "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose except routine phasing out of process equipment.

(mm) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(1) Carbon monoxide:

(A) 100 tpy; or

(B) 50 tpy in an area designated nonattainment for CO and classified as "serious," and where stationary sources significantly contribute to ambient CO levels as determined under regulations issued by EPA pursuant to the Act.

(2) Nitrogen oxides: 40 tpy;

(3) Sulfur dioxide: 40 tpy;

(4) Ozone:

(A) 40 tpy of VOCs; or

(B) 40 tpy of nitrogen oxides, unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.

(5) PM_{10}: 15 tpy;

(6) $PM_{2.5:}$ 10tpy of direct PM2.5 emissions or 40 tpy of sulfur dioxide emissions or 40 tpy of nitrogen dioxide emissions; and

(7) Lead: 0.6 tpy.

(nn) "Significant Emissions Increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

(oo) "Startup" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

(pp) "Stationary Source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(qq) "Surplus" means an emission reduction that has not been relied on in any air quality program related to any SIP; that is not a Nevada SIP requirement; that is not a requirement of a state air quality program that has been adopted but is not in the Nevada SIP; that is not credited in any federal reasonable further progress or other milestone demonstration; that is not a requirement of a consent decree; that is not a requirement of a federal rule that focuses on reducing criteria air pollutants or their precursors, including any applicable NSPS or an applicable NESHAP, unless the state has not taken credit for emission reductions due to the NESHAP in its attainment demonstra-

tion or maintenance plan; and that has not already been credited in any other air quality program. The purpose of requiring that emissions offsets be surplus is to prohibit double-counting of emission reductions.

(rr) "Temporary Clean Coal Technology Demonstration Project" means a Clean Coal Technology Demonstration Project that is operated for a period of five (5) years or less, and which complies with the SIP for the state in which the project is located and with other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

12.3.3 Statewide Compliance

Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification subject to Section 12.3, the applicant shall either demonstrate that each existing major stationary source owned or operated by the applicant in the state of Nevada is in compliance with all applicable emission limitations and standards under the Act or is in compliance with an expeditious schedule which is federally enforceable or contained in a court decree.

12.3.4 Analysis of Alternatives

Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification subject to Section 12.3, the applicant shall submit an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source that demonstrates, to the satisfaction of the Control Officer, that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

12.3.5 Lowest Achievable Emission Rate

12.3.5.1 Applicable Requirements

A major stationary source or major modification shall meet each applicable requirement.

12.3.5.2 Permit Requirements to Achieve LAER

An Authority to Construct Permit for a new major stationary source or major modification shall contain terms and conditions sufficient to ensure that the major stationary source or major modification will achieve LAER in accordance with paragraphs (a) and (b) of Section 12.3.5.2:

(a) A new major stationary source shall achieve LAER for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

(b) A major modification shall achieve LAER for each regulated NSR pollutant for which it would result in a significant net emissions increase at the stationary source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change, or change in the method of operation, in the emissions unit.

12.3.6 Emissions Offset

12.3.6.1 Sufficiency of Reductions

Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification, the Control Officer shall make a determination that, by the time the source is to commence operation, sufficient offsetting emissions reductions will be surrendered prior to commencing operation, such that allowable emissions from existing sources in the nonattainment area, from new or modified sources which are not major stationary sources, and from the proposed source or modification will be sufficiently less than total emissions from existing sources prior to the application for the offset. At a minimum, this determination requires the applicant to satisfy the offset requirements in Section 12.3.6.2.

12.3.6.2 Offset Methods

Pollutant-specific emissions shall be offset with federally enforceable ERCs or with internal emission reductions.

(a) ERCs from one or more sources may be used, alone or in combination with internal emission reductions, in order to satisfy offset requirements.

(b) Internal emission reductions used to satisfy offset requirements shall be governed by Sections 12.3.6.3 through 12.3.6.8 and Section 12.7.5 as in effect on September 1, 2010, and as incorporated herein by this reference.

(c) ERCs used to satisfy offset requirements shall be governed by Sections 12.3.6.3 through 12.3.6.6, Section 12.3.6.8, and Section 12.7.5 as in effect on September 1, 2010, and as incorporated herein by this reference.

12.3.6.3 Restrictions on Trading Pollutants

(a) Pursuant to the Nevada Revised Statutes, Section 445.B.508 (2)(c), purchasing or selling credits of one type of pollutant is prohibited if such credits would be used subsequently to produce a different type of pollutant.

(b) For the purposes of satisfying the offset requirements with respect to ozone, offsetting of VOC emissions increases with NO_X emissions decreases, or NO_X emissions increases with VOC emissions decreases, shall not be prohibited trading. The Control Officer may approve interpollutant emission offsets for precursor pollutants on a case-by-case basis except for $PM_{2.5}$, which is subject to Section 12.3.6.3(c). In such cases, the Control Officer shall impose, based on an air quality analysis, emission offset ratios in addition to the requirements of Table 12.3-1. PM_{10} emissions shall not be allowed to offset nitrogen oxide or volatile organic compound emissions in ozone nonattainment areas. In no case shall the compounds excluded from the definition of volatile organic compounds be used as offsets for volatile organic compounds. Interpollutant emission offsets used at a major stationary source must receive written approval from the U.S. Environmental Protection Agency.

(c) For the purposes of satisfying the offset requirements with respect to $PM_{2.5}$, offsetting of $PM_{2.5}$ emissions increases with sulfur dioxide or nitrogen oxide emissions decreases, or sulfur dioxide or nitrogen oxide emissions increases with $PM_{2.5}$ decreases, shall not be prohibited trading. Interpollutant offsets between $PM_{2.5}$ and $PM_{2.5}$ precursors are not allowed unless modeling has been used to demonstrate that $PM_{2.5}$ interpollutant offset ratios are appropriate as approved in a $PM_{2.5}$ nonattainment plan.

12.3.6.4 Timing

(a) Internal emission reductions used to satisfy an offset requirement must be federally enforceable at the time of issuance of the Authority to Construct Permit containing the offset requirements.

(b) Except as provided by paragraph (c) of Section 12.3.6.4, the decrease in actual emissions used to generate ERCs or internal emission reductions must occur by no later than the commencement of operation of the new or modified major stationary source.

(c) Where the new facility is a replacement for a facility that is being shut down in order to provide the necessary offsets, the Control Officer may allow up to one hundred eighty (180) calendar days for shake-

down or commissioning of the new facility before the existing facility is required to cease operation.

12.3.6.5 Quantity

The quantity of ERCs or internal emission reductions required to satisfy offset requirements shall be determined in accordance with the following:

(a) The unit of measure for offsets, ERCs, and internal emission reductions shall be tpy. All calculations and transactions shall use emission rate values rounded to the nearest one one-hundredth (0.01) tpy.

(b) The quantity of ERCs or internal emission reductions required shall be calculated as the product of the amount of increased emissions, as determined in accordance with paragraph (c) of Section 12.3.6.5, and the offset ratio, as determined in accordance with paragraph (d) of Section 12.3.6.5.

(c) The amount of increased emissions shall be determined as follows:

(1) The amount of increased emissions includes fugitive emissions in the case of all major stationary sources, including categorical sources.

(2) When the offset requirement is triggered by the construction of a new major stationary source, the amount of increased emissions shall be the sum of the PTE of all emissions units.

(3) When the offset requirement is triggered by a major modification of an existing major stationary source, the amount of increased emissions shall be the sum of the differences between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

(d) The baseline for determining credit for emissions reductions is the emission limit under the State Implementation Plan (including the demonstration of Reasonable Further Progress) in effect at the time the affected permit application is filed, except that the offset baseline shall be the actual emissions of the source from which the offset credit is obtained where:

(1) The demonstration of Reasonable Further Progress and attainment of National Ambient Air Quality Standards is based upon the actual emissions of sources located within a designated area for which the requirements of Sections 12.2 and 12.4 were adopted; or

(2) The applicable State Implementation Plan does not contain an emission limitation for the affected source or source category.

(e) The offset ratio shall be expressed as a ratio of emissions reductions to emissions increases.

(1) The following table contains offset ratios by designated area and pollutant.

(2) The ratios listed in Table 12.3-1 shall be applied based on the classifications contained in the table for a specific pollutant.

Table 12.3-1. Federal Offset Ratio Requirements by Area Designation and Pollutant

Area Designation	Pollutant	Offset Ratio
Marginal Ozone Nonattainment Area	NO_X	1.1:1
	VOC	1.1:1
Moderate Ozone Nonattainment Area	NO_X	1.15:1
	VOC	1.15:1
Serious Nonattainment Area		
	PM_{10}	1:1

(f) The major stationary source shall be given credit for any portion of the NEI that was previously offset. A pre-modification PTE may only include fugitive emissions if the fugitive emissions were included in the emissions inventory prior to the modification.

12.3.6.6 Emission Reduction Requirements

Emission reductions used to satisfy an offset requirement shall meet the following requirements:

(a) Emission reductions used to satisfy offset requirements must be real, surplus, permanent, quantifiable, and federally enforceable.

(b) Permitted sources whose internal emission reductions are used to satisfy offset requirements must appropriately amend or cancel their Authority to Construct Permit and/or Part 70 Operating Permit to reflect their new reduced PTE, including practicably enforceable conditions to limit their PTE.

(c) Emission reductions used to satisfy offset requirements must be surplus at the time of issuance of the Authority to Construct Permit containing the offset requirements.

12.3.6.7 Location of Internal Reductions

Internal emission reductions used to satisfy offset requirements shall occur at the same major stationary source at which the increase in emissions occurs. Emission reductions not meeting this criterion shall meet the requirements for ERCs prescribed by Section 12.7.

12.3.6.8 Emission Reduction Credit Requirements

ERCs used to satisfy an offset requirement shall meet the following requirements:

(a) Restrictions on offsetting emissions between airshed regions:

(1) Except as provided by paragraph (a)(2) of Section 12.3.6.8, offsetting emissions from a source located within an airshed region with ERCs from a source located in a different airshed region shall not be allowed.

(2) The Control Officer may approve the use of NO_X and VOC ERCs between airshed regions for the same nonattainment area within the Clark County boundary to satisfy NO_X and VOC offset requirements for that nonattainment area.

(b) The source owner or responsible official utilizing ERCs to satisfy offsets must demonstrate to the satisfaction of the Control Officer that such utilization will not significantly cause or contribute to a violation of a National Ambient Air Quality Standard or an exceedance of a PSD increment identified in Section 12.2.

(c) The use of ERCs shall not provide:

(1) Authority for, or the recognition of, any pre-existing vested right to emit any regulated NSR pollutant;

(2) An exemption to a stationary source for emission limitations established in accordance with New Source Performance Standards pursuant to Section 14;

(3) Authority for, or the recognition of, any rights that would be contrary to applicable law; or

(4) An exemption to a stationary source from any other air pollution control requirements of federal, state, or county laws, rules, and regulations.

12.3.6.9 ERC Registry

(a) The ERC Registry and its use shall not interfere with the attainment or maintenance of any National Ambient Air Quality Standard.

(b) The ERC Registry and its use shall assure that the use of ERCs does not contravene applicable requirements of the Act and Nevada Revised Statues (NRS) Chapter 445B.

12.3.7 Source Obligation

12.3.7.1 Enforcement

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to Section 12.3 or 12.4 and any changes to the application as required by the Control Officer, or with the terms of its Authority to Construct Permit, or any owner or operator of a source or modification subject to Section 12.3 who begins actual construction after the effective date of these AQRs without applying for and receiving an Authority to Construct Permit, shall be subject to enforcement action.

12.3.7.2 Termination

Approval to construct shall terminate if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The Control Officer may extend the 18-month period upon a satisfactory showing of good cause why an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

12.3.7.3 Compliance

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

12.3.7.4 Relaxation in Enforceable Limitations

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification otherwise to emit a pollutant, then the requirements of Sections 12.3.3 through 12.3.7 shall apply

to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

12.3.8 Public Participation

Issuance of an Authority to Construct Permit pursuant to Section 12.3 and Section 12.4 shall be subject to the public participation requirements in Section 12.2.16.

12.3.9 Plantwide Applicability Limits (PAL)

12.3.9.1 Applicability

(a) The Control Officer may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 12.3.9.1 through 12.3.9.15. The term “PAL” shall mean “actuals PAL” throughout Section 12.3.9.

(b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Sections 12.3.9.1 through 12.3.9.14, and complies with the PAL conditions in its Part 70 Operating Permit:

(1) Is not a major modification for the PAL pollutant;

(2) Does not have to be approved through the plan’s Nonattainment Major NSR Program; and

(3) Is not subject to the provisions in Section 12.3.7.4.

(c) Except as provided under paragraph (b)(3) of Section 12.3.9.1, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

12.3.9.2 Definitions

Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.3.9. When a term is not defined in these paragraphs, it shall have the meaning given in Section 12.3.2, Section 0, or in the Act.

(a) "Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit, or have the potential to emit, the PAL pollutant.

(b) "Allowable emissions" means allowable emissions as defined in paragraph (b) of Section 12.3.2, except as this definition is modified according to paragraphs (1) and (2) below:

(1) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's PTE.

(2) An emissions unit's PTE shall be determined using the definition in paragraph (d)(d) of Section 12.3.2, except that the words "or enforceable as a practical matter" should be added after "Federally Enforceable."

(c) "Major emissions unit" means:

(1) Any emissions unit that emits, or has the potential to emit, 100 tpy or more of the PAL pollutant in an attainment area; or

(2) Any emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.

(d) "PAL" means an emission limitation, expressed in tpy, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with Sections 12.3.9.1 through 12.3.9.15.

(e) "PAL effective date" generally means the date of issuance of the Part 70 Operating Permit containing the PAL conditions, or the date on which a significant permit revision containing the PAL conditions becomes effective. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(f) "PAL effective period" means the period beginning with the PAL effective date and ending ten (10) years later.

(g) "PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change in, or change in the method of operation of, the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(h) "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

(i) “Project” means a physical change in, or change in the method of operation of, an existing stationary source.

(j) "Significant emissions unit" means an emissions unit that emits, or has the potential to emit, a PAL pollutant in an amount that is equal to or greater than the significant level as defined in paragraph (m)(m) Section 12.3.2 or in the Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

(k) "Small emissions unit" means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level as defined in paragraph (m)(m) Section 12.3.2 or in the Act, whichever is lower, for that PAL pollutant.

12.3.9.3 Permit Application Requirements

As part of an application for a Part 70 Operating Permit requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Control Officer for approval:

(a) A list of all emissions units at the source designated as small, significant, or major based on their PTE. In addition, the owner or operator of the source shall indicate which, if any, federal, state or county applicable requirements, emission limitations, or work practices apply to each unit;

(b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month, as required by paragraph (a) of Section 12.3.9.13.

12.3.9.4 General Requirements for Establishing PALs

(a) The Control Officer may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(1) through (a)(7) of Section 12.3.9.4 are met.

(1) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve (12) months of establishing a PAL,

the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve (12) consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven (11) months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2) The PAL shall be established in a Part 70 Operating Permit as a significant permit revision.

(3) The Part 70 Operating Permit shall contain all the requirements of Section 12.3.9.7.

(4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5) Each PAL shall regulate emissions of only one pollutant.

(6) Each PAL shall have a PAL effective period of ten (10) years.

(7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 12.3.9.12 through 12.3.9.14 for each emissions unit under the PAL through the PAL effective period.

(b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under Section 12.3.6 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

12.3.9.5 Public Participation Requirements for PALs

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 12.2.16.

12.3.9.6 Setting the 10-year Actuals PAL Level

(a) Except as provided in paragraph (b) of Section 12.3.9.6, the Actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable

significant level for the PAL pollutant under these AQRs or under the Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Control Officer shall specify a reduced PAL level(s) (in tons/yr) in the Part 70 Operating Permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Control Officer is aware of prior to issuance of the permit.

(b) For newly constructed units (which does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (a) of Section 12.3.9.6, the emissions must be added to the PAL level in an amount equal to the PTE of the units.

12.3.9.7 Part 70 Operating Permits with PALs

Contents of a Part 70 Operating Permit containing a PAL shall include the information in paragraphs (a) through (j) of Section 12.3.9.7:

(a) The PAL Pollutant and the applicable source-wide emission limitation in tpy;

(b) The effective date and the expiration date of the PAL conditions (PAL effective period).

(c) Specification in the permit that if a major stationary source owner or operator applies to renew the PAL conditions in accordance with Section 12.3.9.9 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised Part 70 Operating Permit is issued by the Control Officer.

(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;

(e) A requirement that, once the PAL conditions expire, the major stationary source is subject to the requirements of Section 12.3.9.9;

(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total, as required by paragraph (a) of Section 12.3.9.13;

(g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 12.3.9.12;

(h) A requirement to retain the records required under Section 12.3.9.13 on-site. Such records may be retained in an electronic format;

(i) A requirement to submit the reports required under Section 12.3.9.14 by the required deadlines; and

(j) Any other requirements that the Control Officer deems necessary to implement and enforce the PAL conditions.

12.3.9.8 PAL Effective Period and Reopening of PAL Conditions

The plan shall require the information in paragraphs (a) and (b) of Section 12.3.9.8.

(a) PAL Effective Period. The Control Officer shall specify a PAL effective period of ten (10) years from the date of issuance.

(b) Reopening of the PAL conditions in a Part 70 Operating Permit.

(1) During the PAL effective period, the plan shall require the Control Officer to reopen the PAL conditions in a Part 70 Operating Permit to:

(A) Correct typographical/calculation errors made in setting the PAL, or reflect a more accurate determination of emissions used to establish the PAL;

(B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 12.3.6; or

(C) Revise the PAL to reflect an increase in the PAL as provided under Section 12.3.9.11.

(2) The Control Officer may reopen the PAL conditions in a Part 70 Operating Permit for the following:

(A) Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

(B) Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the

Control Officer may impose on the major stationary source under the Nevada SIP.

(C) Reduce the PAL if the Control Officer determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air-quality-related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

(3) Except for the permit reopening in paragraph (b)(1)(A) of Section 12.3.9.8 for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out as significant permit revisions to a Part 70 Operating Permit.

12.3.9.9 Expiration of a PAL

Any PAL which is not renewed in accordance with the procedures in Section 12.3.9.10 shall expire at the end of the PAL effective period, and the requirements in paragraphs (a) through (e) of Section 12.3.9.9 shall apply.

(a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised Part 70 Operating Permit established according to the procedures in paragraphs (a)(1) and (a)(2) of Section 12.3.9.9.

(1) Within the time frame specified for PAL renewals in paragraph (b) of Section 12.3.9.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Control Officer) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of Section 12.3.9.10, such distribution shall be made as if the PAL had been adjusted.

(2) The Control Officer will decide whether and how the PAL allowable emissions will be distributed and issue a revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Control Officer determines is appropriate.

(b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Control Officer may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the Control Officer issues the revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(2) of Section 12.3.9.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification.

(e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except as provided in paragraph (b)(3) of Section 12.3.9.1.

12.3.9.10 Renewal of a PAL

(a) The Control Officer will follow the procedures specified in Sections 12.3.9.5 and 12.5 in approving any request to renew the PAL conditions in a Part 70 Operating Permit for a major stationary source, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Control Officer.

(b) Application deadline. A major stationary source owner or operator shall submit a timely application to the Control Officer to request renewal of the PAL conditions in a Part 70 Operating Permit. A timely application is one that is submitted at least six (6) months prior to, but not earlier than eighteen (18) months prior to, the date of expiration of the Part 70 Operating Permit. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL conditions in a Part 70 Operating Permit within this time period, then the PAL conditions shall continue to be effective until the revised permit with the renewed PAL conditions is issued.

(c) **Application Requirements.** The application to renew PAL conditions shall be incorporated in the application for renewal of the affected Part 70 Operating Permit and shall contain the information required in paragraphs (c)(1) through (c)(4) of Section 12.3.9.10:

(1) The information required in paragraphs (a) through (c) of Section 12.3.9.3;

(2) A proposed PAL level;

(3) The sum of the PTE of all emissions units under the PAL (with supporting documentation); and

(4) Any other information the owner or operator wishes the Control Officer to consider in determining the appropriate level for renewing the PAL conditions.

(d) **PAL Adjustment.** In determining whether and how to adjust the PAL, the Control Officer will consider the options outlined in paragraphs (d)(1) and (d)(2) of Section 12.3.9.10. However, in no case may any such adjustment fail to comply with paragraph (d)(3) of Section 12.3.9.10.

(1) If the emissions level calculated in accordance with Section 12.3.9.5 is equal to or greater than eighty (80) percent of the PAL level, the Control Officer may renew the PAL at the same level without considering the factors set forth in paragraph (d)(2) of Section 12.3.9.10; or

(2) The Control Officer may set the PAL at a level that he determines to be more representative of the source's baseline actual emissions, or that he determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Control Officer in his written rationale.

(3) Notwithstanding paragraphs (d)(1) and (d)(2) of Section 12.3.9.10:

(A) If the PTE of the major stationary source is less than the PAL, the Control Officer shall adjust the PAL to a level no greater than the PTE of the source; and

(B) The Control Officer shall not approve renewed PAL level higher than the current PAL unless the major stationary

source has complied with the provisions of Section 12.3.9.11.

(e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the Control Officer has not already adjusted for such requirement, the PAL shall be adjusted at the time of the affected Part 70 Operating Permit is renewed.

12.3.9.11 Increasing a PAL during the PAL Effective Period

(a) The Control Officer may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(1) through (a)(4) of Section 12.3.9.11.

(1) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit as a significant revision to the affected Part 70 Operating Permit. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT-equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten (10) years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3) The owner or operator obtains an Authority to Construct Permit pursuant to Section 12.4 for all emissions unit(s) identified in paragraph (a)(1) of Section 12.3.9.11, regardless of the magnitude of the emissions increase resulting from them. These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct Permit issuance process, even though they have also

become subject to the PAL or continue to be subject to the PAL.

(4) The PAL conditions in a Part 70 Operating Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL significant permit revision becomes operational and begins to emit the PAL pollutant.

(b) The Control Officer shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(2) of Section 12.3.9.11), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL conditions in a Part 70 Operating Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 12.3.9.5.

12.3.9.12 Monitoring Requirements for PALs

(a) General requirements.

(1) The PAL conditions in a Part 70 Operating Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL conditions must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL conditions.

(2) The PAL monitoring system must employ one or more of the four (4) general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(1) through (b)(4) of Section 12.3.9.12 and must be approved by the Control Officer.

(3) Notwithstanding paragraph (a)(2) of Section 12.3.9.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(1) of Section 12.3.9.12 if approved by the Control Officer.

(4) Failure to use a monitoring system that meets the requirements of Section 12.3.9.12 renders the PAL invalid.

(b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 12.3.9.12:

(1) Mass balance calculations for activities using coatings or solvents;

(2) CEMS;

(3) CPMS or PEMS; and

(4) Emission factors.

(c) **Mass Balance Calculations.** An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:

(1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Control Officer determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) **CEMS.** An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

(2) The CEMS must sample, analyze, and record data at least every fifteen (15) minutes while the emissions unit is operating.

(e) **CPMS or PEMS.** An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen (15) minutes, or at another, less frequent interval approved by the Control Officer while the emissions unit is operating.

(f) **Emission Factors.** An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(1) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(2) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six (6) months of permit issuance unless the Control Officer determines that testing is not required.

(g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time whenever there is no monitoring data unless another method for determining emissions during such periods is specified in the Part 70 Operating Permit containing the PAL.

(h) Notwithstanding the requirements in paragraphs (c) through (g) of Section 12.3.9.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Control Officer shall, at the time of permit issuance:

(1) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored

parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(i) **Revalidation.** All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the Control Officer. Such testing must occur at least once every five (5) years after issuance of the Part 70 Operating Permit containing the PAL conditions.

12.3.9.13 Recordkeeping Requirements

(a) The PAL conditions shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 12.3.9 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five (5) years from the date of such record.

(b) The PAL conditions in a Part 70 Operating Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five (5) years:

(1) A copy of the PAL provisions in the Part 70 Operating Permit application and any applications for revisions to the Part 70 Operating Permit; and

(2) Each annual certification of compliance pursuant to the conditions in the affected Part 70 Operating Permit and the data relied on in certifying the compliance.

12.3.9.14 Reporting and Notification Requirements

The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the Control Officer, in accordance with the conditions in the affected Part 70 Operating Permit. The reports shall meet the requirements in paragraphs (a) through (c) of Section 12.3.9.14.

(a) **Semiannual Report.** The semiannual report shall be submitted to the Control Officer within thirty (30) days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(1) through (a)(7) of Section 12.3.9.14:

(1) The identification of owner and operator and the permit number;

(2) Total annual emissions (in tpy) based on a 12-month rolling total for each month in the reporting period.

(3) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

(4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

(5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;

(6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 12.3.9.12; and

(7) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(b) **Deviation Report.** The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL conditions, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected Part 70 Operating Permit. The reports shall contain the following information:

(1) The identification of owner and operator and the permit number;

(2) The PAL requirement that experienced the deviation or that was exceeded;

(3) Emissions resulting from the deviation or the exceedance; and

(4) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(c) **Revalidation Results.** The owner or operator shall submit to the Control Officer the results of any revalidation test or method within three (3) months after completion of such test or method.

12.3.9.15 Transition Requirements

(a) The Control Officer may not issue a PAL that does not comply with the requirements in Sections 12.3.9.1 through 12.3.9.15 after the Administrator has approved regulations incorporating these requirements into the Nevada SIP.

(b) The Control Officer may supersede any PAL which was established prior to the date of approval of the Nevada SIP by the Administrator with a PAL that complies with the requirements of Sections 12.3.9.1 through 12.3.9.15.

12.3.10 Potential Visibility Impacts

The Control Officer shall consult with the Federal Land Manager on a proposed major stationary source or major modification that may impact visibility in any Class I Area, in accordance with 40 CFR 51.307.

12.3.11 Invalidation

If any provision of Section 12.3, or the application of such provision to any person or circumstance, is held invalid, the remainder of Section 12.3, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

History: Adopted May 18, 2010. Amended March 18, 2014.

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12.4 AUTHORITY TO CONSTRUCT PERMIT REQUIREMENTS FOR PART 70 SOURCES

12.4.1 Authority to Construct Permit Required; Duration

12.4.1.1 Commencement of Construction: Timing Requirements

(a) No person shall begin actual construction of a New Part 70 source, or modify or reconstruct an existing Part 70 source that falls within the preconstruction review applicability criteria, without first obtaining an Authority to Construct Permit from the Control Officer.

(b) If a person commences the construction, modification, or reconstruction of a Part 70 source within eighteen (18) months after the date of issuance of an Authority to Construct Permit and construction is not discontinued for a period greater than twelve (12) months, and provided that a timely and complete Part 70 Operating Permit application is submitted pursuant to Section 12.5.2.1, the Authority to Construct Permit shall remain in effect until a Part 70 Operating Permit is granted or denied, or the modification or reconstruction is incorporated into a Part 70 Operating Permit through a permit revision.

(c) Notwithstanding the provisions of paragraph (b) of Section 12.4.1.1, if an existing Part 70 Operating Permit would prohibit such construction or change in operation, the source must obtain a Part 70 permit revision pursuant to Section 12.5.2.14 before commencing operation.

12.4.2 Definitions

12.4.2.1 Use of Terms

The following definitions apply to terms used in Section 12.4. Unless the context requires otherwise, the following terms shall have the meanings set forth for the purposes of Section 12.4. When a term is not defined, it shall have the meaning provided in Section 0, 40 CFR 70.2, the Act, or common usage, in that order of priority.

(a) “Existing Part 70 source” means a Part 70 source that either has a valid Part 70 Operating Permit issued prior to the effective date of Section 12.4 or has an application for a Part 70 Operating Permit deemed complete prior to the effective date of Section 12.4.

(b) “Minor NSR significant levels” means an increase in the potential to emit that equals or exceeds the following rates for the pollutants listed:

Type of Air Pollutant	Potential to Emit (tpy)
$PM_{2.5}$, directly emitted	5.0
PM_{10}	7.5
CO	50
VOC	20
NO_x	20
SO_2	20
Lead (Pb)	0.6
H_2S	5
Total Reduced Sulfur (including H_2S)	5

(c) "Modification" or "Modify" means a project which meets any of the preconstruction review applicability criteria in paragraph (e) of Section 12.4.2.1 or that requires a minor or significant permit revision pursuant to Section 12.5.2.14.

(d) “New Part 70 source” means a Part 70 source that is not an existing Part 70 source.

(e) “Preconstruction review applicability criteria” means any of the following:

(1) At an existing major stationary source, a project that will result in a “major modification” as defined in Sections 12.2 or 12.3;

(2) A new Part 70 source or a modification to an existing Part 70 source that is subject to Section 12.4.3.2;

(3) Any project that is subject to a standard, limitation, or other requirement under 40 CFR Part 60;

(4) Any project that is subject to a standard under 40 CFR Part 63, including, but not limited to, construction or reconstruction that requires preconstruction review under 40 CFR § 63.5; or

(5) For a solid waste incineration unit, a project that will result in a modification for purposes of Section 129(g)(3) of the Act.

(f) “Project” means a physical change in, or change in the method of operation of, a Part 70 source.

For purposes of this definition, a physical change or change in the method of operation shall not include:

(1) Routine maintenance, repair, and replacement.

(2) Use of an alternative fuel or raw material by reason of any order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.

(4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(5) Use of an alternative fuel or raw material by a stationary source which:

(A) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I; or

(B) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.

(6) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Subpart I or 51.166.

(7) Any change in ownership at a stationary source.

(8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(A) The Nevada State Implementation Plan and;

(B) Other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to

emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(10) The reactivation of a very clean coal-fired electric utility steam generating unit.

(g) "Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million in second quarter 1980 dollars; or

(B) The delegation of authority to such representative is approved in advance by the Control Officer.

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this definition, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(4) For Title IV affected sources:

(A) The designated representative, as defined in 40 CFR 72.2, insofar as actions, standards, requirements, or prohibitions under Title IV of the Act, "Acid Deposition Control," or the regulations promulgated there under are concerned; or

(B) The responsible official as defined above for any other purposes under Section 12.4.

12.4.3 Authority to Construct Permit for Part 70 Sources

12.4.3.1 Application Submission, Processing and Issuance Requirements for Stationary Sources Subject to Sections 12.2 or 12.3

(a) **Application Requirements**

An application for an Authority to Construct Permit shall be submitted on a form provided by the Control Officer. The application shall contain the following information related to the construction or project:

(1) A description of all emissions of regulated air pollutants from all affected emissions units and a projected operating schedule for each emissions unit;

(2) An identification and a description of all points of emissions and a process description of all activities, including design capacity, which may generate emissions of the regulated air pollutants described pursuant to paragraph (a)(1) of Section 12.4.3.1 in sufficient detail to establish the basis for the applicability of standards and fees;

(3) The emission rates of all regulated air pollutants, including fugitive emission rates. The emission rates must be described in tons per year and for such shorter-term averages as are necessary to establish compliance using the applicable standard reference test method or other methodology specified in paragraph (a)(7) of Section 12.4.3.1;

(4) A description of any new or modified air pollution control equipment to be operated at the stationary source;

(5) The calculations on which the information described in Section 12.4.3.1 are based, including a fuel description and specifications;

(6) Citations to and a description of all applicable requirements;

(7) The applicable test method or other methodology used for determining compliance with each applicable requirement;

(8) A control technology demonstration for RACT shall be submitted for a modification to an existing Part 70 source that requires an Authority to Construct Permit because: (i) the modification will increase the source's potential to emit by an amount that is equal to or greater than the minor NSR significant level in paragraph (b) of Section 12.4.2.1; (ii) a control technology demonstration is not otherwise required by Section 12.2 or 12.3; or (iii)

the modification will be major for one pollutant and will increase the source's potential to emit by an amount equal to or greater than the minor NSR significant level for one or more pollutants that are not part of or precursors to the pollutant associated with the major modification. The RACT control technology demonstration shall only apply to the pollutant(s) exceeding the minor NSR significant level. The application shall describe how RACT was determined and how compliance with RACT is to be measured, including, if applicable, material usage limits, performance testing, and continuous emissions monitoring.

(9) If applicable, a description of how performance testing will be conducted, including test methods and a general description of testing protocols;

(10) If applicable, the information necessary to establish a basic design parameter;

(11) If applicable, a description of how the permittee proposes to comply with the compliance assurance monitoring requirements in 40 CFR Part 64, including a plan describing how the applicant will comply with the monitoring design criteria in 40 CFR 64.3; and

(12) If any information or data in the application is proposed to be treated as confidential, a demonstration of compliance with the Certification of Confidentiality procedures in Section 12.6.1.

(13) If the applicant wishes to be subject to the enhanced public participation procedures in Section 12.2.16.6, a declaration to that effect.

(b) **Additional Application Requirements for Sources Subject to Section 12.2 (Major Source PSD)**

If the new or modified Part 70 source is subject to the Prevention of Significant Deterioration preconstruction review provisions of Section 12.2, the application shall also contain the following:

(1) The control technology review required by Section 12.2.9;

(2) The source impact analysis required by Section 12.2.10;

(3) The air quality analysis required by Section 12.2.12;

(4) The source information required by Section 12.2.13;

(5) The additional impact analyses required by Section 12.2.14; and

(6) Any other information that the Control Officer determines is necessary to process the application in accordance with Section 12.2 or Section 12.3.

(c) **Additional Application Requirements for Sources Subject to Section 12.3 (Major Source Nonattainment NSR)**

If the new or modified Part 70 source is subject to the nonattainment area preconstruction review provisions of Section 12.3, the application shall also contain the following:

(1) The statewide compliance demonstration required by Section 12.3.3;

(2) The alternatives analysis required by Section 12.3.4;

(3) The LAER demonstration and draft permit conditions required to ensure compliance with LAER required by Section 12.3.5.2;

(4) An air impact analysis, including dispersion modeling;

(5) The information necessary to demonstrate that the applicant has satisfied or will satisfy the emissions offset requirements in Section 12.3.6; and

(6) Any other information that the Control Officer determines is necessary to process the application in accordance with Section 12.2 or Section 12.3.

(d) **Application Processing Procedures**

Any application for a new or modified Part 70 source subject to paragraph (a) of Section 12.4.3.1 shall be processed in accordance with the following procedures:

(1) Within one hundred (100) days after the date of receipt of an application for an Authority to Construct Permit, the Control Officer shall determine if the application is complete. If substantial additional information is required, the Control Officer shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Control Officer shall determine the application to be complete.

Unless the Control Officer determines that the application is incomplete within one hundred (100) days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Control Officer de-

termines that the application is complete or the 101st day after the date of receipt, whichever is earlier. Within one year after the date the application is determined to be complete, the Control Officer shall initiate the public participation procedures in Section 12.2.16.

(2) If, after the date the application is determined to be complete, the Control Officer discovers that additional information is required to act on the application, the Control Officer may request additional information necessary to determine whether the proposed project will comply with all of the applicable requirements set forth in Section 12.2 or Section 12.3, as applicable. The applicant must provide in writing any additional information that the Control Officer requests within the time specified in the written request of the Control Officer. Any delay in the submittal of the requested information may result in a corresponding delay in the action of the Control Officer on the application or a determination of incompleteness.

(3) The Control Officer shall not issue an Authority to Construct or Permit to Operate unless, after the date an application is determined to be complete, the Control Officer determines that the new or modified source will meet all applicable requirements of Section 12.

(e) **Permit Content**

An Authority to Construct Permit issued pursuant to Section 12.4 shall contain each of the following conditions:

(1) The permittee shall retain records of all required monitoring and performance demonstration data and supporting information for five (5) years after the date of the sample collection, measurement, report, or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment, all original strip-chart recordings for continuous monitoring instrumentation and, if applicable, all other records required to be maintained pursuant to 40 CFR 64.9(b).

(2) Each of the conditions and requirements of the permit is severable and, if any are held invalid, the remaining conditions and requirements continue in effect;

(3) The permittee shall comply with all conditions contained in the permit. Any noncompliance constitutes a violation and is grounds for:

(A) An action for noncompliance;

(B) Revocation and reissuance or the termination of the permit by the Control Officer; or

(C) The reopening or revising of the permit by the permittee as directed by the Control Officer.

(4) The need to halt or reduce activity to maintain compliance with the conditions of the permit is not a defense to noncompliance with any condition of the permit;

(5) The Control Officer may revise, revoke and reissue, reopen and revise, or terminate the permit for cause;

(6) The permit does not convey any property rights or any exclusive privilege;

(7) The permittee shall provide the Control Officer, within a reasonable time, with any information that the Control Officer requests in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the conditions of the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality;

(8) The permittee shall allow the Control Officer, or any authorized representative of the Control Officer, upon presentation of credentials, to enter the permittee's premises where the source is located or emissions related activity is conducted and to:

(A) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the permit;

(B) Inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;

(C) Sample or monitor substances or parameters to determine compliance with the conditions of the permit or applicable requirements; and

(D) Document alleged violations using devices such as cameras or video equipment.

(9) A responsible official of the 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 permit are true, accurate, and complete;

(10) The permit must contain:

(A) All applicable requirements, emission limits, and standards, provided, however, that applicable requirements that are not required by the Act or implementing federal regulations, and that are not in the Nevada SIP, may be included in the permit but shall be specifically designated as being not federally enforceable and not enforceable by a citizen's suit pursuant to the Act, and shall be designated as “county only requirements.” Terms and conditions so designated are not subject to the requirements that apply to permit review by EPA and affected states;

(B) Monitoring, recordkeeping, and reporting requirements sufficient to meet the requirements of 40 CFR Part 64 or paragraph (d) of Section 12.5.2.6, as deemed necessary by the Control Officer;

(C) Such other conditions as necessary to demonstrate compliance with the requirements in Section 12.2 or Section 12.3 for construction, subject to those sections.

(D) A condition that states that the approval of an Authority to Construct or Authority to Operate shall not affect the responsibility of the permittee to comply with the applicable requirements of the Nevada State Implementation Plan or any other applicable requirements.

(11) The permittee shall maintain documentation of the records required by paragraph (a) of Section 12.2.1.6 or paragraph (a) of Section 12.3.1.6, if applicable.

(12) The permittee shall report start of construction, construction interruptions exceeding nine (9) months, and completion of construction. The report shall be given to the Control Officer not later than fifteen (15) working days after occurrence of the event;

(13) The permittee shall provide written notification of the actual date of commencing operation, received by the Control Officer, within fifteen (15) calendar days after such date;

(14) The permittee shall provide separate written notification for commencing operation for each unit of phased construction, which may involve a series of units commencing operation at different times;

(15) A source that is a new Part 70 source or a major modification to an existing Part 70 source shall, within sixty (60) days after achieving the maximum rate of production of the new source or modification, but not later than one hundred eighty (180) days after commencing operation, conduct performance tests and furnish the Control Officer a written report of the results of the tests. The Control Officer may require such testing to occur sooner than the 180-day limit if there are adequate grounds to do so. The performance tests required by the Authority to Construct Permit shall be conducted in accordance with the applicable test method and Section 12.8; and

(16) The permittee shall post the permit in a location which is clearly visible and accessible to the facility's employees and representatives of the department.

(17) The permittee shall pay all fees assessed pursuant to Section 18.

12.4.3.2 Application Submission and Processing Requirements for Part 70 Sources Not Subject to Section 12.2, Section 12.3, or Section 12.4.3.3

(a) In order to obtain an Authority to Construct Permit, the owner or operator of a proposed new Part 70 source that is not subject to Section 12.2 or Section 12.3, or the owner or operator of an existing Part 70 source proposing a modification that increases the source's potential to emit by an amount equal to or greater than the minor NSR significant level in paragraph (b) of Section 12.4.2.1, but that is not a major modification under Section 12.2 or Section 12.3, shall submit an application on a form prescribed by the Control Officer.

(1) The application shall contain the information specified in paragraph (a) of Section 12.4.3.1 and a "Control Technology Review" that meets the requirements of Section 12.2.9, except that Reasonably Available Control Technology (RACT) shall be the technology standard instead of Best Available Control Technology. The RACT Technology Review shall be submitted for any pollutant for which the source's potential to emit increases by an amount equal to or greater than the minor NSR significant level, but less than the major source or major modification thresholds. The applicant shall also include a demonstration that the new Part 70 source or modification does not cause an exceedance of the ambient air quality standards as defined in Section 0 or

an exceedance of the ambient air increments specified in Section 12.2.3.

(2) The determination of completeness and the procedures for processing the application shall be those in paragraph (d) of Section 12.4.3.1.

(3) The public participation procedures specified in Section 12.1.5.3 shall apply to a permit revision processed under Section 12.4.3.2(a).

(4) The contents of the Authority to Construct Permit issued pursuant to Section 12.4.3.2(a) shall be those in Section 12.4.3.1(e).

(b) In order to obtain an Authority to Construct Permit, the owner or operator of an existing Part 70 source that is proposing a modification that increases the source's potential to emit by an amount less than the minor NSR significance level in paragraph (b) of Section 12.4.2.1 shall comply with the minor revision process listed in Section 12.5.2.14, including the application procedures listed in paragraph (a)(3) of Section 12.5.2.14.

12.4.3.3 Application Submission and Processing Requirements for Construction or Reconstruction of a Part 70 Source Subject to a Standard under Sections 112(d), (f), or (h) of the Act (a MACT source)

In addition to any other applicable application requirements in Section 12.4, if a new Part 70 source, or the reconstruction of an existing Part 70 source that creates a "new affected source" or "reconstructed affected source" that is a major source under 40 CFR Part 63, the owner or operator shall comply with the application requirements under 40 CFR 63.5 and paragraph (a) of Section 12.4.3.1. The Authority to Construct Permit for such source shall comply with the requirements in 40 CFR 63.5(e).

12.4.3.4 Authority to Construct Permit Revisions

(a) An Authority to Construct Permit shall only be revised administratively or as a significant permit revision.

(1) An administrative permit revision is a permit revision that:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change;

(C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Control Officer and the permit transfer procedures specified in Section 12.12 are complied with; or

(E) Incorporates any other type of change which the Administrator has determined to be similar to those in paragraphs (a)(1)(A) through (a)(1)(D) of Section 12.4.3.4.

(2) An administrative permit revision may be made by the Control Officer consistent with the following:

(A) The Control Officer shall take no more than thirty (30) days from receipt of a request for an administrative permit revision to take final action on such request, and may incorporate the revision without providing notice to the public or affected states provided that the revised permit designates any such permit revisions as having been made pursuant to Section 12.4.3.4.

(B) The Control Officer shall provide a copy of the revised permit to the Administrator.

(C) The source may implement the changes addressed in the request for an administrative revision immediately upon submittal of the request. However, if the Control Officer determines that the change does not qualify as an administrative revision, the source may be subject to enforcement proceedings for violation of any existing permit terms and conditions.

(3) A significant permit revision to an Authority to Construct Permit is any revision to the permit that is not an administrative permit revision.

(A) A significant permit revision shall be subject to the same application, determination of completeness, processing procedures, public participation, notification, and timetables as the original Authority to Construct Permit, except that the scope of the procedures shall be limited to the revision and issues relevant to that revision and the proce-

dures specified in paragraphs (c) and (d) of Section 12.5.2.18 do not apply.

(b) From and after the date of commencing operation, an Authority to Construct Permit shall only be revised pursuant to the procedures for revising a Part 70 Operating Permit in Sections 12.5.2.13 and 12.5.2.14.

12.4.3.5 Administrative Permit Revisions for Title IV Acid Rain Sources

Administrative permit revisions to permit conditions governed by the federal Clean Air Act Title IV Acid Rain Program shall comply with 40 CFR Part 72, as incorporated by reference in Section 21.

History: Adopted May 18, 2010. Amended March 18, 2014.

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12.5 PART 70 OPERATING PERMIT REQUIREMENTS

12.5.1 Definitions

The following definitions apply to defined terms used in Section 12.5. Unless the context requires otherwise, the following terms shall have the meanings set forth for the purposes of Section 12.5. When a term is not defined, it shall have the meaning provided in Section 0, Section 12.4, 40 CFR 70.2, the Act, or common usage, in that order of priority.

(a) "Deviation" means a variation from any permit terms, including terms that establish emission limitations, operating conditions, or work practice standards, and those terms intended to show compliance with those limitations, conditions, or standards, including monitoring, recordkeeping, and reporting requirements. A deviation is not necessarily a violation.

(b) "Exempt Source" means that the following source categories are exempted from the obligation to obtain a Part 70 Operating Permit:

(1) Any source that has obtained a voluntarily accepted emission limit, pursuant to Section 12.1.7, to avoid having to obtain a Part 70 Operating Permit, unless a Part 70 Operating Permit is required by some other provision or requirement of the Act;

(2) Any source that would be required to obtain a permit solely because it is subject to Section 14.1(b)(62) of these AQRs, "Standards of Performance for New Residential Wood Heaters" (40 CFR 60.530, Subpart AAA); or

(3) Any source that would be required to obtain a permit solely because it is subject to Section 13.1(b)(8) of these AQRs, "Emission Standard for Asbestos" (40 CFR 61.145, Subpart M).

(c) "Existing Part 70 source" means a Part 70 source that either has a valid Part 70 Operating Permit issued prior to the effective date of Section 12.5 or has an application for a Part 70 Operating Permit deemed complete prior to the effective date of Section 12.5.

(d) "Minor NSR significant levels" means an increase in the potential to emit that would equal or exceed the following rates for the pollutants listed:

Type of Air Pollutant	**Potential to Emit (tpy)**
$PM_{2.5}$, directly emitted	5.0
PM_{10}	7.5
CO	50

VOC	20
NO_x	20
SO_2	20
Lead (Pb)	0.6
H_2S	5
Total Reduced Sulfur (including H_2S)	5

(e) "Modification" or "Modify" means a project which meets any of the preconstruction review applicability criteria in paragraph (g) of Section 12.5.1 or that requires a minor or significant permit revision pursuant to Section 12.5.2.14.

(f) “New Part 70 source” means a Part 70 source that is not an existing Part 70 source.

(g) “Preconstruction review applicability criteria” means any of the following:

(1) At an existing major stationary source, a project that will result in a major modification as defined in Section 12.2 or 12.3;

(2) A new Part 70 source or a modification to an existing Part 70 source that is subject to Section 12.4.3.2;

(3) Any project that is subject to a standard, limitation, or other requirement under 40 CFR Part 60;

(4) Any project that is subject to a standard under 40 CFR Part 63, including, but not limited to, construction or reconstruction that requires preconstruction review under 40 CFR 63.5; or

(5) For a solid waste incineration unit, a project that will result in a modification for purposes of Section 129(g)(3) of the Act.

(h) “Project” means a physical change in, or change in the method of operation of, a major stationary source.

For purposes of this definition, a physical change or change in the method of operation shall not include:

(1) Routine maintenance, repair and replacement.

(2) Use of an alternative fuel or raw material by reason of any order under Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.

(4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(5) Use of an alternative fuel or raw material by a stationary source which:

(A) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I; or

(B) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I.

(6) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.

(7) Any change in ownership at a stationary source.

(8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(A) The Nevada State Implementation Plan and;

(B) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

(9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(10) The reactivation of a very clean coal-fired electric utility steam generating unit.

(i) "Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million in second quarter 1980 dollars; or

(B) The delegation of authority to such representative is approved in advance by the Control Officer.

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this definition, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(4) For Title IV affected sources:

(A) The designated representative, as defined in 40 CFR 72.2, insofar as actions, standards, requirements, or prohibitions under Title IV of the Act, "Acid Deposition Control," or the regulations promulgated there under are concerned; or

(B) The responsible official as defined above for any other purposes under Section 12.5.

12.5.2 Part 70 Operating Permit Requirements

12.5.2.1 Permit Applications: Timely and Complete Applications

For each Part 70 source, the owner or operator shall submit a timely and complete permit application. A pre-application conference may be held at the request of the owner or operator of the Part 70 source to assist a source in submitting a complete permit application.

(a) Timely application.

(1) A timely application for a source applying for a Part 70 Operating Permit for the first time is one that is submitted within twelve (12) months after the source becomes subject to the permit program. If a source submits a timely application under this provision, it may continue operating under its Authority to Construct Permit until final action is taken on its application for a new Part 70 Operating Permit.

(2) For purposes of permit renewal, a timely application is a complete application that is submitted at least six (6) months and not greater than eighteen (18) months prior to the date of permit expiration. If a source submits a timely application under this provision, it may continue operating under its current Part 70 Operating Permit until final action is taken on its application for a renewed Part 70 Operating Permit.

(3) A timely application for an existing Part 70 source that has obtained an Authority to Construct Permit is one that is submitted within twelve (12) months after commencing operation of the modification or reconstruction authorized by the permit, or on or before such earlier date that the Control Officer may establish. However, where an existing Part 70 Operating Permit would prohibit such construction or change in operation, the source must obtain a Part 70 permit revision pursuant to Section 12.5.2.14 before commencing operation.

(4) In order to be deemed a timely application, the application must also meet the complete application provisions listed in paragraph (b) of Section 12.5.2.1.

(b) Complete application.

(1) To be deemed complete, an application must provide all information necessary to evaluate the subject source and its application and to determine all applicable requirements, including the emission rates information required by paragraph (a)(3) of Section 12.4.3.1. Applications for permit revisions need supply only such information as is related to the proposed change. A responsible official shall certify the submitted information consistent with Section 12.5.2.4.

(2) Unless the Control Officer notifies the source in writing within sixty (60) days of receipt of the application that an application is not complete, such application shall be deemed to be complete.

(3) A completeness determination shall not be required for a minor permit revision.

(4) If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or take final action on that application, the Control Officer may request such information in writing and set a reasonable deadline for a response. Failure to provide the information requested in a timely manner may result in a determination that the application is incomplete.

(5) The submittal of a complete application shall not affect the requirement that any source shall have an Authority to Construct Permit issued pursuant to Section 12.4.3 prior to construction.

(c) Area source-specific requirements.

(1) If a regulation promulgated by the administrator under Section 111 or 112 of the Act (42 U.S.C. 7411 or 7412) requires area sources to submit an application for a Part 70 Operating Permit, each area source covered by the requirement must submit an application in accordance with that regulation.

(d) Confidential Information. Claims of confidentiality as to information submitted to EPA shall be made pursuant to applicable federal requirements in 40 CFR Part 2. Claims of confidentiality as to information submitted to the department shall be made pursuant to Section 12.6. In the case where a source has submitted information to the Control Officer under a claim of confidentiality that also must be submitted to EPA, the Control Officer shall either submit the information to EPA or require the source to submit a copy of such information directly to EPA.

(e) Late applications. An application submitted after the deadlines established for timeliness shall be accepted for processing, but shall not be considered a timely application. Submitting an application shall not relieve a source of any enforcement actions resulting from submitting a late application.

12.5.2.2 Permit Applications: Duty to Supplement or Correct Application

Any applicant who fails to submit any relevant facts, or who has submitted incorrect information in a permit application, shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit. A responsible official shall certify the additional information consistent with the requirements of Section 12.5.2.4.

12.5.2.3 Permit Applications: Standard Requirements

Information as described below for each emissions unit at a Part 70 source shall be included in the application, except for insignificant activities. The application shall be submitted on a form provided by the Control Officer.

(a) Identifying information, including company name, company address, plant name and address if different from company name and address, owner's name and agent, and telephone number and name of the responsible official, plant site manager, or contact;

(b) A description of the source's processes and products by Standard Industrial Classification Code (SIC) or the North American Industry Classification System (NAICS), including any associated with each alternate scenario identified by the source;

(c) The following emissions-related information:

(1) The potential to emit of all air pollutants for which the source is major, and the potential to emit of all regulated air pollutants, including HAPs, from any emissions unit, except for insignificant activities;

(2) Identification and description of all points of emissions described in paragraph (c)(1) of Section 12.5.2.3 in sufficient detail to establish the basis for an air impact analysis and applicability of applicable requirements;

(3) Emissions rates in tons per year, including fugitive emission rates, and in such terms as are necessary to establish compliance with applicable requirements, consistent with the results of performance tests conducted pursuant to the source's Part 70 Operating Permit or the source's Authority to Construct Permit, whichever is more current;

(4) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules;

(5) Identification and description of air pollution control equipment and compliance monitoring devices or activities; and

(6) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants and HAPs at the Part 70 source.

(d) Other information required by any applicable requirement, including:

(1) Information related to stack height limitations developed pursuant to Section 12.2.7.3; and

(2) The calculations on which the information in paragraphs (c)(1) through (c)(6) of Section 12.5.2.3 is based.

(e) The following air pollution control requirements:

(1) Citation and description of all applicable requirements, and

(2) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(f) Other specific information that may be necessary to implement and enforce applicable requirements or to determine the applicability of such requirements;

(g) An explanation of any proposed exemptions from otherwise applicable requirements;

(h) If alternative operating scenarios are to be identified in the permit pursuant to paragraph (j) of Section 12.5.2.6, such information as is necessary for the Control Officer to define those scenarios and determine the applicable requirements for each proposed scenario;

(i) If emissions trading is proposed, the legal authority for the trading and a description of the proposed conditions for determining compliance with the trading requirements, including replicable procedures that ensure that the emissions trades are quantifiable and enforceable.

(j) A compliance plan that contains all of the following:

(1) A description of the compliance status of the source with respect to all applicable requirements;

(2) A compliance statement and compliance schedule, as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term shall

satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement; and

(C) A schedule of compliance for any emissions unit at the source that will not be in compliance with any applicable requirement at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with the applicable requirements. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(3) A schedule for submission of certified progress reports no less than every six (6) months for sources required to have a schedule of compliance to remedy a violation.

(4) The compliance plan content requirements specified in paragraphs (j)(1) through (j)(3) of Section 12.5.2.3 shall apply and be included in the "acid rain" portion of a compliance plan for a Title IV affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, "Acid Deposition Control," with regard to the schedule and methods the source will use to achieve compliance with the acid rain emission limitations.

(k) Requirements for compliance certification, including all of the following:

(1) A certification of compliance with all applicable requirements by a responsible official consistent with Section 12.5.2.4 of the AQRs and Section 114(a)(3) of the Act, "Enhanced Monitoring and Compliance Certification";

(2) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test method; and

(3) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(l) For acid rain portions of permit applications and compliance plans, submit a current EPA Acid Rain Permit Application or New Unit Exemption form, as applicable.

(m) If a PAL is requested, the information required by Section 12.2.19 for establishing a PAL.

12.5.2.4 Permit Applications: Certification

Any application form, report, or compliance certification submitted pursuant to Section 12.5 shall contain certification by a responsible official of truth, accuracy, and completeness. This certification, and any other certification required under Section 12.5, shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

12.5.2.5 Permit Applications: Insignificant Activities and Emissions

An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement.

(a) The following types of activities and emissions units may be presumptively omitted from a permit application for a Part 70 Operating Permit. Certain of these listed activities include qualifying statements intended to exclude many similar activities:

(1) Combustion emissions from propulsion of mobile sources;

(2) Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act;

(3) Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing/industrial or commercial process;

(4) Noncommercial food preparation;

(5) Consumer use of office equipment and products, not including printing establishments or businesses primarily involved in photographic reproduction;

(6) Janitorial services and consumer use of janitorial products;

(7) Internal combustion engines used for landscaping purposes;

(8) Laundry activities, except for dry-cleaning and steam boilers;

(9) Bathroom/toilet vent emissions;

(10) Emergency (backup) electrical generators at residential locations;

(11) Tobacco smoking rooms and areas;

(12) Blacksmith forges;

(13) Plant maintenance and upkeep activities (e.g., groundskeeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and not otherwise triggering a permit revision Cleaning and painting activities qualify as insignificant activities if they are not subject to VOC or HAP control requirements. Asphalt batch plant owners/operators must still get a permit if otherwise required.

(14) Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating or degreasing (solvent metal cleaning) activities, and not otherwise triggering a permit revision;

(15) Portable electrical generators that can be moved by hand from one location to another;

(16) Hand-held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal, or plastic;

(17) Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals;

(18) Air compressors and pneumatically operated equipment, including hand tools;

(19) Batteries and battery charging stations, except at battery manufacturing plants;

(20) Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOCs or HAPs;

(21) Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized;

(22) Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized;

(23) Drop hammers or hydraulic presses for forging or metalworking;

(24) Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;

(25) Vents from continuous emissions monitors and other analyzers;

(26) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;

(27) Hand-held applicator equipment for hot melt adhesives with no VOCs in the adhesive formulation;

(28) Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOCs or HAPs;

(29) CO_2 lasers, used only on metals and other materials which do not emit HAPs in the process;

(30) Consumer use of paper trimmers/binders;

(31) Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;

(32) Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;

(33) Laser trimmers using dust collection to prevent fugitive emissions;

(34) Bench-scale laboratory equipment used for physical or chemical analysis, but not lab fume hoods or vents;

(35) Routine calibration and maintenance of laboratory equipment or other analytical instruments;

(36) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis;

(37) Hydraulic and hydrostatic testing equipment;

(38) Environmental chambers not using HAP gases;

(39) Shock chambers;

(40) Humidity chambers;

(41) Solar simulators;

(42) Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes and any required fugitive dust control plan or its equivalent is submitted;

(43) Process water filtration systems and demineralizers;

(44) Demineralized water tanks and demineralizer vents;

(45) Boiler water treatment operations, not including cooling towers;

(46) Oxygen scavenging (deaeration) of water;

(47) Ozone generators;

(48) Fire suppression systems;

(49) Emergency road flares;

(50) Steam vents and safety relief valves;

(51) Steam leaks;

(52) Steam cleaning operations; and

(53) Steam sterilizers.

(b) Any person may petition the Control Officer for a rule to be adopted under the procedures in Section 2 to add an activity or emission unit to this list of insignificant activities and emissions which may be excluded from a Part 70 Operating Permit application. The petition shall include the following information:

(1) A complete description of the activity or emission to be added to the list;

(2) A complete description of all air contaminants that may be emitted by the activity or emission, including emission rate, air pollution control equipment, and calculations used to determine emissions; and

(3) An explanation of why the activity or emission should be exempted from the application requirements for an operating permit.

(c) The Control Officer shall review, on a case-by-case basis, insignificant activities for an individual Part 70 source that are listed in the application but do not require a detailed description. No activity with the potential to emit greater than two (2) tpy of any criteria pollutant, five (5) tpy of a combination of criteria pollutants, five hundred (500) pounds per year of any HAP, or one (1) tpy of a combination of HAPs shall be eligible to be determined an insignificant activity under Section 12.5.2.5.

12.5.2.6 Permit Content: Standard Requirements

Each Part 70 Operating Permit shall include the following elements:

(a) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance or that become effective within the term of the permit:

(1) The permit shall specify, and reference the origin of and authority for, each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(2) Where an applicable requirement is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, “Acid Deposition Control,” both provisions shall be incorporated into the permit.

(3) If the Nevada SIP allows a determination of an alternative emissions limit at a Part 70 source, equivalent to that contained in the SIP, to be made during the permit issuance, renewal, or significant revision process, and the Control Officer elects to use such process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(b) All terms and conditions of any Authority to Construct Permit, to the extent that such terms and conditions apply to operations. The permit shall identify those terms and conditions and the authority upon which they are based, and shall contain a statement that any changes to any such terms and conditions must be processed in accordance with the applicable permit revision procedures in Section 12.4, 12.5.2.13 or 12.5.2.14 and applicable SIP requirements;

(c) Permit duration.

(1) The Control Officer shall issue permits for a fixed term of five (5) years in the case of “acid rain” sources, and for a term not to exceed five (5) years in the case of all other sources.

(2) Notwithstanding paragraph (c)(1) of Section 12.5.2.6, the Control Officer shall issue permits for solid waste incineration units combusting municipal waste and subject to a standard under Section 129(e) of the Act shall be issued for a period not to exceed twelve (12) years and shall review such permits at least every five (5) years.

(3) A condition or requirement in a Part 70 Operating Permit that incorporates conditions from an Authority to Construct Permit derived from Sections 12.2 or 12.3 requirements shall remain in effect and enforceable after expiration or termination of the Part 70 Operating Permit in which they are contained;

(d) Monitoring and related recordkeeping and reporting requirements.

(1) Each permit shall contain the following requirements with respect to monitoring:

(A) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including 40 CFR Part 64, and any other procedures and methods that may be promulgated pursuant to Sections 114(a)(3) or 504(b) of the Act. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

(B) Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, compliance monitoring may consist of recordkeeping designed to serve as monitoring or periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph; and

(C) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(2) With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(A) Records of required monitoring information that include the following:

(i) The date, place as defined in the permit, and time of sampling or measurements;

(ii) The dates analyses were performed;

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used;

(v) The results of such analyses; and

(vi) The operating conditions as existing at the time of sampling or measurement.

(B) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(3) For sources that contain emissions units subject to 40 CFR Part 64 (Compliance Assurance Monitoring, or CAM), the following general terms and conditions shall become terms and conditions of the permit:

(A) The permittee shall install, calibrate, maintain, and operate a monitoring system according to the manufacturer's specifications or other written procedures that provide adequate assurance that the system would reasonably be expected to function in accordance with the requirements in 40 CFR 64.7.

(B) At all times, the permittee shall properly maintain the monitoring system, including, but not limited to, maintaining

parts if necessary for routine repairs of the monitoring system.

(C) The permittee shall collect data at all required intervals during emissions unit operation, except for, as applicable, monitoring malfunctions, repairs associated with monitoring malfunctions, and required quality assurance or control activities, as follows:

(i) Data recorded during monitoring malfunctions, repairs associated with malfunctions, and required quality assurance or control activities shall not be used for purposes of CAM.

(ii) The permittee shall maintain records of the beginning date and time, ending date and time, and cause (including unknown cause, if applicable) for monitoring downtime incidents (other than downtime associated with zero and span or other daily calibration checks, if applicable).

(iii) The permittee shall use all data collected during all periods other than those identified in paragraph (d)(3)(C)(i) of Section 12.5.2.6 in assessing the operation of the control device and associated control system.

(iv) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring to provide valid data. Monitoring failures caused in part by poor maintenance or careless operation are not malfunctions and shall be considered deviations.

(D) All incidents of monitoring downtime recorded under paragraph (d)(3)(C)(i) of Section 12.5.2.6 shall be reported pursuant to paragraph (d)(4) of Section 12.5.2.6.

(E) The permittee shall comply with the requirements of an approved CAM quality improvement plan, if required by the Control Officer.

(4) With respect to reporting, the permit shall incorporate all applicable reporting requirements, including those in 40 CFR 64.9(a), if applicable, and require all of the following:

(A) Submittal of reports of any required monitoring every six (6) months, or more frequently if specified by an applicable requirement or by the Control Officer. All instances of devi-

ations from permit requirements, including monitoring downtime, must be clearly identified in such reports. All required monitoring reports submitted must be certified by a responsible official pursuant to section 12.5.2.4;

(B) Reporting of deviations from permit requirements, including those attributable to malfunction, startup, or shutdown. Deviations shall be reported promptly. All reports of deviations shall identify the probable cause of the deviations and any corrective actions or preventative measures taken. "Promptly," for purposes of reporting, shall mean as follows:

(i) A deviation caused by excess emissions shall be reported according to the requirements of Section 25.6.1.

(ii) A deviation from a permit requirement that poses a potential imminent and substantial danger to public health, safety, or the environment, if violated, shall be reported according to the requirements of Section 25.6.2; and

(iii) All other deviations shall be reported within six (6) months of the date the permittee first learns of the deviation.

(C) **Written Report of Deviations.** A written report must be submitted at the time specified in paragraph (d)(4)(B) of Section 12.5.2.6. This form does not provide an exemption from reporting all malfunctions or emergencies, which shall be reported according to Section 25.6. All deviation reports submitted must be certified by a responsible official.

(5) Claims of confidentiality shall be governed by Section 12.6.

(e) **Acid Rain Allowances.** For Title IV affected sources, a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder:

(1) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Acid Rain Program, provided that such increases do not require a permit revision under any other applicable requirement.

(2) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a

defense to noncompliance with any other applicable requirement.

(3) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

(f) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit;

(g) Standard provisions stating the following:

(1) The permittee must comply with all conditions of the Part 70 Operating Permit. Any permit noncompliance may constitute a violation of these AQRs, Nevada law, and the Act, and is grounds for any of the following: enforcement action; permit termination; revocation and re-issuance; revision; or denial of a permit renewal application.

(2) The need to halt or reduce activity is not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(3) The permit may be revised, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and re-issuance, or termination, or of a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(4) The permit does not convey any property rights of any sort, or any exclusive privilege.

(5) The permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality.

(6) On a timely basis, the permittee shall meet all applicable requirements that become effective during the permit term

(h) **Emission Fee.** A provision to ensure that the source pays fees consistent with Section 18;

(i) **Emissions Programs.** A provision stating that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes, for changes that are provided for in the permit;

(j) **Alternative Operating Scenarios.** Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Control Officer. Such terms and conditions:

(1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(2) Shall extend the permit shield to all terms and conditions under each such operating scenario; and

(3) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of Section 12.5.

(k) **Emissions Trading.** Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements and the Nevada SIP provide for trading such increases and decreases without a case-by-case approval by the Control Officer and the trading is necessary solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of any otherwise applicable requirements. Such terms and conditions:

(1) Shall include all terms required to determine compliance, including replicable procedures and permit terms that ensure that emissions trades are quantifiable and enforceable;

(2) Shall extend the permit shield to all terms and conditions that allow such increases and decreases in emissions; and

(3) Shall ensure that the terms and conditions meet all applicable requirements and that the permitting of affected sources occurs in accordance with the deadlines in Title IV of the Act and the regulations promulgated thereunder.

(l) Any application form, report, or compliance certification submitted pursuant to these AQRs shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete; and

(m) The permit shall specify that any person who has been issued a permit under Section 12.5 shall post such permit in a location which is clearly visible and accessible to the facility's employees and representatives of the department.

12.5.2.7 Permit Content: Federally Enforceable Requirements

(a) Except as provided in paragraph (b) of Section 12.5.2.7, all terms and conditions in a Part 70 Operating Permit, including any provisions designed to limit a source's PTE, are enforceable by EPA and by citizens pursuant to a citizen's suit filed under the Act.

(b) Notwithstanding paragraph (a) of Section 12.5.2.7, applicable requirements that are not required by the Act or implementing federal regulations shall be included in the permit, but shall be specifically designated as being not federally enforceable and not enforceable by a citizen's suit pursuant to the Act and shall be designated as "county-only requirements." Terms and conditions so designated are not subject to the requirements that apply to permit review by EPA and affected states.

(c) The Control Officer shall determine which conditions are "county-only requirements" in each Part 70 Operating Permit.

12.5.2.8 Permit Content: Compliance Requirements

All Part 70 Operating Permits shall contain all of the following elements with respect to compliance:

(a) Compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including any report, required to be submitted pursuant to Section 12.5.2 shall contain a certification by a responsible official that meets the requirements of Section 12.5.2.4;

(b) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Control Officer or an authorized repre-

sentative to enter the permittee's premises where a Part 70 source is located or emissions related activity is conducted and to:

(1) Have access to and copy any records that must be kept under the conditions of the permit;

(2) Inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;

(3) Sample or monitor substances or parameters for the purpose of assuring compliance with the permit or applicable requirements; and

(4) Document alleged violations using devices such as cameras or video equipment.

(c) A schedule of compliance consistent with paragraph (j) of Section 12.5.2.3 and 40 CFR 70.5(c)(8);

(d) Progress reports consistent with an applicable schedule of compliance to be submitted semiannually, or at a more frequent period if specified in the applicable requirement or by the Control Officer. Such progress reports shall contain all of the following:

(1) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and

(2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(e) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include all of the following:

(1) Annual submission of compliance certification, or more frequently if specified in the applicable requirement or by the Control Officer;

(2) In accordance with paragraph (d) of Section 12.5.2.6, a means for monitoring the compliance of the source with its emission limitations, standards, and work practices;

(3) A requirement that the compliance certification include all of the following (provided that the identification of applicable informa-

tion may reference the permit or previous reports, as applicable):

(A) The identification of each term or condition of the permit that is the basis of the certification;

(B) The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and means shall include, at a minimum, the monitoring and related recordkeeping and reporting requirements described in 40 CFR 70.6(a)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (e)(3)(B) of Section 12.5.2.8. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify, as possible exceptions to compliance, any periods during which compliance is required and in which an excursion or exceedance (as defined under 40 CFR Part 64) occurred; and

(D) Such other facts as the Control Officer may require to determine the compliance status of the source.

(4) A requirement that all compliance certifications be submitted to EPA as well as to the Control Officer.

(f) Such additional requirements as may be specified pursuant to Section 114(a)(3) of the Act, “Enhanced Monitoring and Compliance Certification,” and Section 504(b) of the Act, “Monitoring and Analysis.”

12.5.2.9 Permit Content: Permit Shield

(a) Except as otherwise provided in Section 12.5.2.9, the Control Officer may include in each Part 70 Operating Permit a permit shield provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(1) Such applicable requirements are included and are specifically identified in the permit; or

(2) The Control Officer, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(b) A Part 70 Operating Permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(c) Nothing in this paragraph or in any operating permit shall alter or affect any of the following:

(1) The provisions of Section 303 of the Act, "Emergency Orders," including the authority of the Administrator under that section;

(2) The applicable requirements of the Acid Rain Program, consistent with Section 408(a) of the Act;

(3) The ability of the Control Officer to obtain information from a source, and the ability of EPA to obtain information from a source, under Section 114 of the Act, "Inspection, Monitoring, and Entry"; and

(4) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

12.5.2.10 Permit Issuance: Action on Application

(a) A permit, permit revision, or renewal may be approved only if all of the following conditions have been met:

(1) The Control Officer has received a complete application for a permit, permit revision, or permit renewal, except that a complete application need not be received before a Part 70 general permit is issued pursuant to Section 12.5.2.20;

(2) Except for revisions qualifying as administrative or minor permit revisions under Section 12.5.2.13 or paragraphs (a) and (b) of Section 12.5.2.14, the Control Officer has complied with the applicable requirements for public participation in Section 12.5.2.17;

(3) The Control Officer has complied with the requirements for notifying and responding to EPA and affected states under paragraph (b) of Section 12.5.2.18;

(4) The conditions of the permit provide for compliance with all applicable requirements and the requirements of Section 12.5; and

(5) EPA has received a copy of the proposed permit or permit revision and any notices required under paragraphs (a) and (b) of Section 12.5.2.18, and has not objected to issuance of the permit under paragraph (c) of Section 12.5.2.18 within the time period specified therein.

(b) Except as provided under regulations promulgated under Title IV of the Act for the permitting of Title IV affected sources under the Acid Rain Program, the Control Officer shall take final action on each permit application, including a request for permit revision or renewal, within eighteen (18) months after receiving a complete application.

(c) The Control Officer shall provide a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions or conditions in an applicable Authority to Construct Permit. The Control Officer shall send this statement to EPA along with each proposed Part 70 Operating Permit and to any other person who requests it.

(d) Upon issuance of a Part 70 Operating Permit or revision to that permit, any Authority to Construct Permit issued for an emissions unit subject to that permit or revision is terminated for that emissions unit. However, the terms and conditions of the Authority to Construct Permit remain in effect, in accordance with paragraph (b) of Section 12.5.2.6.

(e) The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under Title I of the Act.

12.5.2.11 Permit Renewal and Expiration

(a) Permits being renewed are subject to the same procedural requirements, including those for public participation and affected state and EPA review, that apply to initial permit issuance.

(b) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted.

(c) If a timely and complete renewal application is submitted and the Control Officer fails to issue or deny the renewal permit before the end of the term of the current permit, then all of the terms and conditions of the current permit, including the permit shield, shall remain in effect until renewal or denial.

(d) Except as provided in paragraph (b) of Section 12.5.2.12 and paragraphs (a) and (b) of Section 12.5.2.14, no Part 70 source may operate after the time that it is required to submit a timely and complete application under Section 12.5.2 except in compliance with a permit issued thereunder. If a Part 70 source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a Part 70 Operating Permit is not a violation of Section 12.5 until the Control Officer takes final action on the permit application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Control Officer, any additional information identified as being needed to process the application.

12.5.2.12 Permit Revision: Changes that Do Not Require a Permit Revision

(a) A Part 70 source may make changes that are not addressed or prohibited by the permit without a permit revision, unless such changes are subject to any requirements under Title IV of the Act or are modifications under any provisions of Title I of the Act.

(1) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition.

(2) Sources must provide at least seven (7) days' written notice to the Control Officer and EPA of each such change, except for changes that qualify as insignificant under Section 12.5.2.5. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirements that would apply as a result of the change.

(3) The change shall not qualify for a permit shield.

(4) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

(b) A Part 70 source may make changes without requiring a permit revision if the changes are defined as Section 502(b)(10) changes under the Act, are not modifications under any provisions of Title I of the Act, and do not exceed the emissions allowable under the permit (whether expressed in the permit as a rate of emissions or in terms of total emissions). For each such change, the written notification required by paragraph (a)(2) of Section 12.5.2.12 shall apply. The change shall not qualify for a permit shield.

12.5.2.13 Permit Revision: Administrative Permit Revision

(a) An administrative permit revision is a permit revision that:

(1) Corrects typographical errors;

(2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(3) Requires more frequent monitoring or reporting by the permittee;

(4) Allows for a change in ownership or operational control of a source if the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Control Officer and the permit transfer procedures in Section 12.12 have been complied with;

(5) Incorporates into the permit the terms and conditions of an Authority to Construct Permit for a modification if the terms and conditions were subject to the procedures prescribed by Section 12.2.16.6; or

(6) Incorporates into the permit the terms and conditions in an Authority to Construct Permit issued pursuant to Sections 12.4.3.3 or 12.4.3.4 if the terms and conditions were adopted under the procedures prescribed by Section 12.2.16.6.

(b) Administrative permit revisions for purposes of the “acid rain” portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

(c) **Administrative Permit Revisions Procedures.** An administrative permit revision may be made by the Control Officer consistent with the following:

(1) The Control Officer shall take no more than sixty (60) days from receipt of a request for an administrative permit revision to take final action on such request, and may incorporate such changes without providing notice to the public or affected states, provided that the Control Officer designates any such permit revisions as having been made pursuant to an administrative permit revision.

(2) The Control Officer shall submit a copy of the revised permit to EPA.

(d) The source may implement the changes addressed in the request for an administrative revision immediately upon submittal of the request.

(e) The Control Officer shall, upon taking final action for an administrative permit revision, allow coverage by the permit shield for administrative permit revisions made pursuant to paragraph (a)(5) of Section 12.5.2.13 which meet the relevant requirements of paragraph (c) of Section 12.5.2.13 and paragraph (c) of Section 12.5.2.14 for significant permit revisions.

12.5.2.14 Permit Revisions: Minor and Significant

A significant permit revision is any revision to a Part 70 Operating Permit that cannot be accomplished under the Section 12.5.2.14 provisions for minor or administrative permit revisions. Any permit revision for purposes of the "acid rain" portion of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Act and shall require a significant permit revision.

(a) **Minor Permit Revision Procedures.**

(1) **Criteria.** Minor permit revision procedures may be used only for those permit revisions that:

(A) Do not violate any applicable requirement, including any provision of the Nevada SIP (including specific control strategies);

(B) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

(C) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(D) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement, and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such term or condition would include a federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Act, or an alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Act, "Early Reduction";

(E) Are not modifications under any provision of Title I of the Act; and

(F) Are not modifications subject to paragraph (a)(8) of Section 12.4.3.1.

(2) **Emissions Trading.** Minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor Part 70 Operating Permit revision procedures are explicitly provided for in the Nevada SIP or an applicable requirement.

(3) **Application.** A permittee shall submit a standard application form provided by the department requesting a minor permit revision. The form shall include all of the following:

(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) The source's suggested draft minor permit revision language;

(C) Certification by a responsible official that the proposed revision meets the criteria for a minor permit revision; and

(D) The information the Control Officer needs in order to notify EPA and affected states.

(4) **EPA and Affected State Notification.** Within five (5) working days of receipt of a complete minor permit revision application, the Control Officer shall notify EPA and affected states of the requested permit revision.

(5) **Timetable for Approval.** The Control Officer may not issue a final permit revision approval until after EPA's 45-day review period or until EPA has notified the Control Officer that EPA will not object to issuance of the permit revision, whichever is first. Within ninety (90) days of the Control Officer's receipt of a complete application under minor permit revision procedures or fifteen (15) days after the end of EPA's 45-day review period under this paragraph, whichever is later, the Control Officer shall:

(A) Issue the permit revision as proposed;

(B) Deny the permit revision;

(C) Determine that the requested revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures; or

(D) Revise the draft minor permit revision and transmit to EPA the new proposed revision. Transmittal to EPA initiates the approval process described in paragraph (a) of Section 12.5.2.18.

(6) **Source's Ability to Make a Change.** A Part 70 source may make the change proposed in its minor permit revision application thirty (30) days after it files such application. After the source makes the change allowed by the preceding sentence, and until the Control Officer takes any of the actions specified in paragraphs (a)(5)(A) through (a)(5)(D) of Section 12.5.2.14, the source must comply with both the applicable requirements promulgated by EPA governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(7) **Permit Shield.** A permit shield shall not extend to minor permit revisions.

(b) **Group Processing of Minor Permit Revisions.** Consistent with this paragraph, the Control Officer may modify the procedure outlined in paragraph (a) of Section 12.5.2.14 to process groups of a source's applications for certain modifications eligible for minor permit revision processing.

(1) **Criteria.** Group processing of modifications may be used only for those permit revisions:

(A) That are minor permit revisions; and

(B) That collectively are below the following threshold levels: ten (10) percent of the emissions allowed by the permit for the emissions unit for which the change is requested, twenty (20) percent of the applicable definition of major stationary source in Sections 12.2, 12.3, and 12.5, or five (5) tpy, whichever is less.

(2) **Application.** An application requesting the use of group processing procedures shall include the following:

(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) The source's suggested draft permit revision language;

(C) Certification by a responsible official that the proposed revision meets the criteria for use of group processing procedures, and a request that such procedures be used;

(D) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested revision, aggregated with these other applications, equals or exceeds the threshold set under paragraph (b)(1)(B) of Section 12.5.2.14;

(E) Certification that the source has notified EPA of the proposed revision. Such notification need only contain a brief description of the requested revision; and

(F) Completed forms for the Control Officer to use to notify EPA and affected states of the revisions for which group processing is sought.

(3) **EPA and Affected State Notification.** On a quarterly basis or within five (5) business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under paragraph (b)(1)(B) of Section 12.5.2.14, whichever is earlier, the Control Officer shall notify EPA and affected states of the requested permit revisions.

(4) **Timetable for Issuance.** The provisions of paragraph (a)(5) of Section 12.5.2.14 shall apply to modifications eligible for group processing, except that the Control Officer shall take one of the specified actions within one hundred eighty (180) days of receipt of the application or fifteen (15) days after the end of EPA's 45-day review period under paragraph (c) of Section 12.5.2.18, whichever is later.

(5) **Source's Ability to Make a Change.** The provisions of paragraph (a)(6) of Section 12.5.2.14 shall apply to modifications eligible for group processing.

(6) **Permit Shield.** Revisions eligible for group processing shall not be entitled to the permit shield.

(c) **Significant Permit Revision Procedures.**

(1) **Criteria.** Significant permit revision procedures shall be used for applications requesting permit modifications that do not qualify as minor permit revisions or as administrative permit revisions, including the creation of a PAL pursuant to Section 12.2.19. At a minimum, every significant change in existing monitoring permit terms or conditions, and every relaxation of reporting or record-keeping permit terms or conditions, shall be considered significant. Nothing herein shall be construed to preclude the permittee from making changes consistent with this part that would render existing permit compliance terms and conditions irrelevant.

(2) Significant permit revisions shall meet all requirements for issuance and renewal of a Part 70 Operating Permit under Sections 12.5.2.10 and 12.5.2.11, including those for applications, public participation, review by affected states, and review by EPA, as they apply to permit issuance and permit renewal. The Control Officer shall complete review on the majority of significant permit revisions within nine (9) months after receipt of a complete application.

12.5.2.15 Permit Revision: Reopening for Cause

(a) Each Part 70 Operating Permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

(1) New applicable requirements become applicable to a Part 70 source that is a major stationary source under Section 12.2, Section 12.3, or 40 CFR 70.3(a)(1) with a remaining permit term of three (3) or more years. Such a reopening shall be completed not later than eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire unless the original permit or its terms and conditions has been extended pursuant to paragraph (c) of Section 12.5.2.11;

(2) Additional requirements (including excess emissions requirements) become applicable to an affected source under the Acid Rain Program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit;

(3) The Control Officer or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(4) The Administrator or the Control Officer determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) PAL conditions are to be revised under Section 12.3.9.8 or paragraph (b) of Section 12.2.19.8

(c) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance, and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(d) Reopenings under paragraph (a)(1) of Section 12.5.2.15 shall not be initiated before a notice of such intent is provided to the source by the Control Officer at least thirty (30) days in advance of the date that the permit is to be reopened, except that the Control Officer may provide a shorter time period in the case of an emergency.

12.5.2.16 Permit Revision: Reopenings for Cause by EPA

(a) The Control Officer shall, within ninety (90) days after receipt of notification that EPA finds that cause exists to terminate, revise, or revoke and reissue a permit, forward to EPA a proposed determination of termination, revision, or revocation and reissuance, as appropriate. The Control Officer may request a 90-day extension if a new or revised permit application is necessary or if the Control Officer determines that the permittee must submit additional information.

(b) The Administrator will review the proposed determination from the permitting authority within ninety (90) days of receipt.

(c) The Control Officer shall have ninety (90) days from receipt of an EPA objection to resolve the objection and to terminate, revise, or revoke and reissue the permit in accordance with the Administrator's objection.

(d) If the Control Officer fails to submit a proposed determination pursuant to paragraph (a) of Section 12.5.2.16, or fails to resolve the Administrator's objection pursuant to paragraph (b) of Section 12.5.2.16, the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

(1) Providing at least thirty (30) days' notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in paragraphs (a) through (c) of Section 12.5.2.16; and

(2) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

12.5.2.17 Public Participation

The Control Officer shall provide for public notice, comment, and an opportunity for a hearing on initial permit issuance, significant revisions, reopenings for cause, and renewals in accordance with the following procedures.

(a) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located; to persons on a mailing list developed by the Control Officer, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public.

(b) The notice shall identify the Part 70 source; the name and address of the permittee; the activity or activities involved in the permit action; the emissions change involved in any permit revision; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials (including any compliance plan or compliance and monitoring certifications), and all other materials available to the Control Officer that are relevant to the permit decision; a brief description of the comment procedures; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled.

(c) The Control Officer shall provide such notice and opportunity for participation by affected states as provided for by Section 12.5.2.18.

(d) **Timing.** The Control Officer shall provide at least thirty (30) days for public comment and shall give notice of any public hearing at least thirty (30) days in advance of the hearing.

(e) The Control Officer shall keep a record of the commenters and also of the issues raised during the public participation process, and such records shall be available to the public and to EPA.

12.5.2.18 Permit Review by EPA and Affected States

(a) Transmission of Information to EPA.

(1) The Control Officer shall provide to EPA a copy of each permit application, including any application for permit revision, each proposed permit, and each final operating permit, unless the Administrator has waived this requirement for a category of sources, including any class, type, or size within such category. The applicant may be required by the Control Officer to provide a copy of the permit application, including the compliance plan, directly to EPA. Upon agreement with EPA, the Control Officer may submit to EPA a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in a computer-readable format compatible with EPA's national database management system.

(2) The Control Officer shall keep for five (5) years such records and submit to EPA such information as EPA may reasonably require to ascertain whether the Operating Permit Program complies with the requirements of the Act or of 40 CFR Part 70.

(b) **Review by Affected States**

(1) The Control Officer shall give notice of each draft permit to any affected state on or before the time that the Control Officer provides this notice to the public under paragraph (a) of Section 12.5.2.17, except to the extent that paragraphs (a) or (b) of Section 12.5.2.14 requires the timing of the notice to be different.

(2) The Control Officer, as part of the submittal of the proposed permit to EPA, or as soon as possible after the submittal for minor permit revision application, shall notify EPA and any affected state in writing of any refusal by the Control Officer to accept all recommendations for the proposed permit that the affected state submitted during the public or affected state review period. The notice shall include the Control Officer's reasons for not accepting any such recommendation. The Control Officer is not required to accept recommendations that are not based on applicable requirements or the provisions of Section 12.5.2.

(c) **EPA Objection**

(1) If EPA objects to the issuance of a permit in writing within forty-five (45) days of receipt of the proposed permit and all neces-

sary supporting information, then the Control Officer shall not issue the permit.

(2) Failure of the Control Officer to do any of the following shall constitute grounds for an objection by EPA:

(A) Comply with paragraph (a) or (b) of Section 12.5.2.18;

(B) Submit any information necessary to adequately review the proposed permit; or

(C) Process the permit under the procedures in Section 12.5.2.17.

(3) If the Control Officer fails, within ninety (90) days after the date of an objection by EPA, to revise and submit a proposed permit in response to the objection, EPA may issue or deny the permit in accordance with the requirements of the federal program promulgated under 40 CFR Part 71.

(d) **Public Petitions to EPA.** If EPA does not object in writing under paragraph (c) of Section 12.5.2.18, any person may petition EPA under the provisions of 40 CFR 70.8(d) within sixty (60) days after the expiration of EPA's 45-day review period to make such objection. If EPA objects to the permit as a result of a petition, the Control Officer shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in Section 12.5.2.17, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Control Officer has issued a permit prior to receipt of an EPA objection under this paragraph, EPA may modify, terminate, or revoke such permit consistent with the procedures in 40 CFR 70.7(g), except in unusual circumstances, and the Control Officer may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

(e) **Prohibition on Default Issuance.** The Control Officer shall not issue an operating permit, including a permit renewal or revision, until affected states and EPA have had an opportunity to review the proposed permit as required under Section 12.5.2.18.

12.5.2.19 Temporary Sources

(a) The Control Officer may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one (1) change of location during the term of the permit. No acid rain source or a source subject to the provisions of Section 112 of the Act shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) Requirements that the owner or operator notify the Control Officer at least ten (10) days in advance of each change in location; and

(3) Conditions that assure compliance with all other provisions of Section 12.

12.5.2.20 Part 70 General Permit

(a) The Control Officer may, after notice and opportunity for public participation provided under 40 CFR Part 70.7(h), issue a Part 70 general permit covering numerous similar Part 70 sources.

(b) Any general permit shall comply with all requirements applicable to other Part 70 Operating Permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Control Officer shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions of Section 12.5.2.9, the source shall be subject to enforcement action for operation without a Part 70 Operating Permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the Acid Rain Program unless otherwise provided in regulations under Title IV of the Act.

(c) Part 70 sources that would qualify for a general permit must apply to the Control Officer for coverage under the terms of the general permit, or must apply for an individual Part 70 Operating Permit. The Control Officer may, in the general permit, provide for applications which deviate from the requirements of Section 12.5.2.3, provided that such applications meet the requirements of Section 12.5.2.20 and include all information necessary to determine qualification of, and to assure compliance with, the general permit. Without repeating the public participation procedures required under Section 12.5.2.17, the Control Officer may grant a source's request for authorization to

operate under a general permit, but such a grant shall not be a final permit action for purposes of judicial review.

(d) If the Administrator does not object within forty-five (45) days after receiving a proposed Part 70 general permit which covers stationary Sources that would otherwise be required to apply for individual Part 70 Operating Permits, the general permit becomes effective at the end of the 45-day period. If the Administrator objects to the general permit, the Part 70 general permit becomes effective only when the objection is resolved.

(e) After the effective date of a Part 70 general permit, the owner or operator of any stationary source that meets the criteria set forth in the Part 70 general permit may request authority to operate under the Part 70 general permit. The request must be in writing and must include all information required by the Part 70 general permit.

History: Adopted May 18, 2010

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SECTION 12.6: CONFIDENTIALITY

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12.6 Confidentiality

Information obtained by the Control Officer either in performance of the Control Officer's duties under these AQRs or submitted by a business or individual pursuant to these AQRs, shall be public information unless otherwise designated as confidential pursuant to NRS 445B.570 and Section 12.6.

12.6.1 Certification of Confidentiality

A business or individual submitting information to the Control Officer or with regard to information obtained by the Control Officer may provide a Certification of Confidentiality in writing that the information is confidential. Such certification shall include:

(a) A clear identification of the information claimed as confidential including a stamped or typed legend or other notice employing language such as "confidential" or "proprietary." Confidential information contained in an otherwise non-confidential document shall be submitted separately.

(b) A justification for the claim of confidentiality with specific reference to the criterion in NRS 445B.570(6) on which the claim is based and the facts supporting the position that the criterion has been met.

12.6.2 Control Officer's Action on a Claim of Confidentiality

Within thirty (30) days of receipt of a Certification of Confidentiality, the Control Officer shall provide written notice by certified mail to the business or individual submitting the Certification that:

(a) The certification is verified and approved; or

(b) The certification is denied in whole or in part.

The notice shall state the basis for the determination, that it constitutes final action by the Control Officer on the Certification, and that the Control Officer will make information that has not been certified as confidential available to the public in accordance with Nevada public records law unless, within twenty (20) calendar days after receipt of the denial, the business or individual files a notice of appeal and petitions the Clark County Air Pollution Control Hearing Board in writing for a hearing to determine whether the Control Officer properly determined that the information was not confidential information. As applicable, Section 7 of these AQRs shall govern the appeals process.

12.6.3 Effect of the Submission of a Certification of Confidentiality or Appeal

(a) Upon the submission of a Certification of Confidentiality in accordance with Section 12.6.1, the information for which a Certification has been sought shall not be made available to the public until the Control Officer has denied the Certification in whole or in part and the appeal period has run.

(b) Upon the filing of a timely appeal, the information for which a Certification of Confidentiality has been sought shall not be made available to the public until the Hearing Board renders a decision determining that the denial of certification was proper.

12.6.4 Limitation of this Regulation

Nothing in Section 12.6 shall be construed as limiting the disclosure of information to the public under the provisions of NRS 445B.570(2), (3), and (4).

History: Adopted May 18, 2010

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SECTION 12.7: EMISSION REDUCTION CREDITS

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12.7 Emission Reduction Credits (ERCs)

12.7.1 Applicability

(a) Section 12.7 provides for the creation, banking, trading, and use of ERCs. This section applies to the following:

(1) A stationary source with a federally enforceable offset requirement;

(2) A stationary source with a federally enforceable permit that contains requirements associated with ERCs; and

(3) Any party involved with the trading of ERCs.

(b) The Control Officer may allow the issuance, trading, use, redemption or banking of eligible ERCs for CO, PM_{10}, VOC, and NO_X in accordance with the limitations set forth in this section.

(c) ERCs earned pursuant to this section are a privilege and do not constitute an interest in property or create any contractual rights.

12.7.2 Emission Reduction Credit (ERC) Registry and Tracking System

(a) The Control Officer shall establish and maintain an ERC Registry to record and track all ERC and offset requirement transactions.

(b) The ERC Registry established by the Control Officer shall be accessible to the public and shall contain the following information for all ERC and offset requirement transactions:

(1) The owner's name;

(2) The project that generated the ERCs;

(3) The pollutant; and

(4) The quantity of ERCs.

(c) The ERC Registry shall not contain information that has been deemed confidential pursuant to Section 12.6 and Nevada Revised Statutes Chapters 239 and 445B.

(d) When an ERC is recorded in the ERC Registry under the owner's account, it is banked. When an ERC is redeemed to satisfy a stationary source's offset requirement, the ERC is no longer banked because it is expended and no longer available for use.

12.7.3 Procedures for Processing an ERC Application

(a) An application for generating an ERC pursuant to this section shall be submitted to the Control Officer. The applicant shall use the current ERC application form, as provided by the department. Such application must be signed by the stationary source owner, operator or responsible official and the applicant must pay a non-refundable application fee at time of submittal pursuant to these AQRs.

(b) An ERC application must be submitted to the Control Officer within the following time limits; otherwise, the ERC application shall be invalid:

(1) For a source with a partial shutdown, the application must be submitted within one hundred and eighty (180) calendar days after the date of issuance of the revised federally enforceable permit containing the conditions associated with a partial shutdown that generated the emission reductions for the requested ERCs;

(2) For a source with a full (source wide) shutdown, the application must be submitted within one hundred and eighty (180) calendar days after the date of the voluntary termination of the federally enforceable permit containing the conditions associated with a stationary source shutdown that generated the emission reductions for the requested ERCs;

(3) For a source with a reconfiguration/operational change, the application must be submitted after the stationary source has operated under normal conditions for at least twelve (12) consecutive months after the date of issuance of the revised federally enforceable permit containing the conditions associated with a change that generated the emission reductions for the requested ERCs. The normal operational period shall not include shakedown or phase-in operations;

(4) For a source with a reconfiguration/operational change and a partial shutdown, the application must be submitted after the source has operated under normal conditions for at least twelve (12) consecutive months after the issuance of the revised federally enforceable permit containing the conditions associated with the change and the partial shutdown that generated the emission reductions for the requested ERCs. The normal operational period shall not include shakedown or phase-in operations.

(5) For paragraphs (3) and (4) of Section 12.7.3(b), the application must be submitted within five (5) years after the issuance of the

revised federally enforceable permit containing the conditions associated with the change that generated the emission reductions for the requested ERCs.

(c) In addition to paragraphs (a) and (b) of Section 12.7.3, an ERC application is eligible for consideration if the following requirements are met:

(1) The application must apply to a stationary source;

(2) Emission units associated with the application must be compliant with all permit conditions for all timeframes associated with the emission reductions;

(3) Emission reductions must be based on a shutdown, application of innovative control technologies, and/or process improvements; and

(4) Emission reductions must be for CO, PM_{10}, VOC, or NO_X.

(d) The Control Officer shall determine the completeness of an application submittal within sixty (60) calendar days of receipt of such an application. An application shall be deemed complete only when the Control Officer has all necessary information to process the application. At a minimum, the applicant shall provide all required information as indicated in the current ERC application form and any additional information upon request from the Control Officer. If such application is deemed incomplete, then the Control Officer shall request additional information as necessary to determine eligibility of such emission reductions.

(e) When the application is deemed complete, the Control Officer shall draft a proposed ERC determination of the approvability of the requested ERCs based on the criteria in Section 12.7.5. If the Control Officer requires additional information from the applicant during the analysis, the Control Officer shall issue an incompleteness letter to the applicant to request the additional information. Upon receipt of the additional information the Control Officer shall determine if the application is complete in accordance with Section 12.7.3(d).

(f) The Control Officer shall provide EPA the proposed final ERC determination for review and comment for a period not to exceed thirty (30) calendar days. After the 30-day EPA review and comment period, the Control Officer shall consider any comments received from EPA and update the proposed ERC determination, if necessary.

(g) Within sixty (60) calendar days after the EPA review and comment period, public participation of the proposed ERC determination shall be accomplished in accordance with Section 12.7.6.

(h) Within sixty (60) calendar days after the public comment period or after the public hearing, whichever occurs later, the Control Officer shall consider all comments received during the public comment period and issue to the applicant a final ERC determination of the approvability of the requested ERCs based on the criteria in Section 12.7.5. The final ERC determination shall contain, at a minimum the following:

(1) The applicant's information;

(2) The stationary source information;

(3) The quantity and type of ERCs to be approved and issued, if any, per specific pollutant;

(4) Any conditions that must be satisfied prior to the ERCs becoming effective;

(5) The decision to approve or disapprove the ERC application, in full or in part; and

(6) If ERCs are approved for issuance, the Control Officer shall record the issuance transaction in the ERC Registry. The Control Officer shall produce an ERC Credit Balance Summary Report and include the report as an attachment to the final ERC determination.

(i) If the Control Officer does not approve the applicant's ERC request, the applicant may, within twenty (20) calendar days after receipt of the final ERC determination, petition the Clark County Air Pollution Control Hearing Board in writing for a hearing to determine whether the Control Officer properly disapproved the applicant's ERC request based on the approvability criteria in Section 12.7.5. As applicable, Section 7 of these AQRs shall govern the appeals process.

12.7.4 Limits on the Use of ERCs

The ERC shall not provide or allow:

(a) Authority for or the recognition of any pre-existing vested right to emit any regulated air pollutant;

(b) Exemption from the RACT, BACT, LAER or any other control requirement pursuant to these AQRs;

(c) Dual accounting of emission reductions that have already been included as part of Clark County's baseline emissions in the Nevada SIP;

(d) For emission reductions already required by law;

(e) Authority for or the recognition of any rights that would be contrary to applicable law; or

(f) An exemption to a stationary source from any other air pollution control requirements under federal, state or local laws, rules and regulations.

12.7.5 Criteria for Granting ERCs

The Control Officer shall not issue any ERC unless the following requirements are met:

(a) Emission reductions used to generate the ERC shall be real, surplus, permanent, quantifiable, and federally enforceable.

(b) A revised federally enforceable Minor Source Permit to Operate or Part 70 Operating Permit has been issued which contains practicably enforceable conditions to limit the emission unit's PTE to the allowable emissions of the stationary source.

(c) The emissions baseline for determining ERCs for emissions reductions is the emissions limit under the Nevada SIP in effect at the time the application for a federally enforceable authority to construct is filed, except that the emissions baseline shall be the actual emissions of the emissions unit from which the ERC is obtained when:

(1) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area for which the preconstruction review program was adopted; or

(2) The Nevada SIP does not contain an emission limitation for that emissions unit.

(d) Where the Nevada SIP requires certain equipment controls in lieu of an emission limitation (e.g., floating roof tanks for petroleum storage), baseline allowable emissions shall be based on actual operating conditions for the previous two (2) year period (i.e., actual throughput and vapor pressures) in conjunction with the required equipment controls.

(e) ERCs for an emissions reduction shall only be granted to the extent that the Control Officer has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51, Subpart I, or it has not been relied on in an attainment demonstration or reasonable further progress demonstration in a nonattainment area plan.

(f) Stationary sources with existing actual emissions exceeding the allowable emissions specified in the source's federally enforceable authority to construct or operating permit (whichever is in effect) are not eligible to apply for ERCs.

(g) Where a stationary source is subject to both (1) an emission limitation established in a New Source Performance Standard (NSPS) or a National Emission Standard for Hazardous Air Pollutants (NESHAPs), (*i.e.,* requirements under Sections 111 and 112, respectively, of the Act); and (2) a different Nevada SIP limitation, the more stringent limitation shall be used as the baseline for determining ERCs. The difference in emissions between the Nevada SIP and the NSPS or NESHAPs for such a stationary source shall not be used as a basis for ERCs. However, if a stationary source is not subject to a NSPS or NESHAPs emissions limit, for example if its construction had commenced prior to the proposal of an NSPS or NESHAPs for that source category, ERCs may be granted if the stationary source accepts a federally enforceable emission limit that is more stringent than the Nevada SIP emission limitation.

(h) Where the emissions limit under the Nevada SIP allows greater emissions than the potential to emit of the emissions unit, ERCs shall only be creditable for emission reductions below the allowable limit of the stationary source and the permitted emissions unit.

(i) Stationary source shutdowns.

(1) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be approved only if the shutdown or curtailment occurred after the last day of the base year for the SIP planning process. The Control Officer may consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emissions units. However, in no event will ERCs be approved for shutdowns that occurred prior to November 15, 1990.

(2) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below base-

line levels and not meeting the criteria in paragraph (i)(1) of Section 12.7.5 may be used in the absence of an approved attainment demonstration only if the shutdown or curtailment occurred on or after the date the new source permit application is filed, or, if the applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the cutoff date provisions of paragraph (i)(1) of Section 12.7.5 are observed.

12.7.6 Notice of Proposed Action and Public Hearing Procedures for ERCs

(a) After receipt of a complete ERC application and issuance of proposed ERC determination, the Control Officer shall publish in a newspaper of general circulation within Clark County, Nevada, and on the department's web site a notice of the following items regarding the applicant:

(1) Submittal date of the ERC application;

(2) Availability of information;

(3) Availability of review and analysis of the application based on its compliance with each applicable regulation;

(4) A summary of the required air pollution controls (if applicable);

(5) A summary of the number and type of ERCs requested and whether the Control Officer proposes to approve or disapprove the ERC request in whole or in part;

(6) Availability of the proposed ERC determination documents.

(7) Availability of revised federally enforceable authority to construct or operating permit conditions (if applicable);

(8) Opportunity for any person to submit written comments on the ERC application, relevant information or data and the proposed ERC determination.

(b) The applicant shall reimburse DAQEM for all newspaper costs associated with the public notice.

(c) The notice shall indicate that all comments must be submitted to the Control Officer in writing within thirty (30) calendar days from the publication date of the Notice of Proposed Action.

(d) The notice shall indicate the opportunity for any person to request a public hearing.

(e) During the thirty (30) day public comment period specified in Section 12.7.6(c), any person may petition the Control Officer, in writing, for a public hearing. All such petitions shall contain: the petitioner's name, address, daytime telephone number; and comments related to the proposed action.

(f) If a proper petition is filed that contains comments related to the proposed action and the Control Officer determines that there is a significant degree of public interest, the Control Officer shall hold a public hearing no sooner than thirty (30) days after the date of the Notice of Proposed Action but no later than seventy (70) days, after the date of the Notice of Proposed Action. In determining if a significant degree of public interest exists, the Control Officer shall consider all relevant factors, including, but not limited to, the number of petitioners and the nature of their concerns as stated in their petitions.

(g) The petitioner and the applicant shall receive no less than seven (7) days' prior written notice of the date and location of the public hearing. Any notice of hearing shall also be posted on the department's website no less than seven (7) days prior to the public hearing.

12.7.7 ERC Transfer Requirements

(a) ERCs may be transferred in whole or in part.

(b) An ERC transfer request shall be limited to two (2) parties, i.e., the current owner of the ERCs (transferor) and the transferee.

(c) All applicable Section 18 fees associated with the ERC transfer shall be paid in full prior to or upon submission of the ERC transfer request.

(d) The ERC Credit Balance Summary Report on or after the effective date of this section of the AQRs, signed by the Control Officer, shall be the sole proof of ownership of ERCs. The ERC Credit Balance Summary Report shall be dated; therefore, each ERC Credit Balance Summary Report will supersede all previous versions of the report. The ERC Credit Balance Summary Report reflects the balance of all ERC transactions contained in the registry for the owner.

(e) Only the owner of an ERC, as indicated on the ERC Credit Balance Summary Report, may deposit, withdraw, redeem or transfer ERCs.

(f) The owner of ERCs must submit a request to the Control Officer to transfer ERCs to another party. To be considered valid, the ERC transfer request must:

(1) Be signed and dated by the owner;

(2) Be on the owner's letterhead;

(3) Contain the owner's information: name, address, city, state, zip, and phone number;

(4) Contain the transferee's information: name, address, city, state, zip, and phone number;

(5) Specify the quantity of ERCs being transferred for each air pollutant specified in Section 12.7.1(b); and

(6) Identify the project name associated with the origin (as specified in the final ERC determination) of the ERCs being transferred.

(g) Transfer of the banked ERCs shall become effective on the date the department notifies both parties of the transfer, which signifies that the transfer is complete, approved and recorded in the registry. The notification shall be on department letterhead and signed by the Control Officer. This notification shall contain an ERC Credit Balance Summary Report signed by the Control Officer that reflects the balance of all completed transactions for the owner.

12.7.8 Procedures for Redeeming ERCs

(a) The owner of ERCs shall submit a request to the Control Officer to redeem ERCs for use at a specific stationary source and include the applicable transaction fee pursuant to Section 18. To be considered valid, the redemption request shall:

(1) Be signed and dated by the owner;

(2) Be on the owner's official letterhead;

(3) Contain the owner's information: name, address, city, state, zip, and phone number;

(4) Contain the stationary source's information for which the ERCs are being redeemed against: name, authority to construct and/or operating permit number (generically referred to as the facility number), physical address, city, state, zip, and phone number;

(5) Specify the quantity of ERCs being redeemed for each air pollutant specified in Section 12.7.1(b); and

(6) Identify the project name associated with the origin (as specified in the final ERC determination) of the ERCs being redeemed.

(7) Redemption of ERCs shall become final and effective on the issuance date of the federally enforceable permit containing the ERC redemption satisfying an offset requirement. Issuance of the federally enforceable permit containing the ERC redemption also signifies final approval of the redeemed ERCs.

12.7.9 Additional Control Officer Authority Related to ERCs

(a) The Control Officer shall have the authority to retire banked ERCs or impose a temporary or permanent moratorium on the ERC Program for the following purposes:

(1) To prevent an exceedance of the National Ambient Air Quality Standards;

(2) To establish baseline emissions or future emission projections for a State Implementation Plan;

(3) To establish baseline emissions or future emission projections for a Maintenance Plan;

(4) To ensure reasonable further progress of the SIP; and,

(5) To control air quality within an airshed or nonattainment area.

(b) The Control Officer shall publish on the department's website for a period of thirty (30) days a notice listing the following items regarding a proposed retirement of ERCs:

(1) Availability of information;

(2) A summary of the proposed action;

(3) A summary of the proposed action justification;

(4) The authority of the proposed action;

(5) A summary of the ownership, amount, and type of ERCs proposed for retirement;

(6) Opportunity for an affected person to submit written comments during the notice period on the proposed action and relevant information or data. The Control Officer shall consider such comments prior to implementing the action.

(c) The Control Officer shall publish on the department's website for a period of thirty (30) days a notice listing the following items regarding a proposed ERC Program Moratorium:

(1) Availability of information;

(2) A summary of the proposed action;

(3) A summary of the proposed action justification;

(4) The authority of the proposed action;

(5) A summary of the ownership, number, type of ERCs proposed for retirement or subject to a moratorium;

(6) Opportunity for an affected person to submit written comments during the notice period on the proposed action and relevant information or data. The Control Officer shall consider such comments prior to implementing the action.

(d) In addition, the Control Officer shall notify each owner of ERCs affected by the proposed action at least seven (7) calendar days prior proposed action.

12.7.10 ERC Reciprocity

The Control Officer may grant reciprocity for banking, transacting and redeeming ERCs that are issued by the Nevada Division of Environmental Protection (NDEP) if the NDEP ERC issuance requirements are equivalent to or more stringent than the applicable requirements of Section 12.7 subject to the following conditions:

(a) NDEP shall submit the ERC Reciprocity Request to the Control Officer on behalf of the ERC owner. The ERC owner's request shall be submitted with the NDEP transmittal document.

(b) All documentation associated with the ERCs issued by the NDEP shall be submitted with the ERC Reciprocity Request, including, but not limited to, the following: the ERC application and technical support document; eligibility determinations, completeness determinations, the final ERC determination, public notices, public comments, appeal documents, the operating permit as it was prior to the ERC issuance and the operating permit as modified to accommodate the ERCs.

History: Adopted May 18, 2010

SECTION 12.9: ANNUAL EMISSIONS STATEMENT AND INVENTORY REQUIREMENT

12.9.1 Annual Emissions Statement

(a) The Responsible Official of each Stationary Source that emits 25 tons or more of nitrogen oxide (NOx) and/or Volatile Organic Compounds (VOC) shall submit an annual emissions statement (Statement) to the department for the previous calendar year.

(b) Pursuant to Clean Air Act Section 182, the Statement must include all actual emissions for all NO_x and VOC emitting activities.

(c) The Statement shall be submitted to and received by the department on or before March 31 of each year or other date, upon prior notice by the Control Officer, and shall include a certification that the information contained in the Statement is accurate to the best knowledge of the individual certifying the Statement.

12.9.2 Annual Emissions Inventory

(a) The Responsible Official of each permitted Stationary Source located in Clark County shall complete and submit to the Control Officer an annual emissions inventory (Inventory) for all regulated pollutants listed in the permit.

(b) The Inventory must be submitted to and received by the department on or before March 31 of each year or other specified date, upon prior notice by the Control Officer, and shall include emission factors and calculations used to determine the Emissions from each permitted Emissions Unit or Activity for the previous calendar year.

(c) If the Control Officer determines that it is necessary to demonstrate attainment, maintenance, reasonable further progress or compliance with any State Implementation Plan requirement; to protect visibility or to calculate administrative fees, any Stationary Source subject to an applicable requirement, shall, upon notice by the Control Officer, complete and submit an Inventory within 60 days of such notification, or other such timeframe as specified by the notice.

The Inventory submittal shall include all of the following information:

(1) The Stationary Source's name, description, mailing address, the name of the Responsible Official and the Responsible Official's phone number, and physical address and location, if different than the mailing address.

(2) The actual quantity of Emissions from each permitted Emission point and Fugitive Emissions which occurred for the previous calendar year, including documentation of the method(s) of measurement, calculation, or estimation, determined pursuant to subsection (e), for all Regulated Air Pollutants.

(d) Actual quantities of Emissions shall be determined using the following emission factors or data:

(3) Whenever available, Emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and referenced appendices, or continuous emissions monitor data quality assured pursuant to Appendix F of 40 CFR Part 60.

(4) When sufficient data pursuant to subsection (e)(1) is not available, Emissions may be determined using either:

(A) The Emissions calculation methodology used to establish the Potential to Emit specified in the permit; or

(B) An equivalent method approved by the Control Officer in writing prior to the submittal of the Inventory data to the department. The Control Officer shall only approve methods that are demonstrated by the Owner or Operator to be as accurate and reliable as the method in subsections (e)(1) or (2)(A).

(e) The Actual quantities of Emissions calculated under subsection (e) shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.

(f) An amendment to an Inventory, containing the documentation required by subsection (d)(2), shall be submitted to the Control Officer by the Responsible Official of any Stationary Source whenever the Responsible Official discovers or is notified, within two years of the original submittal, that incorrect or insufficient information was submitted to the Control Officer in a previous Inventory submittal. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the Control Officer shall require payment for the additional fee owed or the Responsible Official may request a refund of the overpayment. The submittal of an amendment under this subsection shall not subject the Stationary Source to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was not due to willful neglect.

12.9.3 Certification of Truth, Accuracy, and Completeness

Any information submitted pursuant to this Section shall contain a certification by the Responsible Official of truth, accuracy and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the information in the Statement or Inventory is true, accurate and complete.

History: Adopted March 16, 2010. Amended August 4, 2020.

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SECTION 12:10: CONTINUOUS MONITORING REQUIREMENTS FOR STATIONARY SOURCES

12.10.1 Monitoring Requirements

The Control Officer may require any source of regulated air pollutants, to monitor, sample or perform other studies to quantify emissions or the levels of air pollution that may be reasonably attributable to such source. In the case of determining compliance with an applicable requirement for which a source is required to obtain a permit under Section 12, monitoring may include continuous emission or continuous opacity monitoring.

12.10.2 Calibration, Operation, and Maintenance of Equipment

(a) Any owner or operator of a stationary source listed in 40 CFR 51, Appendix P, Sections 1.1.1 through 1.1.4 that is not subject to a 40 CFR 60 "New Source Performance Standard" shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants specified in Appendix P, Sections 1.1.1 through 1.1.4, for each applicable source category. These stationary sources must also meet the basic requirements of 40 CFR 51, Appendix P, Section 2.0 *et seq*.

(b) Any owner or operator of a stationary source subject to the requirements of 40 CFR 75 shall comply with the applicable installation, calibration, operational, and monitoring requirements as incorporated by reference in Section 22 of the Clark County Air Quality Regulations (AQRs).

(c) If an emission unit is subject to more than one federal performance standard pertaining to Continuous Emission Monitoring System installation, certification, operation or evaluation, then the permit shall specify which of the federal requirements the owner or operator must comply with, including a reference to the applicable federal statute.

12.10.3 Monitoring Locations

(a) All Continuous Emissions Monitoring Systems or monitoring devices must be installed as specified in the applicable performance specifications of Appendix B of 40 CFR Part 60 or, if not specified, so that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of Continuous Emissions Monitoring Systems are contained in the applicable performance specifications of Appendix B of 40 CFR Part 60.

(b) When the effluents from a single affected facility, or two (2) or more affected facilities subject to the same emission standards, are combined before being released to the atmosphere, and compliance with the emission standard is determined by a Continuous Emissions Monitoring System, the owner or operator may install applicable Continuous Emissions Monitoring Systems for each effluent or for the combined effluent. When the affected facilities are not subject to the same emission standards, separate Continuous Emissions Monitoring Systems must be installed for each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install applicable Continuous Emissions Monitoring Systems on each separate effluent unless the installation of fewer systems is approved by the Control Officer.

12.10.4 Verification of Operational Status

(a) Unless otherwise approved by the Control Officer or specified in these AQRs, the requirements of Section 12.10 apply to all Continuous Emissions Monitoring Systems required under applicable provisions of these AQRs.

(b) All Continuous Emissions Monitoring Systems and monitoring devices must be installed and operational prior to conducting the applicable performance tests. Verification of operational status must, as a minimum, consist of the following:

(1) For Continuous Emissions Monitoring Systems referred to in paragraph (a) of Section 12.10.5, completion of the conditioning period specified by applicable requirements in Appendix B of 40 CFR Part 60.

(2) For Continuous Emissions Monitoring Systems, completion of seven (7) days of operation.

(3) For monitoring devices referred to in this section, completion of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.

12.10.5 Performance Evaluations

(a) During any required performance tests or within thirty (30) days thereafter, and at such other times as may be required by the Control Officer as necessary to verify compliance, the owner or operator of any affected facility shall conduct continuous evaluations of the performance of monitoring systems and furnish the Control Officer within sixty (60) days thereof a copy of the written report of the results of such tests. If the reporting criteria are specified in a federal require-

ment that is applicable to the stationary source, then the owner or operator shall comply with the federal reporting requirements. These evaluations must be conducted in accordance with the specifications and procedures provided in this section.

(b) Continuous Emissions Monitoring Systems listed in this section must be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of Appendix B of 40 CFR Part 60:

(1) Opacity of emissions must comply with Performance Specification 1;

(2) Nitrogen oxide emissions must comply with Performance Specification 2;

(3) Sulfur dioxide emissions must comply with Performance Specification 2; and

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

12.10.6 Adjustments

Owners or operators of all Continuous Emissions Monitoring Systems installed in accordance with the provisions of this section shall check the zero and span drift at least once daily in accordance with the method prescribed by the manufacturer of the systems unless the manufacturer recommends adjustments at shorter intervals, in which case the recommendations must be followed. The zero and span must, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in Appendix B of 40 CFR 60 are exceeded.

12.10.7 Minimum Procedures

Unless otherwise approved by the Control Officer, the following procedures, as applicable, must be followed:

(a) For extractive Continuous Emissions Monitoring Systems measuring gases, minimum procedures must include introducing applicable zero and span gas mixtures into the measurement system as near the probe as is practical. Span and zero gases certified by their manufacturer to be traceable to National Institute of Standards and Technology reference gases must be used whenever these reference gases are available. The span and zero gas mixtures must be the same composition as specified in Appendix B of 40 CFR 60. Every six (6) months after the date of manufacture, span and zero gases must be reanalyzed by conducting triplicate analyses with Reference Methods

6 for SO_2, 7 for NO, and 3 for O_2 and CO_2, respectively. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.

(b) For nonextractive Continuous Emissions Monitoring Systems measuring gases, minimum procedures include upscale checks using a certified calibration gas cell or test cell which is functionally equivalent to a known gas concentration. The zero check may be performed by computing the zero value from upscale measurements or by mechanically producing a zero condition.

12.10.8 Measurement of Opacity

(a) For Continuous Emissions Monitoring Systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases must be cleaned before performing the zero or span drift adjustments, except that for systems using automatic zero adjustments, the optical surfaces must be cleaned when the cumulative automatic zero compensation exceeds four (4) percent opacity.

(b) For Continuous Emissions Monitoring Systems measuring opacity of emissions, minimum procedures include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. These procedures must provide a system check of the analyzer internal optical surfaces and all electronic circuitry, including the lamp and photodetector assembly.

12.10.9 Frequency of Operation

Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required by Section 12.10.6, all Continuous Emissions Monitoring Systems must be in continuous operation and meet minimum frequency of operation requirements, as follows:

(a) All Continuous Emissions Monitoring Systems referred to in Section 12.10.5 for measuring opacity of emissions must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 10-second period.

(b) All Continuous Emissions Monitoring Systems referred to in Section 12.10.5 for measuring oxides of nitrogen, sulfur dioxide, carbon dioxide, or oxygen must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

12.10.10 Recordation of Data

(a) Owners or operators of all Continuous Emissions Monitoring Systems for the measurement of opacity shall reduce all data to 6-minute averages, and for systems other than opacity, to 1-hour averages.

(b) For systems other than opacity, 1-hour averages must be computed from four or more data points equally spaced over each 1-hour period.

(c) Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments must not be included in the data averages computed under this section. An arithmetic or integrated average of all calibrated data must be used. The data output of all Continuous Emissions Monitoring Systems may be recorded in reduced or nonreduced form, e.g., ppm pollutant and percent O_2 or lb/million Btu of pollutant.

(d) All excess emissions must be converted into units of the standard using the applicable conversion procedures specified in these regulations. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in those sections to specify the applicable standard, e.g., rounded to the nearest one (1) percent opacity.

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

12.10.11 Records; Reports

(a) Any owner or operator subject to the provisions of this section shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility and any malfunction of the air pollution control equipment or any periods during which a Continuous Emissions Monitoring System or monitoring device is inoperative.

(b) Each owner or operator required to install a Continuous Emissions Monitoring System shall submit a written report of excess emissions to the Control Officer every six (6) months. All reports must be postmarked by the 30th day following the end of each six-month period and must include the following information:

(1) The magnitude of excess emissions computed in accordance with this section, any conversion factors used, and the date and time of commencement and completion of each time period of excess emissions;

(2) Specific identification of each period of excess emissions that occurs during startups, shutdowns and malfunctions of the affected facility;

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

(4) Specific identification of each period during which the Continuous Emissions Monitoring System was inoperative, except for zero and span checks, and the nature of any repairs or adjustments that were made; and

(5) Specific identification of each period when no excess emissions have occurred and the Continuous Emissions Monitoring System has not been inoperative, repaired, or adjusted.

(c) In addition to the reporting requirements of this section, an owner or operator shall also comply with the reporting requirements of Section 25.6 for an occurrence of emissions in excess of an applicable requirement or the emission limits prescribed by the permit.

(d) Any owner or operator subject to the provisions of this section shall maintain a file of all measurements, including:

(1) Continuous Emissions Monitoring Systems, monitoring devices and performance testing measurements;

(2) All Continuous Emissions Monitoring System performance evaluations;

(3) All Continuous Emissions Monitoring Systems or monitoring device calibration checks;

(4) Adjustments and maintenance performed on these systems or devices; and

(5) All other information required by this section, recorded in a permanent form suitable for inspection.

The file must be retained for at least five (5) years following the date of the measurements, maintenance, reports and records.

12.10.12 Alternative Monitoring Procedures or Requirements

(a) Upon written application by an owner or operator, the Control Officer may approve alternatives to any monitoring procedures or requirements of this section, including, but not limited to, the following:

(1) Alternative monitoring requirements when installation of a Continuous Emissions Monitoring System or monitoring device specified by those sections would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases, except when the monitoring device requirement is specified in 40 CFR 60, 61, and 63;

(2) Alternative monitoring requirements when the affected facility is infrequently operated;

(3) Alternative monitoring requirements to accommodate Continuous Emissions Monitoring Systems that require additional measurements to correct for stack moisture conditions;

(4) Alternative locations for installing Continuous Emissions Monitoring Systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements;

(5) Alternative methods of converting regulated air pollutant concentration measurements to units of the standards;

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

(7) Alternatives to the test methods of the American Society for Testing and Materials or sampling procedures specified by any provision of this section;

(8) Alternative Continuous Emissions Monitoring Systems that do not meet the design or performance requirements in Performance Specification 1, Appendix B of 40 CFR 60, but adequately demonstrate a definite and consistent relationship between their measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Control Officer may require that such demonstration be performed for each affected facility; or

(9) Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Control Officer shall not approve an alternative method or equivalent method to determine compliance with a standard or emission limitation contained in 40 CFR 60, 61, or 63 for:

(1) An emissions unit that is subject to a testing requirement pursuant to 40 CFR 60, 61, or 63; or

(2) An affected source.

History: Adopted March 16, 2010

SECTION 12.11: GENERAL PERMITS FOR MINOR STATIONARY SOURCES

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12.11 General Permits for Minor Stationary Sources

12.11.1 Applicability

(a) A general permit may only be issued to a minor stationary source for specific source classes.

(b) This rule provides the authority and requirements the Control Officer must meet to issue general permits for specific source classes.

(c) A minor source otherwise subject to the permit requirements of Section 12.1, may instead satisfy that requirement by obtaining authority to operate under a general permit pursuant to Section 12.11.

(d) The Control Officer may issue a general permit for any source class that the Control Officer determines is appropriate for a general permit, in accordance with the requirements of this rule.

(e) This rule provides the requirements a stationary source must meet to obtain authority to operate under a general permit issued by the Control Officer.

(f) A minor source seeking authority to operate under a general permit shall apply for a Section 12.1 permit if the Control Officer determines the source or modification could interfere with attainment or maintenance of any national ambient air quality standard. In making this determination, the Control Officer:

(1) Shall ensure that any ambient air increment as prescribed by Section 12.2.3 is not exceeded.

(2) May consider whether the dispersion characteristics of the source are likely to result in higher ambient concentrations of a conventional pollutant than the modeling assumptions used to establish an emission standard.

(3) May apply a screening model to the source's emissions.

(g) General permits shall not be issued for sources regulated pursuant to Title IV of the Act, except as provided in regulations promulgated by the Administrator under Title IV of the Act.

12.11.2 Definitions

(a) "Minor Stationary Source" or "Minor Source" means a stationary source that is not required to obtain an "Authority to Construct" pursuant to Section 12.4.3 or a Part 70 Operating Permit and that has a potential to emit equal to or greater than the levels listed in

Section 12.1.1(d) for any listed pollutant (excluding fugitive emissions unless it is a categorical source in Section 12.2.2(j) or belongs to any other source category which, as of August 7, 1980, is regulated under Section 111 or 112 of the Act).

(b) "Similar in Nature" means similar source size, processes, operating conditions, and nature and quantity of emissions.

(c) "Source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant.

(d) "Source Class" means sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping.

12.11.3 General Permit Development

(a) The Control Officer may propose a general permit, or any person may submit a petition to the Control Officer requesting the issuance of a general permit for a defined source class.

(b) A petition for a general permit shall propose a particular source class, list the approximate number of sources in the proposed class, provide the proposed size, processes, and operating limitations, and provide a list of the applicable requirements.

(c) The Control Officer shall provide a written response to the petition within one hundred twenty (120) days of receipt.

(d) General permits shall include all of the following:

(1) The applicability criteria to qualify as a member of the source class.

(2) The relevant elements contained in Section 12.1.4.1.

(3) Emission limitations and control requirements as required by Sections 12.11.11 and 12.11.12.

(4) A process for qualifying individual sources to apply for authority to operate under the general permit by submitting the application prescribed by Section 12.11.4.

(5) A permit term not to exceed 5 years from the date of issuance.

(e) General permits shall include any conditions imposed under Section 12.11.13.

(f) The Control Officer shall provide public notice for any proposed new general permit, for any revision of an existing general permit (excluding administrative revisions described in Section 12.1.6(c)), and for renewal of an existing general permit.

(g) The public participation requirements in Section 12.1.5.3 shall apply to any public notice required by Section 12.11.3(f).

12.11.4 Application for Authority to Operate Under a General Permit

(a) After the general permit has been issued, a new or existing minor source that is a member of the general permit source class may apply to the Control Officer for authority to operate under the general permit.

(b) Applicants shall complete the application form(s) provided by the Control Officer for the general permit source class. The application shall, at a minimum, require the applicant to submit information identifying and describing the source, its processes, and its operating conditions pursuant to Section 12.1.3, in sufficient detail to allow the Control Officer to verify qualification for the source class, and assure compliance with all general permit requirements.

(c) The Control Officer shall act on an application for authority to operate under a general permit as expeditiously as possible, but a final decision shall be reached within sixty (60) days of receipt of the application.

(1) The Control Officer shall approve or deny the request based on applicability criteria specified in the general permit for that type of source.

(2) If the application is approved, the Control Officer shall issue an authority to operate under the general permit to the source and post the issuance decision on the Department's web site.

(3) If the application for authority to operate under the general permit is denied, the Control Officer shall notify the source that it may apply for a Section 12.1 minor source permit if it intends to proceed with construction or continue to operate

(d) A minor source that has applied for authority to operate shall not initiate construction, modification, or operation until the Control Officer has issued the authority to operate under the general permit to the minor source.

(e) The Control Officer shall maintain a record of all stationary sources that are covered by a specific general permit and this record shall be available for public review.

12.11.5 General Permit Renewal

(a) The Control Officer shall review and may renew general permits every five years or sooner, if warranted. A source's authorization to operate under a general permit shall coincide with the term of the general permit regardless of when the authorization began during the five-year period, except as provided in Section 12.11.8(b). In addition to the public notice required to issue a proposed permit under Section 12.11.3(f), the Control Officer shall notify in writing all sources who have been granted, or who have applications pending for, authorization to operate under the general permit. The written notice shall describe the source's duty to reapply and may include requests for information required under the proposed renewal permit.

(b) At the time a general permit is renewed, the Control Officer shall notify in writing all sources who were granted authorization to operate under the previous permit and shall require them to submit a timely application to renew their authorization. For purposes of general permits, a timely application is one that is submitted within the time-frame specified by AQR 12.1.3.1(b) or within a time-frame specified by the Control Officer in a written notification. If a timely application is submitted the source may continue to comply with the previously issued general permit authority to operate until an authorization to operate under the renewed general permit is granted. Failure to submit a timely application terminates the source's right to operate.

12.11.6 Relationship to Individual Permits

(a) Any source covered under a general permit may request to be excluded from authority to operate by applying for an individual source permit. Authority to operate under the general permit shall terminate on the date the individual permit is issued.

(b) Authority to operate under an individual permit shall terminate on the date the general permit is issued.

12.11.7 General Permit Appeals

Any person who filed a comment on a proposed general permit during the public notice period required under Section 12.11.3(f) may appeal the terms and conditions of the general permit, as they apply to the source class covered under that general permit, by filing an appeal with the Air Pollution Control Hearing Board within 30 days after receipt of notice that the general permit has been issued, in accordance with Section 7.10.

12.11.8 Terminations of General Permits and Revocations of Authority to Operate under a General Permit

(a) The Control Officer may terminate a general permit at any time if either:

(1) The Control Officer has determined that the emissions from the sources in the source class cause or contribute to ambient air quality standard violations which are not adequately addressed by the requirements in the general permit.

(2) The Control Officer has determined that the terms and conditions of the general permit no longer meet the requirements of Section 12.1.4.1.

(b) The Control Officer shall provide written notice to all sources operating under a general permit prior to termination of a general permit. Such notice shall include an explanation of the basis for the proposed action. Within 180 days of receipt of the notice of the expiration, termination or cancellation of any general permit, sources notified shall submit an application to the Control Officer for an individual permit.

(c) The Control Officer may revoke a minor source's authority to operate under a general permit if the source is not in compliance with any term or condition of the general permit.

(d) If the Control Officer revokes a source's authority to operate under a general permit pursuant to paragraph (c), the Control Officer shall notify the Responsible Official by certified mail, return receipt requested.

(e) The notice shall include a statement detailing the grounds for the revocation of authority to operate and a statement that the permitted source is entitled to a hearing. A source may continue operating under the revoked general permit for a maximum of 15 days after receipt of the notice of revocation. To continue operation after 15 days, the source must submit a complete application for an individual permit pursuant to Section 12.1.3.3(a), at which time it may operate under that application.

12.11.9 Fees Related to General Permits

(a) Permit Processing Fees. An application fee is assessed for the initial application submitted by the source, for any source who intends to continue operating under the authority of a general permit that has been proposed for renewal, and to requests for authorizations to operate new emissions related equipment. A permit issuance fee is assessed prior to the issuance of authorizations to operate under a general permit. These fees are assessed in accordance with Section 18.4.1 and 18.1.1.

(b) Annual Emission Unit & Permit Renewal Fees. The relevant emission unit and permit renewal fees are assessed on emission units and each operating permit each calendar year, in accordance with Section 18.2.

(c) Notice of Proposed Action Fee. A publication fee for notices of proposed actions (public notice) will be assessed, if required, in accordance with Section 18.4.2.

(d) Annual Emission Fees. Annual emission fees shall be determined in accordance with Section 18.6.4.

12.11.10 Revisions to Minor Sources Granted Authority to Operate under General Permits

(a) A minor source may make revisions only as authorized by the general permit. Any revision outside the scope authorized by the general permit shall require a new application for either an individual minor source permit under Section 12.1 or a different general permit issued under Section 12.11, if one is available.

12.11.11 Minor NSR in General Permits

(a) A general permit shall include emission standards designed to assure that a stationary source covered by the general permit will comply with minor new source review under Section 12.1.4. The emission standards may consist of any combination of the following:

(1) Limits designed to assure that emissions from a stationary source that is a member of the class of sources covered by the permit will not interfere with attainment or maintenance of a NAAQS and will comply with the SIP.

(2) Limits imposing operating constraints and reasonably available control technology, where applicable.

12.11.12 Emission Standards in General Permits

(a) All general permits shall include emission standards, including emission limitations and/or operational constraints to assure that emissions from a stationary source that is a member of the class of sources covered by the permit will comply with the SIP and will not interfere with attainment or maintenance of a NAAQS.

(b) A general permit for a source category that will have a potential to emit that is significant, as defined in Section 12.1.1, for a regulated air pollutant shall include limits imposing reasonably available control technology for the affected pollutant.

12.11.13 General Permit Annual Emissions Inventory Report

(a) Every minor source shall complete and submit to the Control Officer an annual emissions inventory report. The report is due by March 31 of each year and shall include the emission factors and calculations used to determine the reported emissions from each permitted emissions unit for the previous calendar year. The report shall include all information specified in Section 12.9(c) through (f), inclusive, as applicable.

History: Adopted November 3, 2009; Amended December 18, 2018.

SECTION 12.12: TRANSFER OF PERMIT

12.12.1 Applicability

This section applies to any source or emission unit for which a permit has been issued pursuant to Section 12.1, 12.2, 12.3, 12.4, 12.5 or 12.11.

12.12.2 Requirements

(a) Except as provided for in this section, an Authority to Construct or any permit issued pursuant to the sections listed in 12.12.1 shall not be transferable, whether by operation of law or otherwise, from one owner or operator to another.

(b) Any application to transfer a permit from the permit holder to another person or owner shall be accompanied by the applicable fee(s) as specified in Section 18.

(c) An application for the transfer of ownership shall constitute a temporary Authority to Construct, Part 70 Operating Permit or Permit to Operate, as applicable, under the conditions of the existing permit.

(d) The owner or operator who holds the permit shall file an application for a transfer of ownership at least 30 days prior to the date of the transfer of ownership.

(e) The Control Officer shall approve an application for the transfer of a permit if all of the following requirements are met:

(1) The emission unit subject to the permit is in compliance with all applicable orders, AQRs and applicable federal requirements.

(2) Submittal of a written agreement or other written proof of transfer of ownership that is deemed sufficient by the Control Officer and which specifies the date of ownership transfer;

(3) The permit has been reviewed by the department to determine that the permit conditions are adequate to ensure compliance with, and enforceability of, applicable requirements to the emission unit for which the permit was issued;

(4) Where (e) (3) has not been met, the Control Officer shall require that the permit be revised to specify the permit conditions necessary in accordance with all applicable requirements;

(5) All fees and assessed penalties associated with the permit have been paid.

History: Adopted March 16, 2010

SECTION 12:13: POSTING OF PERMIT

(a) Any person who has been issued an individual or general permit under this Section 12 shall post such permit provided by the department in a location which is clearly visible and accessible to the employees of the stationary source and representatives of the Control Officer.

(b) A copy of the complete permit shall be kept at the permitted source.

History: Adopted March 16, 2010

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SECTION 13: NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

13.1 40 CFR 61 Incorporated by Reference

The following subparts of 40 CFR Part 61, "National Emission Standards for Hazardous Air Pollutants (NESHAPs)," and all accompanying appendices adopted as of July 1, 2020, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the department and shall be applied by the Control Officer.

(a) In the event that an AQR contains a requirement that is more stringent than a NESHAPs requirement, the more stringent requirement shall apply.

(b) For purposes of Section 13, the word "Administrator" as used in 40 CFR Part 61 shall mean the Control Officer, except that the Control Officer shall not be authorized to approve alternate test methods or alternate opacity limits, or administer any authorities under 40 CFR Part 61 not delegated by EPA.

(1) Subpart A - General Provisions.

(2) Subpart C - National Emission Standard for Beryllium.

(3) Subpart D - National Emission Standard for Beryllium Rocket Motor Firing.

(4) Subpart E - National Emission Standard for Mercury.

(5) Subpart F - National Emission Standard for Vinyl Chloride.

(6) Subpart J - National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.

(7) Subpart L - National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants.

(8) Subpart M - National Emission Standard for Asbestos.

(9) Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

(10) Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

(11) Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

(12) Subpart V - National Emission Standard for Equipment Leaks (Fugitive Emission Sources).

(13) Subpart Y - National Emission Standard for Benzene Emissions from Benzene Storage Vessels.

(14) Subpart BB - National Emission Standard for Benzene Emissions from Benzene Transfer Operations.

(15) Subpart FF - National Emission Standard for Benzene Waste Operations.

13.2 40 CFR 63 Incorporated by Reference

The following subparts of 40 CFR Part 63, “NESHAPs for Source Categories,” and all accompanying appendices adopted as of July 1, 2020, and no future editions or amendments, are incorporated by reference. These standards are on file with the department and shall be applied by the Control Officer.

(a) In the event that an AQR contains a requirement that is more stringent than a NESHAPs requirement, the more stringent requirement shall apply.

(b) For purposes of Section 13, the word "Administrator" as used in 40 CFR Part 63 shall mean the Control Officer, except that the Control Officer shall not be authorized to approve alternate test methods or alternate opacity limits, or administer any authorities under 40 CFR Part 63 not delegated by EPA.

(1) Subpart A - General Provisions.

(2) Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

(3) Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(4) Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

(5) Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulations for Equipment Leaks.

(6) Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.

(7) Subpart L - National Emission Standards for Coke Oven Batteries.

(8) Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(9) Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(10) Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.

(11) Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling. Towers.

(12) Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(13) Subpart S - National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.

(14) Subpart T - National Emission Standards for Halogenated Solvent Cleaning.

(15) Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.

(17) Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.

(18) Subpart AA - National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants.

(19) Subpart BB - National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants.

(20) Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(21) Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(22) Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.

(23) Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(24) Subpart HH - National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities.

(25) Subpart II - National Emission Standards for Shipbuilding and Ship Repair (Surface Coating).

(26) Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.

(27) Subpart KK - National Emission Standards for Printing and Publishing Industry.

(28) Subpart LL - National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.

(29) Subpart MM - National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Source at Kraft, Soda, Sulfite and Stand-alone Semichemical Pulp Mills.

(30) Subpart OO - National Emission Standards for Tanks - Level 1.

(31) Subpart PP - National Emission Standards for Containers.

(32) Subpart QQ - National Emission Standards for Surface Impoundments.

(33) Subpart RR - National Emission Standards for Individual Drain Systems.

(34) Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.

(35) Subpart TT - National Emission Standards for Equipment Leaks--Control Level 1.

(36) Subpart UU - National Emission Standards for Equipment Leaks --Control Level 2 Standards.

(37) Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(38) Subpart WW - National Emission Standards for Storage Vessels (Tanks)--Control Level 2.

(39) Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(40) Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.

(41) Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling--HCL Process Facilities and Hydrochloric Acid Regeneration Plants.

(42) Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(43) Subpart EEE - National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(44) Subpart GGG - National Emission Standards for Pharmaceuticals Production.

(45) Subpart HHH - National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities.

(46) Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(47) Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.

(48) Subpart LLL - National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry.

(49) Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(50) Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiber Glass Manufacturing.

(51) Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.

(52) Subpart PPP - National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(53) Subpart QQQ - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.

(54) Subpart RRR - National Emissions Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(55) Subpart TTT-- National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(56) Subpart UUU - National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(57) Subpart VVV - National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(58) Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.

(59) Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.

(60) Subpart CCCC - National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast.

(61) Subpart DDDD - National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.

(62) Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).

(63) Subpart FFFF - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.

(64) Subpart GGGG - National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.

(65) Subpart HHHH - National Emission Standards for Hazardous Air Pollutants for Wet-formed Fiberglass Mat Production.

(66) Subpart IIII - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-duty Trucks.

(67) Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.

(68) Subpart KKKK - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.

(69) Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(70) Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.

(71) Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.

(72) Subpart PPPP - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(73) Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.

(74) Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.

(75) Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.

(76) Subpart TTTT - National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.

(77) Subpart UUUU - National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.

(78) Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.

(79) Subpart WWWW - National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.

(80) Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.

(81) Subpart YYYY - National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(82) Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(83) Subpart AAAAA - National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(84) Subpart BBBBB - National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(85) Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(86) Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.

(87) Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(88) Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.

(89) Subpart GGGGG - National Emission Standards for Hazardous Air Pollutants: Site Remediation.

(90) Subpart HHHHH - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.

(91) Subpart IIIII - National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(92) Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(93) Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(94) Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.

(95) Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.

(96) Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.

(97) Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(98) Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(99) Subpart RRRRR - National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.

(100) Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(101) Subpart TTTTT - National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(102) Subpart WWWWW – National Emission Standards for Hospital Ethylene Oxide Sterilizers.

(103) Subpart YYYYY – National Emission Standards for Hazardous Air Pollutants for Areas Sources: Electric Arc Furnace Steelmaking Facilities.

(104) Subpart ZZZZZ – National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(105) Subpart BBBBBB – National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.

(106) Subpart CCCCCC – National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

(107) Subpart DDDDDD – National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(108) Subpart EEEEEE – National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(109) Subpart FFFFFF – National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(110) Subpart GGGGGG – National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources – Zinc, Cadmium, and Beryllium.

(111) Subpart HHHHHH – National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.

(112) Subpart LLLLLL – National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(113) Subpart MMMMMM – National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(114) Subpart NNNNNN – National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.

(115) Subpart OOOOOO – National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(116) Subpart PPPPPP – National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.

(117) Subpart QQQQQQ – National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(118) Subpart RRRRRR – National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

(119) Subpart SSSSSS – National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.

(120) Subpart TTTTTT – National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

(121) Subpart VVVVVV – National Emission Standards for Hazardous Air Pollutants For Chemical Manufacturing Area Sources

(122) Subpart WWWWWW – National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

(123) Subpart XXXXXX – National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

(124) Subpart YYYYYY – National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.

(125) Subpart ZZZZZZ – National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

(126) Subpart AAAAAAA - National Emission Standards for Hazardous Air Pollutants For Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing

(127) Subpart BBBBBBB - National Emission Standards For Hazardous Air Pollutants For Area Sources: Chemical Preparation Industry

(128) Subpart CCCCCCC - National Emission Standards For Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing

(129) Subpart DDDDDDD - National Emission Standards For Hazardous Air Pollutants For Area Sources: Prepared Feeds Manufacturing

(130) Subpart EEEEEEE - National Emission Standards For Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category

(131) Subpart HHHHHHH—National Emission Standards For Hazardous Air Pollutant Emissions For Polyvinyl Chloride And Copolymers Production

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History: Amended: September 3, 1981; May 15, 1985; April 23, 1987; February 20, 2001; June 3, 2003; July 1, 2004; May 18, 2010; April 3, 2012; December 16, 2014; September 4, 2018; August 4, 2020.

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SECTION 14: NEW SOURCE PERFORMANCE STANDARDS

14.1 40 CFR Part 60 Incorporated by Reference

The following subparts of 40 CFR Part 60, “Standards of Performance for New Stationary Sources (NSPS),” and all accompanying appendices adopted as of July 1, 2020, and no future editions or amendments, are incorporated by reference. These standards are on file with the department and shall be applied by the Control Officer.

(a) In the event that an AQR contains a requirement that is more stringent than a NSPS requirement, the more stringent requirement shall apply.

(b) For the purpose of Section 14, the word "Administrator" as used in 40 CFR Part 60 shall mean the Control Officer, except that the Control Officer shall not be authorized to approve alternate test methods or alternate opacity limits, or administer any authorities under 40 CFR Part 60 not delegated by EPA.

(1) Subpart A – General Provisions.

(2) Subpart D – Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction Is Commenced After August 17, 1971.

(3) Subpart Da – Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

(4) Subpart Db – Standards of Performance for Industrial - Commercial - Institutional Steam Generating Units.

(5) Subpart Dc – Standards of Performance for Small Industrial - Commercial - Institutional Steam Generating Units.

(6) Subpart E – Standards of Performance for Incinerators.

(7) Subpart Ea – Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced after December 20, 1989 and on or Before September 20, 1994.

(8) Subpart Eb – Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.

(9) Subpart Ec – Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.

(10) Subpart F – Standards of Performance for Portland Cement Plants.

(11) Subpart G – Standards of Performance for Nitric Acid Plants.

(12) Subpart H – Standards of Performance for Sulfuric Acid Plants.

(13) Subpart I – Standards of Performance for Hot Mix Asphalt Facilities.

(14) Subpart J – Standards of Performance for Petroleum Refineries.

(15) 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.

(16) 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.

(17) Subpart Kb – Standards of Performance for Storage Vessels for Petroleum Liquids.

(18) Subpart L – Standards of Performance for Secondary Lead Smelters.

(19) Subpart M – Standards of Performance for Secondary Brass and Bronze Production Plants.

(20) Subpart N – Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.

(21) Subpart Na – Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.

(22) Subpart O – Standards of Performance for Sewage Treatment Plants.

(23) Subpart P – Standards of Performance for Primary Copper Smelters.

(24) Subpart Q – Standards of Performance for Primary Zinc Smelters.

(25) Subpart R – Standards of Performance for Primary Lead Smelters.

(26) Subpart S – Standards of Performance for Primary Aluminum Reduction Plants.

(27) Subpart T – Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

(28) Subpart U – Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

(29) Subpart V – Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

(30) Subpart W – Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.

(31) Subpart X – Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Phosphate Storage Facilities.

(32) Subpart Y – Standards of Performance for Coal Preparation Plants.

(33) Subpart Z – Standards of Performance for Ferroalloy Production Facilities.

(34) Subpart AA – Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

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

(36) Subpart BB – Standards of Performance for Kraft Pulp Mills.

(37) Subpart CC – Standards of Performance for Glass Manufacturing Plants.

(38) Subpart DD – Standards of Performance for Grain Elevators.

(39) Subpart EE – Standards of Performance for Surface Coating of Metal Furniture.

(40) Subpart GG – Standards of Performance for Stationary GAS Turbines.

(41) Subpart HH – Standards of Performance for Lime Manufacturing Plants.

(42) Subpart KK – Standards of Performance for Lead-Acid Battery Manufacturing Plants.

(43) Subpart LL – Standards of Performance for Metallic Mineral Processing Plants.

(44) Subpart MM – Standards of Performance for Automobile and Light-Duty Truck Surface Coating.

(45) Subpart NN – Standards of Performance for Phosphate Rock Plants.

(46) Subpart PP – Standards of Performance for Ammonium Sulfate Manufacture.

(47) Subpart QQ – Standards of Performance for Graphic Arts Industry: Publication Rotogravure Printing.

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

(49) Subpart SS – Standards of Performance for Industrial Surface Coating: Large Appliances.

(50) Subpart TT – Standards of Performance for Metal Coil Surface Coating.

(51) Subpart UU – Standards of Performance for Asphalt Processing and Asphalt Roofing.

(52) Subpart VV – Standards of Performance for Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry Except Sections 60.482-1(c)(2) and 60.484.

(53) Subpart VVa – Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification commenced After November 7, 2006.

(54) Subpart WW – Standards of Performance for the Beverage Can Surface Coating Industry.

(55) Subpart XX – Standards of Performance for Bulk Gasoline Terminals.

(56) Subpart AAA – Standards of Performance for New Residential Wood Heaters.

(57) Subpart BBB – Standards of Performance for the Rubber Tire Manufacturing Industry.

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

(59) Subpart FFF – Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

(60) Subpart GGG – Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006.

(61) Subpart GGGa – Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.

(62) Subpart HHH – Standards of Performance for Synthetic Fiber Production Facilities.

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

(64) Subpart JJJ – Standards of Performance for Petroleum Dry Cleaners.

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

(66) Subpart LLL – Standards of Performance for Onshore Natural Gas Processing: SO_2 Emissions.

(67) Subpart NNN – Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

(68) Subpart OOO – Standards of Performance for Nonmetallic Mineral Processing Plants.

(69) Subpart PPP – Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.

(70) Subpart QQQ – Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems.

(71) Subpart RRR – Standards of Performance for Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.

(72) Subpart SSS – Standards of Performance for Magnetic Tape Coating Facilities.

(73) Subpart TTT – Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

(74) Subpart UUU – Standards of Performance for Calciners and Dryers in Mineral Industries.

(75) Subpart VVV – Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.

(76) Subpart WWW – Standards of Performance for Municipal Solid Waste Landfills.

(77) Subpart XXX – Standards of Performance for Municipal Solid Waste Landfills.

(78) Subpart AAAA – Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001.

(79) Subpart CCCC – Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction is Commenced After November 30, 1999 or for Which Modification or Reconstruction is Commenced on or After June 1, 2001.

(80) Subpart EEEE – Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.

(81) Subpart IIII – Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.

(82) Subpart JJJJ – Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.

(83) Subpart KKKK – Standards of Performance for Stationary Combustion Turbines.

(84) Subpart LLLL – Standards of Performance for New Sewage Sludge Incineration Units.

(85) Subpart TTTT – Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units.

History: Amended: September 3, 1981; October 21, 1983; September 21, 1984; May 15, 1985; April 23, 1987; January 25, 1990; May 27, 1993; November 18, 1993; January 23, 1997; August 26, 1999; February 20, 2001; June 3, 2003; July 1, 2004; May 18, 2010; April 3, 2012; December 16, 2014; September 4, 2018; August 4, 2020.

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SECTION 18: PERMIT AND TECHNICAL SERVICE FEES

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18.0 Definitions

For the purposes of assessing fees pursuant to Section 18, the following terms will be defined as follows:

(a) **"**Authority To Construct Certificate" means a certificate issued, after the review of a new or modified stationary source, which constitutes approval to commence construction or modification of such source.

(b) "Complex Source" means, for purposes of annual permit renewal fees, any source with a potential to emit greater than 25 tons per year for any regulated air pollutant or greater than 40 tons per year combination of regulated air pollutants and that does not qualify as a major stationary source as defined in Section 18.22(c). For the purposes of this Section, "regulated air pollutant" is defined according to its definition in Section 0.

(c) "Major Stationary Source" for the purposes of Section 18, shall be defined according to its definition in Section 12.2.2(ff), 12.3.2(y), or 40 CFR 70.2, as applicable.

(d) "Operating Permit" means a document issued and signed by the Control Officer, authorizing, with conditions, the operation of a stationary source that emits any regulated air pollutant.

(e) "Significant Source" means, for the purposes of annual permit renewal fees, any source with a potential to emit greater than 10 tons per year for any single regulated air pollutant and that does not qualify as a complex or major stationary source.

18.1 Operating Permit Issuance Fees:

18.1.1	Operating Permit issued pursuant to Section 12.1 or 12.11: This permit is issued for any new or modified stationary source that is not subject to the Part 70 Operating Permit requirements of Section 12.5 and is required to operate under a permit issued by the Control Officer.	$152.00
18.1.2	Operating Permit issued pursuant to Section 12.5: This permit is issued to any new or modified stationary source subject to the Part 70 program.	Free

18.2 Annual Emissions Unit and Annual Permit Renewal Fees:

These fees are assessed on each emissions unit and each Operating Permit each calendar year.

18.2.1	Each process equipment, except as otherwise listed in this section.	$258.00
18.2.2	Each storage silo.	$126.00
18.2.3	Each stationary tank, reservoir, or other container exceeding 40,000 gallons capacity containing any petroleum product having a vapor pressure of 1.5 pounds per square inch absolute or greater at standard temperature and pressure.	$344.00
18.2.4	Each gasoline storage tank equipped with Stage I Vapor Recovery or Stage II Vapor Recovery equipment at any Gasoline Dispensing Facility including bulk plants but excluding bulk terminals.	$56.00
18.2.5	Each Heated Asphalt Storage Tank.	$65.00
18.2.6	Each Stationary Internal Combustion engine, including microturbines up to 2.5MW, that meets the definition of a stationary source, except as required in subsection 18.2.7 shall pay the following fee:	

35-350 HP	351-800 HP	801-1500 HP	1501 HP and up
$373.00	$746.00	$1,493.00	$2,238.00

18.2.7	Each Stationary Emergency Internal Combustion engine that has a brake horsepower rating greater than five hundred (500) that meets the definition of a stationary source shall pay the following fee:	

500 to 1500 HP	1501 HP and up
$258.00	$746.00

18.2.8	Each fuel burning equipment not otherwise listed in this section that meets the definition of a stationary source.	$222.00
18.2.9	Each stationary printing press.	$427.00

18.2.10	Each commercial surface coating operation, including spray booths. In the event that spray booths are not applicable or required, the fee will apply to the coating process, e.g., spray gun, dip tank.	$427.00
18.2.11	Each electrical generating or compressor turbine with a rating of 2.5 megawatts or larger based on ISO standard operating conditions at 67°F, excluding equipment fueled solely on gas generated within Clark County by the decomposition of garbage in a landfill.	$4,472.00
18.2.11.1	Megawatt Equivalent Fee: (Megawatt Equivalent) x (Fee)	$152.00
18.2.11.1.1	Each Megawatt Equivalent based on a facility total megawatt output of all electrical or compressor turbines with a rating of 2.5 megawatts or larger plus all supplemental duct firing units and/or supplemental Heat Recovery Steam Generators (HRSGs), excluding equipment fueled solely on hydrogen, multiplied by the permitted annual hours of operation and divided by 8,760 hours per year. Megawatt ratings shall be based on ISO Standard Operating Conditions at 67°F.	
18.2.11.2	Each supplemental duct firing unit and/or supplemental Heat Recovery Steam Generator (HRSG), excluding duct-firing equipment fueled solely on hydrogen, or on gas generated within Clark County by the decomposition of garbage in a landfill.	$1,493.00
18.2.12	Nevada Department of Transportation (NDOT) subcontractors shall pay equipment fees at the time of permit issuance. The fees shall be for the duration of the project, prorated on a calendar quarter basis.	
18.2.13	Annual Permit Renewal Fees: If more than one fee schedule is applicable to a permit, the governing schedule shall be that which results in the higher fee.	
18.2.13.1	Each Major Stationary Source	$7,453.00
18.2.13.2	Each Complex Source	$5,963.00
18.2.13.3	Each Significant Source	$1,116.00

18.2.13.4	Baseline annual permit renewal applies to every permitted stationary source except those classified as Major, Complex, Significant, fee exempt, or covered in another section of the AQRs.	$75.00
18.2.14	Fee exempt	Free

18.3 Dust Control Permit Fee:

For construction activities including surface grading and trenching that are permitted pursuant to Section 94.

18.3.1	Dust Control Permit Fee - shall be determined on the number of acres or fraction thereof multiplied by the following: (Multiply fee by the sum of the whole number of acres plus 1.0 acre for any fraction of an acre.)	$164.00
18.3.2	Dust Control Permit Modification Fee: The fee is related only to the processing of any dust control permit which is modified from the originally issued permit as per AQRs. The modified permit will retain the expiration date of the original dust control permit.	$37.30
18.3.2.1	Modification in combination with additional acres: The dust control permit fee shall also apply, limited to the new acres.	
18.3.2.2	Modification in combination with additional acres where construction on the additional acreage commenced prior to submission of either a stand-alone dust control permit or the modification. The dust control permit late fee shall apply.	
18.3.4	Dust Control Class Card (Pursuant to Section 94): The dust control card will be valid for three years.	$44.90
18.3.5	Dust Control Permit Late Fee: This fee will be charged for any construction site which commences construction activity prior to submitting a complete dust permit application. This fee will be 1.5 times the dust control permit fee as specified in this Section.	$246.00 (per acre)

18.3.6 Dust Control Monitor Class: The minimum fee per person for dust control monitor class is $500. The minimum fee for the department to hold a dust monitoring training class is $5,000.00. Any individual or company requesting the department to conduct a dust control monitor class with less than 10 fee-paying trainees will be responsible for the balance of the cost between paying trainees and $5,000.00.

18.4 NSR [New Source Review and/or PSD] Application Review Fee:

Technical preconstruction review of proposed new or modified stationary sources requesting an Authority To Construct Certificate

18.4.1	NSR Application fee: All stationary sources	$384.00
18.4.2	Publication fee for Notice of Proposed Action: (if required)	Direct Cost
18.4.2.1	Direct cost shall mean the actual publication cost of the Notice of Proposed Action as invoiced by the newspaper.	
18.4.2.2	Notice of Proposed Action shall be initiated after the Control Officer receives full payment of all applicable fees from the applicant.	
18.4.3	NSR Application Review fee:	
18.4.3.1	NSR potential to emit (tons per year) fee shall be determined on annual total potential to emit for all regulated air pollutants multiplied by the following and rounded off to the nearest whole number:	$70.00
18.4.3.2	NSR emissions unit fee shall be determined on the number of emission units multiplied by the following:	$275.00
18.4.3.3	An Authority To Construct Certificate shall not be issued unless the Control Officer has received full payment of all applicable fees.	
18.4.3.4	The NSR Application Review Fee for Authority to Construct applications submitted by the NDOT shall be based upon the following:	
18.4.3.4.1	NDOT maintains the permit for the pit as a single emission unit and is charged for one emission unit review fee (E1).	

18.4.3.4.2	Subcontractors applying for an operating permit pursuant to the NDOT ATC shall pay review fees based on emission units (E1) and tons of emissions (E2), but need not pay the application fee.	
18.4.3.5	Relocation Fee: Portable source move notice submittal for a new operating location within Clark County.	$37.30
18.4.3.6	Acid Rain Permit: Associated with the requirements of Title IV of the 1990 Clean Air Act Amendments.	$152.00

18.5 Part 70 Application Review Fee:

Technical review of Part 70 Applications for new or existing stationary sources.

18.5.1	Application fee: Major Part 70 stationary sources	Free
18.5.2	Application fee: Non-Major Part 70 stationary sources	Free
18.5.3	Publication fee for Notice of Proposed Action (if required):	Direct Cost
18.5.3.1	Direct cost shall mean the actual publication cost of the Notice of Proposed Action as invoiced by the newspaper.	

18.6 Annual Emission Inventory and Emission Fee:

18.6.1 Annual Emissions Inventory:

18.6.1.1 The annual emissions inventory must be submitted to the department by March 31 of each calendar year.

18.6.1.2 Actual calendar year emissions will be determined by using emission factors consistent with permit conditions or performance testing (whichever is most recent), and documented emission control factors.

18.6.1.2.1 Each annual emission inventory shall be signed by a responsible official of the company attesting to the accuracy and completeness of the inventory.

18.6.2 Annual Emission Fee:

18.6.2.1 Failure by permit holder to submit an accurate and complete actual emissions inventory by March 31 of each calendar year will result in assessment of emission fees based on facility PTE.

18.6.2.1.1 In the event a PTE fee assessment is made and subsequently the actuals are discovered to be greater than the PTE, the department shall collect the unpaid fees as determined by the difference in emissions between actual and PTE multiplied by the pollutant fee rate in force at the time of the discovery.

18.6.2.2 Emission fees will be determined by the Control Officer.

18.6.2.3 In addition to the annual emissions unit fee, each major stationary source and each stationary source subject to federal performance standards, shall pay an annual Part 70 emission fee.

18.6.2.4 The annual Part 70 emission fee shall be based on the total number of tons of actual annual emissions for all regulated air pollutants (rounded off to the nearest whole number).

18.6.3 Actual annual emissions shall mean the following:

18.6.3.1 Measured emissions for any emissions monitored by a continuous emissions monitoring system (CEMS) over the previous calendar year, or

18.6.3.2 Estimated emissions for any emissions calculated based on annual facility production over the previous calendar year.

18.6.4 Annual Part 70 emission fees:

18.6.4.1 Annual Part 70 emission fee shall be determined on the number of tons (to the nearest tenth of a ton) of all regulated air pollutants, except as provided in Section 18.6.4.2, multiplied by the following fee: $57.00

18.6.4.2 For the Carbon Monoxide emissions portion, the annual Part 70 emission fee shall be determined on the number of tons (to the nearest tenth of a ton) of Carbon Monoxide multiplied by the following fee: $19.50

18.6.5 Exceptions:

18.6.5.1 The following shall not be subject to an annual Part 70 emission fee:

18.6.5.1.1 Any construction activity permitted pursuant to Section 94 of the AQRs,

18.6.5.1.2 Any Gasoline Dispensing Facility permitted pursuant to Section 12 of the regulations shall pay an annual emissions fee of $33.00 per ton of emissions, except for Carbon Monoxide, which shall be paid at $11.00 per ton. There will be no annual urban consumer price index fee adjustment. The fees assessed pursuant to Section 18.6.5.1.2 shall be reviewed every two (2) years, commencing in January 1999.

18.7 Certificate for Asbestos Removal: $746.00

Fee charged on all projects that require National Emission Standards for Hazardous Air Pollutants (NESHAPS) notification.

18.7.1 Post Abatement Inspection Fee: $373.00

Fee charged for post abatement inspection of all projects that require National Emission Standards for Hazardous Air Pollutants (NESHAPS) notification.

18.7.2 Inspection for Ongoing Asbestos Removal Projects: $373.00/wk

Fee charged on a weekly basis for one inspection per week on all projects that require National Emission Standards for Hazardous Air Pollutants (NESHAPS) notification and which meet or exceed the regulated amounts of Regulated Asbestos-Containing Material (RACM).

18.8 Certificate of Exemption (Initial): $373.00

Hearing Board filing fee (non-refundable). (This fee is assessed one time for an exemption granted pursuant to Section 44 of the regulations.)

18.9 Certificate of Exemption (Renewal): $152.00

Air Pollution Control Hearing Board filing fee (non-refundable). (This fee is assessed for each subsequent exemption renewal granted pursuant to Section 44 of the regulations.)

18.10 Transfer of a Stationary Source Operating Permit from One Person to Another: $152.00

18.11 Replacement of Each Lost or Destroyed Operating Permit: $37.30

18.12 Request for Hearing before the Air Pollution Control Hearing Board (fee is non-refundable): $140.00

Applicable to each variance, appeal or compliance schedule.

18.13 Any fees required pursuant to this section may be waived for each qualifying emissions unit owned and operated by local, state, and federal government agencies.

18.14 Blasting Fee: $152.00

A one-time fee for each dust permit issued with a blasting permit.

18.15 Implosion Fee: $14,905.00

18.16 Billing Procedures

18.16.1 Fee(s) shall be due within thirty (30) days of billing date.

18.16.2 After forty-five (45) days from billing date, unpaid invoices shall be assessed a 10% late charge.

18.16.3 Failure to pay any fee within ninety (90) days may result in a Notice of Violation (NOV) which may impose additional penalties and enforcement action up to and including permit revocation.

18.17 Emission Reduction Credit (ERC) Application and Transfer Fees

(a) **Application for Emission Reduction Credit:** Any application for ERCs shall be accompanied at the time of submittal of the signed application by a non-refundable application fee of $300.00.

(b) **Emission Reduction Credit Transfer Fee:** For any request to transfer ERCs pursuant to Section 12.7.7, a fee of $100.00 shall be paid in full prior to or upon submission of the ERC transfer request.

18.18 Stationary Source Inspection Fees

The following stationary source inspection fee schedule (Table 18.18) outlines the fees associated with re-inspections for all stationary sources. These fees apply when a source fails an inspection, has an incomplete inspection, and requires re-inspection to determine compliance status or the inspector has to return to the source to verify completion/compliance status due to the fault of the source.

The initial and annual inspections are conducted with no charge (n/c) to the source.

Note: Only the highest applicable fee category shall apply for each source.

Table 18.18. Stationary Source Inspections Fee Schedule

Total PTE	De Minimus Permit	Less than 5 Tons	5 Tons or greater	NSPS/ NESHAPS	Major and Complex
Initial/Annual (included in annual fees)	0	* n/c	n/c	n/c	n/c
1st re-inspect	0	$75.00	$152.00	without device = $373.00; with Control Device = $222.00	$1,1116.00
All subsequent re-inspects/per	0	$152.00	$297.00	without device = $746.00; with Control Device = $450.00	$2,238.00

* n/c = no charge.

18.19 Stationary Source Performance Testing Fees

The following stationary source performance test (P/T) fee schedule (Table 18.19) outlines the fees for all stationary sources. These fees apply when the source is required to conduct a performance test to determine compliance status. The associated fees are on a per protocol basis and shall be invoiced for all performance test(s) which is/are outlined in each of the required performance test protocol.

Performance test fees include the protocol and final report review and covers any on-site time by the department, if required.

Note: Only the highest applicable fee category shall apply for each source.

Table 18.19. Stationary Source Performance Test (P/T) Fee Schedule

Total PTE	De Minimus Permit	Less than 5 tons	5 Tons or greater	NSPS/NESHAPS	Major and Complex
Initial/Annual P/T (includes protocol/report review) (per protocol submittal)	0	$75.00	$152.00	$746.00	$2,238.00
1st re-test (on-site, problems/delays)	0	$75.00	$152.00	$373.00	$1,1116.00
All subsequent re-tests/per (on-site, problems/delays)	0	$152.00	$297.00	$1,493.00	$4,472.00

18.20 CEMS/PEMS/RATA Fees

The following stationary source performance specification (PS) testing and continuous emissions monitoring system (CEMS) fee schedule (Table 18.20) outlines the fees associated for all stationary sources performance specification test (PS) and continuous emissions monitoring systems (CEMS), including predictive emissions monitoring systems (PEMS), and relative accuracy test audits (RATAs) where the source is required to conduct a performance test/audit to determine compliance status. The associated fees are on a per protocol basis and shall be invoiced for all performance tests/audits and include the QA/QC review for all CEMS/PEMS initial equipment review.

Performance Specification (PS) test/audit fees include the protocol and final report review and covers any on-site time by the department, if required.

Table 18.20. Stationary Source CEMS Performance Specification Tests (PS), PEMS, and RATA Fees

Test	Fee
Initial CEMS Certification Test (includes protocol/report and QA/QC document review) (per protocol submittal)	$2,238.00
1st re-test (on-site, problems/delays)	$1,116.00
All subsequent re-tests/per (on-site, problems/delays)	$2,238.00
Annual RATA/ PEMS (includes protocol/ report review) (per protocol submittal)	$746.00
1st re-test (on-site, problems/delays)	$373.00
All subsequent re-tests/per (on-site, problems/delays)	$746.00

18.21 Effective each January 20, all Section 18 fee rates except for the following shall be adjusted according to the relative percent change from the previous calendar year in the Urban Consumer Price Index (CPI-U), which is published by the U. S. Department of Labor, Bureau of Labor Statistics:

- Gasoline storage tank at Gasoline Dispensing Facilities
- Dust Control Monitor Certificate
- Hearing request before Hearing Board

18.21.1 CPI Calculation Example:

Assume last year's CPI average = 240.007
Assume previous year's CPI average = 237.017

The relative percent change (RPC) for current year is:

RPC = [(Avg CPI $_{\text{last year}}$/ Avg CPI $_{\text{previous year}}$)-1]*100
RPC = [(240.007/237.017)-1]*100
RPC = 1.3%

Assume current fee of a Permit is $151.00
New Fee = [Current fee x (1+RPC)]
New Fee = $151.00*1.013=$153.00

Note: Fees < $50 are rounded to nearest $0.10.
Fees > $50 are rounded to nearest $1.00.

History: Revised: September 25, 1980; September 3, 1981; April 23, 1987; November 15, 1990; July 25, 1991; May 28, 1992; August 26, 1993; September 28, 1995; December 19, 1996; April 24, 1997; December 14, 2000; January 21, 2003; June 3, 2003; July 1, 2004; January 20, 2005; January 20, 2006; January 22, 2007; January 22, 2008; January 27, 2009; January 25, 2010; October 5, 2010; February 14, 2011; February 10, 2012; February 11, 2013; February 5, 2014; February 2, 2015; February 2, 2016; March 10, 2017; February 9, 2018; March 1, 2019; March 20, 2019; January 29, 2020.

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SECTION 21 - ACID RAIN PERMITS

21.1 **WHEREAS**, The Clark County Board of County Commissioners, is responsible for control of pollutants discharged into the air; and

WHEREAS, Air Quality Control Standards and Regulations have been adopted by said Board pursuant to NRS 445 for the purpose, among others, of limiting contaminant Emissions from existing, Modified or new sources handling or processing Hazardous Air Pollutants; and

WHEREAS, it is a public policy of Clark County and the purpose of the Air Quality Regulations to review and approve existing, Modified and new sources of air pollution, only if the Emission standards are or can be met; and air quality standards will not be violated; and

WHEREAS, the United States Environmental Protection Agency has adopted certain general provisions and Operating Permit requirements for affected sources and affected units under the Acid Rain Program, pursuant to Title IV of the Clean Air Act, 42 U.S.C. 7401, et seq., as amended by Public Law 101-549 [November 15, 1990]; and

WHEREAS, it is the department's belief that review and approval of existing, modified or new sources is best managed at the local level.

21.2 **NOW, THEREFORE,** the provisions of Part 72, Chapter I, Title 40, Code of Federal Regulations, as indexed below, are hereby adopted by reference and made a part hereof as if fully set forth. Any final revisions to an existing subpart that are promulgated by the United States Environmental Protection Agency are hereby adopted by reference and made a part hereafter as if fully set forth. Any new subparts to Part 72 that are promulgated by the United States Environmental Protection Agency after the effective date of this Section shall be subject to review and adoption by the Clark County Board of County Commissioners prior to becoming part of these Regulations. The term “permitting authority” shall mean the Clark County Board of County Commissioners, and the term “Administrator”, as defined in part 72, shall mean the Administrator of the United States Environmental Protection Agency. If the provisions or requirements of this section conflict with or are not included in the procedural requirement of section 19, the provisions and requirements of this section shall apply and take precedence.

21.2.1 Subpart A - Acid Rain Program General Provisions

21.2.2 Subpart B - Designated Representative

21.2.3 Subpart C - Acid Rain Applications

21.2.3 Subpart D - Acid Rain Compliance Plan and Compliance Options

21.2.4 Subpart E - Acid Rain Permit Contents

21.2.5 Subpart F - Federal Acid Rain Permit Issuance Procedures

21.2.6 Subpart G - Acid Rain Phase II Implementation

21.2.7 Subpart H - Permit Revisions

21.2.9 Subpart I - Compliance Certification

21.3 Any Person subject to this Section must also comply with all other requirements of these Regulations. If there is inconsistency between standards or requirements, the most stringent standard or requirements shall apply.

21.4 All requests, reports, applications, submittals, and other communications, pursuant to this Section, shall be addressed to the Control Officer of the department at 4701 W Russell Road, Las Vegas, Nevada 89118.

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History: Initial Adoption: June 22, 1995.
Amended: February 20, 2001; June 3, 2003; July 1, 2004; January 21, 2020.

SECTION 22 - ACID RAIN CONTINUOUS EMISSION MONITORING

22.1 WHEREAS, the Clark County Board of County Commissioners is responsible for control of pollutants discharged into the air; and

WHEREAS, air quality standards and regulations have been adopted by said Board pursuant to NRS 445 for the purpose, among others, of limiting contaminant Emissions from existing, Modified or new sources handling or processing Hazardous Air Pollutants; and

WHEREAS, it is a public policy of Clark County and the purpose of the Air Quality Regulations to review and approve existing, Modified and new sources of Air Pollution, only if the Emission standards are or can be met; and air quality standards will not be violated; and

WHEREAS, the United States Environmental Protection Agency has adopted standards for the monitoring, recordkeeping, and reporting of sulfur dioxide, nitrogen oxides and carbon dioxide Emissions, volumetric flow, and Opacity data from Affected Units under the Acid Rain Program pursuant to Sections 412 and 821 of the Clean Air Act, 42 U.S.C. 7401-7671, et. seq., as amended by Public Law 101-549 [November 15, 1990]; and

WHEREAS, it is the department's belief that review and approval of existing, Modified or new sources is best managed at the local level.

22.2 NOW, THEREFORE, the provisions of Part 75, Chapter I, Title 40, Code of Federal Regulations, as indexed below, are hereby adopted by reference and made a part hereof as if fully set forth. Any final revisions to an existing subpart that are promulgated by the United States Environmental Protection Agency are hereby adopted by reference and made a part hereafter as if fully set forth. Any new subparts to Part 75 that are promulgated by the United States Environmental Protection Agency after the effective date of this Section shall be subject to review and adoption by the Clark County Board of County Commissioners prior to becoming part of these Regulations. The term “permitting authority” shall mean the Clark County Board of County Commissioners and the term “Administrator”, as defined in part 72, shall mean the Administrator of the United States Environmental Protection Agency.

22.2.1 Subpart A - General

22.2.2 Subpart B - Monitoring Provisions

22.2.3 Subpart C - Operation and Maintenance Requirements

22.2.4 Subpart D - Missing Data Substitution Procedures

22.2.5 Subpart E - Alternative Monitoring Systems

22.2.6 Subpart F - Recordkeeping Requirements

22.2.7 Subpart G - Reporting Requirements

22.3 Any person subject to this section must also comply with all other requirements of these Regulations. If there is inconsistency between standards or requirements, the most stringent standard or requirements shall apply.

22.4 All requests, reports, applications, submittals, and other communications, pursuant to this Section, shall be addressed to the Control Officer of the department at 4701 W Russell Rd, Las Vegas, NV 89118.

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History: Initial Adoption: June 22, 1995
Amended: April 9, 2001; June 3, 2003; July 1, 2004; January 21, 2020.

SECTION 25: AFFIRMATIVE DEFENSE FOR EXCESS EMISSIONS DUE TO MALFUNCTIONS, STARTUP, AND SHUTDOWN

25.1 Applicability 1
25.2 Affirmative Defense for Malfunctions 1
25.3 Affirmative Defense for Startup and Shutdown 2
25.4 Affirmative Defense for Malfunctions During Scheduled Maintenance 3
25.5 Demonstration of Reasonable and Practicable Measures 3
25.6 Reporting of Excess Emissions 3

25.1 Applicability

25.1.1 Section 25 establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for the following standards or limitations:

(a) Promulgated pursuant to Sections 111 or 112 of the Act;

(b) Promulgated pursuant to Titles IV or VI of the Act;

(c) Contained in any Prevention of Significant Deterioration Authority to Construct Permit or Nonattainment Area New Source Review (NSR) Authority to Construct Permit issued directly by EPA; or

(d) Included in an Authority to Construct Permit in order to satisfy the requirements of Section 12.2.10.

25.2 Affirmative Defense for Malfunctions

25.2.1 Emissions in excess of an applicable emission limitation due to a malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of Section 25.6 and has demonstrated all of the following:

(a) The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;

(b) The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

(c) If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to ensure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;

(d) The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

(e) All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

(f) The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

(g) During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Section 11 that could be attributed to the emitting source;

(h) The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;

(i) All emissions monitoring systems were kept in operation if at all practicable; and

(j) The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

25.3 Affirmative Defense for Startup and Shutdown

25.3.1 Except as provided in Section 25.3.2, and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of Section 25.6 and has demonstrated all of the following:

(a) The excess emissions could not have been prevented through careful and prudent planning and design;

(b) If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;

(c) The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

(d) The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;

(e) All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;

(f) During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Section 11 that could be attributed to the emitting source;

(g) All emissions monitoring systems were kept in operation if at all practicable; and

(h) The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

25.3.2 If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to Section 25.2.

25.4 Affirmative Defense for Malfunctions During Scheduled Maintenance

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to Section 25.2.

25.5 Demonstration of Reasonable and Practicable Measures

For an affirmative defense under Section 25, the owner or operator of the source shall demonstrate, through submission of the data and information required by Section 25.6, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

25.6 Reporting of Excess Emissions

25.6.1 The owner or operator of any source required to obtain a permit under Section 12 shall report to the Control Officer emissions in excess of an applicable requirement or the emission limits prescribed by the permit. The report shall be in two (2) parts:

(a) Notification by telephone, facsimile or electronic mail within twenty-four (24) hours of the time the owner or operator first learns of the excess emissions;

(b) Written notification by submission of an excess emission report containing the information required by Section 25.6.3 within seventy-two (72) hours of the notification required by paragraph (a) above.

25.6.2 The owner or operator of any source required to obtain a permit under Section 12 shall report to the Control Officer emissions that are in excess of an applicable requirement or emission limit that pose a potential imminent and substantial danger to public health, safety or the environment as soon as possible, but in no case later than twelve (12) hours after the deviation is discovered, with a written report submitted within two (2) days of the occurrence.

25.6.3 An excess emission report shall contain the following information:

(a) The identity of each stack or other emission point where the excess emissions occurred;

(b) The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(c) The time and duration or expected duration of the excess emissions;

(d) The identity of the equipment from which the excess emissions emanated;

(e) The nature and cause of the emissions;

(f) The steps taken if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;

(g) The steps that were or are being taken to limit the excess emissions; and

(h) If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.

25.6.4 In the case of continuous or recurring excess emissions, the notification requirements of Sections 25.6.1 and 25.6.2 shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to Sections 25.6.1 and 25.6.2.

History: Amended: March 27, 1980; September 3, 1981; April 21, 1983; July 8, 1985; November 18, 1993; December 19, 1996; April 9, 2001; June 3, 2003; July 1, 2004; May 18, 2010.

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SECTION 26: EMISSION OF VISIBLE AIR CONTAMINANTS

26.1 Opacity Limits 2
26.2 Source-specific Opacity Limits 2
26.3 Exemptions 2
26.4 Test Method 2
26.5 Certification 3

26.1 Opacity Limits

Unless otherwise specified in Section 26.2 or other sections of these regulations, no person shall cause, suffer, allow, or permit the discharge into the atmosphere from an emissions unit any air contaminant in excess of an average of 20 percent opacity for a period of more than six consecutive minutes.

26.2 Source-specific Opacity Limits

Opacity shall not exceed an average of 10 percent for a period of more than six consecutive minutes for any chemical-process emission units commencing operation or modification after January 1, 1981, and in which one or more of the following compounds are manufactured: titanium, titanium tetrachloride, magnesium, magnesium chloride, manganese dioxide, and boron trichloride.

No person shall cause, suffer, allow, or permit the discharge into the atmosphere from any incinerator any air contaminants in excess of an average of five percent opacity for a period of more than six consecutive minutes, and no single reading shall exceed 20 percent opacity.

26.3 Exemptions

The following are exempt from the requirements of Section 26.1:

(a) Smoke from fires or from fire training as allowed in Section 42;

(b) Circumstances where the presence of uncombined water is the only reason for the failure of an emission to meet the stated limitations; and

(c) Smoke discharged in the course of training individuals to observe visible emissions, if written permission is obtained from the Control Officer specifying the times and dates of such training.

26.4 Test Method

Except as otherwise specified in an applicable federal requirement, visible emission evaluations performed to determine compliance with Sections 26.1 and 26.2 shall be conducted in accordance with the procedures specified in 40 CFR Part 60, Appendix A-4 (i.e., the U.S. Environmental Protection Agency's (EPA's) Method 9).

26.5 Certification

Visible emission evaluations shall be conducted by an observer certified in accordance with the procedures specified in EPA's Method 9.

History: Amended: April 26, 1983; July 8, 1985; April 9, 2001; December 2, 2003; July 1, 2004; December 30, 2008; May 5, 2015.

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SECTION 27 - PARTICULATE MATTER FROM PROCESS WEIGHT RATE

27.1 For purposes of the Regulation, the total process weight from all similar process units at a plant or premises shall be used for determining the maximum allowable emission of particulate matter. The process weight rate shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

27.2 No person may discharge in any one hour, from any source with process weight in the following range, dust or fumes from a stack or stacks in total quantities in excess of the amount shown in the following table. (Table 27-1)

27.3 For the purpose of establishing allowable emission limits for approval of new or modified sources of particulate matter the values of Table 27-1 can be used in absence of more stringent emission limits.

27.4 Where the process weight per hour falls between figures in the left-hand column the exact weight of permitted discharge may be interpolated.

TABLE 27-1

PROCESS WT/HR		MAXIMUM WEIGHT DISCHARGE/HOUR	
KG	(lbs)	KG	(lbs)
25	(55)	0.12	(0.26)
50	(110)	0.23	(0.51)
100	(220)	0.43	(0.94)
150	(330)	0.58	(1.27)
200	(440)	0.73	(1.60)
250	(550)	0.86	(1.89)
300	(660)	0.97	(2.14)
350	(770)	1.08	(2.38)
400	(880)	1.17	(2.58)
450	(990)	1.26	(2.78)
500	(1100)	1.35	(2.97)
550	(1210)	1.42	(3.13)
600	(1320)	1.50	(3.29)
650	(1430)	1.56	(3.44)
700	(1540)	1.63	(3.59)
750	(1650)	1.70	(3.73)
800	(1760)	1.75	(3.86)
850	(1870)	1.81	(3.99)
900	(1980)	1.87	(4.12)
1000	(2200)	1.97	(4.34)
1500	(3300)	2.44	(5.36)
2000	(4400)	2.83	(6.22)
3000	(6600)	3.54	(7.78)
4000	(8800)	4.20	(9.23)
5000	(11000)	4.83	(10.63)
6000	(13200)	5.46	(12.01)
7000	(15400)	6.08	(13.37)
8000	(17600)	6.70	(14.73)
9000	(19800)	7.30	(16.07)
10000	(22000)	8.10	(17.81)
20000	(44000)	13.95	(30.70)
27300	(60000) Or More	18.18	(40.00)

History: Amended: September 3, 1981; April 9, 2001; June 3, 2003; July 1, 2004.

SECTION 28 - FUEL BURNING EQUIPMENT

28.1 General Provisions

28.1.1 This regulation applies to installation in which FUEL is burned for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with other materials. FUELS include those such as coke, coal, lignite, coke breeze, FUEL OIL, and wood, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any FUEL, the same maximum emission limitations shall apply.

28.1.2 The heat content of coal shall be determined according to ASTM method D-271-64 Laboratory Sampling and Analysis of Coal or Coke or ASTM method D-2015-62T gross calorific value of solid fuel by the Adiabatic Bomb Calorimeter, which publications are made a part of this section by reference.

28.1.3 For purposes of this regulation the heat input shall be the aggregate heat content of all FUELS whose products of combustion pass through a stack or stacks. The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all FUEL-BURNING UNITS on a plant or premises shall be used for determining the maximum allowable amount of PARTICULATE MATTER which may be EMITTED.

28.1.4 The amount of PARTICULATE MATTER EMITTED shall be measured according to the American Society of Mechanical Engineers' Power Test Codes PTC-27, dated 1957 entitled, "Determining Dust Concentrations in a Gas Stream," which publication is made a part of this section by reference. The CONTROL OFFICER may modify this testing procedure or specify the use of more current procedures in accordance with good professional practice.

28.2 Emission Limitations

28.2.1 No PERSON shall cause or permit the EMISSION of PARTICULATE MATTER from any FUEL-BURNING EQUIPMENT in excess of the quantity set forth in the following table:

Heat input, millions of BRITISH THERMAL UNITS per hour	Maximum allowable rate of EMISSION of PARTICULATE MATTER, pounds per million BRITISH THERMAL UNITS of heat
10	0.600
50	0.412
100	0.352
500	0.242
1,000	0.207
4,000	0.150
8,000	0.102
10,000	0.0904
15,000	0.0717
20,000	0.0607
40,000	0.0409
50,000	0.0358
100,000	0.0243

28.2.2 Maximum allowable EMISSION rates of PARTICULATE MATTER for heat input greater than 10 million but less than 4000 million BTU per hour shall be determined by using the equation $Y = 1.02\ X^{-0.231}$. Maximum allowable EMISSION rates of PARTICULATE MATTER for heat inputs equal to or greater than 4000 million BTU per hour shall be determined by using the equation $Y = 17.0\ X^{-0.568}$ where Y = allowable rate of EMISSION in pounds per million BTU and X = maximum heat input in millions of BTU per hour.

History: Amended: April 23, 1987; April 24, 2001; June 3, 2003; July 1, 2004.

SECTION 32 - REDUCTION OF ANIMAL MATTER

32.1 The operation of any article, machine, equipment or other contrivance for the reduction of animal matter is prohibited unless all GASES, VAPORS and gas-entrained effluents are:

32.1.1 INCINERATED at temperatures of not less than 1400^{o} F. for not less than 0.3 seconds; or

32.1.2 Processed in a manner determined by the CONTROL OFFICER to be equally efficient.

32.2 This regulation does not apply to any article, machine, equipment or other contrivance used exclusively for the processing of food for human consumption.

History: Amended: April 24, 2001; June 3, 2003; July 1, 2004.

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SECTION 33 - CHLORINE IN CHEMICAL PROCESSES

33.1 Applicability

This section applies to any Stationary Source in Clark County which operates a Chemical Process in which molecular chlorine gas is generated. Hereafter, "chlorine" will mean molecular chlorine gas.

33.2 Performance Standard

The Potential to Emit for chlorine from all Emission Units related to a specific Chemical Process shall be less than one pound per hour.

33.3 Determination of Potential to Emit

33.3.1 Within 30 days of the date these regulations become effective, each Owner or Operator of a Stationary Source subject to this section shall submit to the Control Officer, a written estimate of the Potential to Emit for chlorine. The estimate shall include the basis and method of calculation.

33.3.2 Upon receipt of such estimate, the Control Officer shall review the same to determine whether the estimate is accurate and supported by available data. If the estimate is acceptable, the Control Officer shall so notify the Owner or Operator within 20 days of receipt of the estimate. If the estimate is not acceptable, the Control Officer shall make an independent estimate of the Potential to Emit, showing his basis and method of calculation. Such independent estimate shall be served upon the Owner or Operator within 30 days after receipt of the estimated Potential to Emit. The Owner or Operator may appeal the independent estimate of the Control Officer to the Air Pollution Control Hearing Board by serving a written notice of appeal upon the Control Officer within 20 days after receipt of the Control Officer's independent estimate. In the event no such appeal is filed, the Control Officer's independent estimate shall become final and binding for the purpose of this section.

In the event an appeal is considered, the Air Pollution Control Hearing Board shall review the Operator's original estimate, the Control Officer's independent estimate, the bases and methods of calculations used by each party, and shall make a final determination of the Potential to Emit for the purpose of this Section 33.

33.4 Monitoring compliance at existing sources with a Potential to Emit not greater than the Performance Standard

33.4.1 To assure compliance with the Performance Standard, conditions for the Operating Permits shall include numerical standards which can be routinely

monitored. The numerical standards shall be the criteria regulating chlorine Emissions from that Stationary Source. For Emission Units in which the chlorine is released through a stack or vent pipe, hereinafter called Type 1 Emission Units, the numerical standard shall be equal to the Performance Standard. For Emission Units in which the chlorine is not released through a stack or vent pipe, or in which the Emissions from the process equipment area are not detectable, hereinafter called Type 2 Emission Units, the numerical standard shall be a quantitative measurement which can be performed during an inspection by the Control Officer or his representative. An example of a quantitative measurement is to measure for chlorine, within one to five meters of the equipment in which chlorine is being processed, with a multi-stroke gas sampling pump equipped with a rapid analysis calibrated detector tube.

33.4.2 Each Owner or Operator shall submit to the Control Officer for his approval, a plan for monitoring compliance with numerical standard. The plan shall be submitted within 30 days of the date of final determination of the Potential to Emit.

1) For Type 1 Emission Units, the plan shall recommend design of the sampling method and describe sampling procedures and equipment.

2) For Type 2 Emission Units, the plan shall propose a numerical standard and a procedure for measuring it. The plan may discuss a sampling protocol to be implemented in the event that the numerical standard is exceeded. The plan may discuss a method for measuring background concentrations.

33.4.3 On or before September 1, 1984, the Control Officer shall issue the new operating permit conditions. These will include numerical standards and a description of the monitoring method.

33.5 Existing sources with a Potential to Emit greater than the Performance Standard

33.5.1 If the Potential to Emit exceeds the Performance Standard, each Owner or Operator of such an existing source shall:

1) submit for approval, a proposed chlorine Emissions monitoring plan. The plan shall:

a) specify the design and frequency of sampling to allow estimation of the annual average actual Emissions from the Chemical Process. This shall be submitted within 60 days of the date of final determination of the Potential to Emit;

b) provide for observation and direct participation by the department during testing; and

c) provide for a monitoring report to be submitted to the Control Officer each year; and

2) submit for approval, a proposed Performance Standard compliance plan in accordance with the requirements set forth in Subsection 33.7. This shall be submitted within 90 days of the date of final determination of the Potential to Emit.

33.5.2 The Control Officer shall approve, or modify the chlorine Emissions monitoring plan and the performance standard compliance plan, and notify the Owner or Operator within 30 days from the date of receipt of same. Any modification or rewriting shall become final and binding if the modification or rewriting is not appealed to the Air Pollution Control Hearing Board within 10 days from written service of same.

33.5.3 The Control Officer shall issue temporary Operating Permits for the applicable Chemical Process with permit conditions incorporating the implementation of the chlorine Emissions monitoring plan and the approved Performance Standard compliance plan as finally approved.

33.6 Requirements for Performance Standard compliance plan (for sources with a Potential to Emit greater than the Performance Standard)

33.6.1 The proposed Performance Standard compliance plan shall provide for the following requirements:

1) The Operator shall achieve compliance with the Performance Standard by August 1, 1988;

2) The Operator shall identify critical activities or projects which will be accomplished during each calendar quarter until the final compliance date; and

3) The compliance plan shall describe what equipment and process technology will be used to comply with the Performance Standard. The description shall be sufficiently detailed so that the Control Officer can determine if the expected Potential to Emit will meet the Performance Standard.

33.7 New Source Review

33.7.1 This subsection applies to any new Stationary Source of chlorine Emissions proposing to locate in Clark County. This subsection also applies to an existing Stationary Source if new Emission Units are constructed at the existing Stationary Source. The collection of new Emission Units would be considered a new Stationary Source.

33.7.2 Each new emission unit shall employ process equipment and air pollution control equipment designed to maintain the Lowest Achievable Emission Rate.

33.7.3 Each new Stationary Source shall also comply with all other air quality regulations of the Clark County Board of County Commissioners.

33.8 Enforcement

Any operating permit condition established as a result of this section is considered equivalent to a regulation. If there is an alleged violation of a permit condition, the Control Officer may exercise any of the enforcement options enumerated in Subsection 4.7 or Subsection 16.8 of these Regulations.

History: Amended: May 18, 1984; April 24, 2001; June 3, 2003; July 1, 2004; January 21, 2020.

CLARK COUNTY

AIR QUALITY REGULATIONS

SECTION 40 - PROHIBITIONS OF NUISANCE CONDITIONS

40.1 No PERSON shall cause, suffer or allow the discharge from any source whatsoever such quantities of air contaminants or other material which cause a NUISANCE.

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SECTION 41: FUGITIVE DUST

41.1 Prohibitions:

41.1.1 Any Person engaged in activities involving the dismantling or demolition of buildings, grubbing, grading, clearing of land, public or private construction, the operation of machines and equipment, the grading of roads, ~~T~~rrenching operations, the operation and use of Unpaved Parking facilities, Agricultural Operations, use and operation of livestock arenas, horse arenas and feed lots, and operation and use of raceways for Motor Vehicles shall take all reasonable precautions to abate Fugitive Dust from becoming airborne from such activities. Reasonable precautions may include, but are not limited to the conditions agreed upon in the Permit for the project, sprinkling, compacting, enclosure, chemical, or asphalt sealing, cleaning up, sweeping, or such other measures as the Control Officer may specify to accomplish satisfactory results.

41.1.1.1 The following circumstances represent examples of Fugitive Dust becoming airborne:

a) a visible plume of dust, resulting from construction activities, which extends more than 100 yards from the point of origin or beyond the nearest property line, whichever is less;

b) visible dust Emissions on an unpaved road at a construction site being used by haul trucks;

c) visible dust Emissions generated by vehicles traveling over mud and dirt carried out to a paved road near or adjacent to a construction site.

41.1.1.2 A visible plume of dust resulting from construction activities which extends more than 50 yards from the point of origin, but less than 100 yards and which has not crossed the nearest property line may be subject to an issuance of a Notice of violation including an order to take corrective action for which no penalty will be assessed.

41.1.2 No Person shall cause or permit the handling, transporting, or storage of any material in a manner which allows or may allow controllable particulate matter to become airborne;

41.1.3 Sand and abrasive blasting operation will not be permitted unless effective enclosures or other such dust control devices including but not limited to the injection of water have been installed to prevent excessive sand and dust dispersal.

41.2 Off-road vehicle and motocross racing;

41.2.1 No Person shall cause, permit, or allow the conduct of off-road vehicle racing or motocross racing within the designated boundaries of a PM_{10} nonattainment area or an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a unless adequate dust control measures are provided and approved in advance by the Control Officer.

41.2.2 Motocross racing will only be permitted at permanent motocross race courses within a PM_{10} nonattainment area or an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a.

41.2.3 Permanent motocross race courses, within a PM_{10} nonattainment area or an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a, shall be registered with and permitted by the Control Officer in accordance with Subsections 15.1 and 15.6.

41.3 Correction of condition:

41.3.1 If loose sand, dust, or dust particles are found to exist in excess of acceptable limits, as determined by the Control Officer, the Control Officer shall notify the owner, lessee, occupant, operator, or user of said land that said situation is to be corrected within a specified period of time, dependent upon the scope and extent of the problem. The failure to correct said situation within the specified period of time shall be in violation of this section.

41.4 Remedial Action:

41.4.1 The Control Officer, his designated agent, or any other authorized representative of the Clark County Board of County Commissioners, after due notice shall be further empowered to enter upon any said land where any sand or dust problem exists, and to take such remedial and corrective action as may be deemed appropriate to cope with and relieve, reduce, or remedy the existent sand and dust situation and condition, when the Owner, occupant, Operator, or any tenant, lessee, or holder of any possessory interest or right in the involved land fails to do so.

41.5 Costs:

41.5.1 Any cost incurred in connection with any such remedial or corrective action by the Clark County Board of County Commissioners or any Person acting for the Clark County Board of County Commissioners shall remain in full force and effect until any and all such costs shall have been fully paid.

History: Amended: June 25, 1992; May 17, 2001; June 3, 2003; July 1, 2004; April 15, 2014; January 21, 2020.

SECTION 42 - OPEN BURNING

42.1 No PERSON shall cause, suffer, allow, or permit the burning of any combustible material in any open fire except as provided in this section and then only when such burning has been approved in advance by the CONTROL OFFICER. Such exceptions are as follows:

42.1.1 When in the judgment of the CONTROL OFFICER, no other safe method for the disposal of combustible, explosive, or dangerous material exists or can reasonably be obtained;

42.1.2 Small fires for recreational, educational, ceremonial, cooking purposes and warmth of human beings, including barbecues and outdoor fireplaces provided they do not create a public nuisance;

42.1.3 Where fire is set either by OFFICERS of governmental agencies, in performance of their official duties or for the purposes of training and instruction of fire-fighting and fire-rescue personnel;

42.1.4 Outside the Las Vegas Valley, when such fire is set on a field used for growing crops in the course of disposing of unused portions of a crop and intermingled weeds resulting from an agriculture operation;

42.1.5 Domestic burning of material originating on premises, exclusive of garbage, at a property used exclusively as a private residence or dwelling where there is no collection service available for such material.

42.2 Notwithstanding Subsection 42.1, any burning so permitted by this section must be controlled so that public nuisance or traffic hazards are not created as a result of the air contaminants being emitted.

42.3 Nothing in this section shall be construed to prohibit or make unlawful the construction and use of private barbecue pits, grills, or outdoor fireplaces for the preparation of food for consumption by individuals; nor shall any permit from the CONTROL OFFICER be required therefor.

42.4 Open burning shall be prohibited during air pollution episode conditions as defined in Section 6 of the Implementation Plan for the State of Nevada entitled, EMERGENCY EPISODE PLAN.

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History: Amended: December 28, 1978; May 17, 2001; June 3, 2003; July 1, 2004.

SECTION 43 - ODORS IN THE AMBIENT AIR

43.1 An ODOR occurrence shall be deemed a violation when a complaint is received and substantiated within two hours by the CONTROL OFFICER. The CONTROL OFFICER shall deem the ODOR occurrence a violation if he is able to detect the ODOR twice within a period of one hour, if the ODOR is of such a nature as to cause a nuisance, and these detections being separated by at least 15 minutes.

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History: Amended: December 28, 1978; May 17, 2001; June 3, 2003; July 1, 2004.

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CLARK COUNTY

AIR QUALITY REGULATIONS

SECTION 44 - PROHIBITIONS ON PLANTING, SELLING, OR OFFERING TO SELL FRUITLESS MULBERRY AND EUROPEAN OLIVE TREES

44.1 Purpose

The Clark County Board of County Commissioners finds that pollen from Fruitless Mulberry (Morus Alba "Fruitless) and European Olive (Olea Europaea) trees contribute to the high levels of airborne pollen in urban areas of Clark County during the spring.

44.2 Prohibitions

44.2.1 After April 1, 1991

No Person shall plant, sell, offer to sell, or authorize the planting of Fruitless Mulberry or European Olive trees to any other person or company doing business within the boundaries of Clark County,

44.3 Exemption

44.3.1 Cultivars of low pollinating Fruitless Mulberry or European Olive may be exempt from Subsection 44.2.1 if the person who grows them for commercial distribution applies for and receives a Certificate of Exemption from the Air Pollution Control Hearing Board.

44.3.2 To be approved by the Air Pollution Control Hearing Board, the applicant must demonstrate to the Board that the low pollinating cultivar releases to the atmosphere less than 15% of the pollen released by a sexually mature traditional European Olive tree and that this low pollinating capacity is retained by the sexually mature cultivar for at least three years.

44.3.3 Exempt trees in inventory at retail outlets and those being delivered to landscaping projects, must include a label approved by the CONTROL OFFICER showing exempt status, date of approval of Certificate until sale to consumer.

44.3.4 The applicant shall present a distribution plan to the CONTROL OFFICER to assure that only exempt trees under the applicant's control will carry the label provided for in Subsection 44.3.3. Shipping invoices must show copy of Certificate.

44.3.5 Such certificates expire in three (3) years. The applicant may renew a certificate for three (3) year increments.

History: Initial Adoption: January 24, 1991.
Amended: May 17, 2001; June 3, 2003; July 1, 2004.

SECTION 45 - IDLING OF DIESEL POWERED MOTOR VEHICLES

45.1 Diesel Powered Motor Vehicle Idling

Except as otherwise provided in this subsection, a person shall not idle the engine of a diesel truck or a diesel bus for more than 15 consecutive minutes. The provisions of this subsection do not apply to a diesel truck or a bus:

(a) For which the Clark County Air Pollution Control Hearing Board has issued a variance from the requirements of this subsection. A variance is not effective during an air pollution emergency episode stage declared by the department.

(b) Which is an emergency vehicle.

(c) Used to repair or maintain other Motor Vehicles.

(d) Which is stopped because of traffic congestion while in transit on a highway, roadway or street.

(e) The emission from which is contained and treated by a method approved by the Control Officer.

(f) The engine of which must idle to perform a specific task for which is it designed such as well drilling, trenching or hoisting. Such an engine may not idle for more than 15 consecutive minutes during an air quality emergency episode stage declared by the department.

(g) Which is idling while maintenance procedures are being performed at a repair facility.

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History: Amended: September 26, 1991; May 17, 2001; June 3, 2003; July 1, 2004; January 21, 2020.

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SECTION 50 - STORAGE OF PETROLEUM PRODUCTS

50.1 A PERSON shall not place, store, nor hold in any stationary tank, reservoir or other container of more than 151,412 liters (40,000 gallons) capacity of any petroleum liquid having a VAPOR pressure of 78 mm Hg (1.5 pounds per square inch absolute) or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressure sufficient at all times to prevent hydrocarbon VAPOR or gas loss into the atmosphere, or unless it is designed and equipped with one of the following VAPOR LOSS CONTROL DEVICES, properly installed, and in good working order and operation:

50.1.1 A floating roof, consisting of a pontoon type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, to close the space between the roof edge and the tank wall. The control equipment provided for herein shall not be used if the petroleum product has a VAPOR pressure of 572 mm Hg (11.0 pounds per square inch absolute) or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

50.1.2 A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors and gases so as to prevent their EMISSION to the atmosphere, and with all tank gauging and sampling devices gas-tight, except when gauging or sampling is taking place;

50.1.3 Other equipment of equal efficiency, provided such equipment has first been submitted to and approved by the CONTROL OFFICER.

50.2.1 There shall be no visible holes, tears or other openings in the seal or seal fabric of the tank reservoir or other container for the storage of petroleum liquids.

50.2.2 All openings, except stub drains, are to be equipped with a cover, seal or lid. The cover, seal or lid is to be in a closed position at all times except when the device is in actual use. Automatic bleeder vents are to be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents, if provided, are to be set to open when the roof is floated off the roof leg supports or at the manufacturer's recommended setting.

History: Amended: December 28, 1978; June 11, 2001; June 3, 2003; July 1, 2004.

CLARK COUNTY

AIR QUALITY REGULATIONS

SECTION 51 - PETROLEUM PRODUCT LOADING INTO TANK TRUCKS AND TRAILERS

51.1 A PERSON shall not load any petroleum product having a VAPOR pressure of 78 mm Hg (1.5 psia) or greater into any tank truck, trailer, or tank car from any loading facility dispensing 18925 kiloliters (5,000,000 gallons) annually unless such loading facility is equipped with a VAPOR collection and disposal system or its equivalent, properly installed, in good working order and in operation.

51.1.1 No person shall load any petroleum product having a vapor pressure of 78 mm Hg (1.5 psia) or greater into any tank truck, trailer or tank car from any loading facility dispensing less than 18925 kilo liters (5,000,000 gallons) annually unless such loading equipment is designed for bottom loading only or uses a submerged fill tube extending to within 76.2 mm (3 inches) of the bottom of the tank being filled.

51.2 When loading is effected through the hatches of a tank truck or trailer with a loading arm equipped with a VAPOR collecting adaptor, a pneumatic, hydraulic or other mechanical means shall be provided to force a vapor-tight seal between the adaptor and the hatch. A means shall be provided to prevent liquid gasoline drainage from the loading device when it is removed from the hatch of any tank truck or trailer, or to accomplish complete drainage before such removal.

51.3 When loading is effected through means other than hatches, all loading and VAPOR lines shall be equipped with fittings which make vapor-tight connections and which close automatically when disconnected.

51.4 The VAPOR disposal portion of the system shall consist of one of the following:

51.4.1 A vapor-liquid absorber system with a minimum recovery efficiency of 90 percent by weight of all the hydrocarbon vapors and gases entering such disposal system;

51.4.2 A variable VAPOR space tank, compressor, and FUEL gas system of sufficient capacity to receive all hydrocarbon vapors and gases displaced from the tank trucks and trailers being loaded;

51.4.3 Other equipment of at least 90 percent efficiency provided such equipment is submitted to and approved by the Air Quality CONTROL OFFICER.

51.5 The loading shall be accomplished in such a manner that the mixture of vapor and air displaced from the delivery vessel will be vented only to the vapor recovery system.

History: Amended: December 28, 1978; June 11, 2001; June 3, 2003; July 1, 2004.

SECTION 53 - OXYGENATED GASOLINE PROGRAM

53.1 Area of Applicability

53.1.1 The area of applicability is the hydrographic basins containing the Las Vegas Valley, the Eldorado Valley, the Ivanpah Valley, the Boulder City limits, and any area within three (3) miles of any such hydrographic basins and which is within Clark County, Nevada.

53.2 Oxygenated Fuel Program Period and Oxygen Content:

53.2.1 Within the area of applicability, from October 1 to March 31 no Gasoline shall be supplied, or sold by any person intended as a final product for fueling motor vehicles, or sold at retail, or sold to a private or a municipal fleet, for consumption or introduced into motor vehicle by any person, unless the Gasoline has at least 3.5 percent oxygen content by weight.

53.2.*2* The requirements of subsection 53.2.1 shall apply solely to Gasoline that is introduced into commerce within the program area, and shall not be construed in any manner to prevent or discourage the introduction into commerce, and/or combustion within a vehicle, natural gas and any other energy source which has the demonstrated ability to reduce vehicular Emissions of carbon monoxide in amounts equal to or greater than the average reduction expected from the oxygen content standards set in subsection 53.2.1 of this section.

53.2.3 Tolerance Specifications of Oxygen Content:

53.2.3.1 The specified oxygen content by weight shall not drop below the following minimum levels:

	Specified Oxygen Content	Acceptable Minimum
(a)	2.7% [when (R+M)/2∃98]	2.43%
(b)	3.5%	3.15%

53.2.3.2 If any underground storage tank containing fuel is determined to exceed the specified tolerances listed above, the Control Officer shall immediately lock and tag any associated dispensing nozzles as “out of order” until such time the Control Officer determines compliance with the specified tolerances listed in 53.2.3.1.

53.2.3.3 Prohibition of Use: No person shall dispense or permit the dispensing of any fuel from a nozzle tagged as “out of order” until such time that the Control Officer has determined compliance.

53.2.4 From October 1 to March 31: Gasolines with an octane rating of 98 or greater (R+M)/2 shall contain a minimum of 2.7% oxygen by weight via the addition of MTBE, ethanol or other oxygenate approved by EPA. The requirements of Section 53.2.1 will not apply for these Gasolines.

53.3 All Oxygenated Gasoline shall be labeled at the dispensing pump and contain the following statement: The Gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from Motor Vehicles.

53.3.1 The label shall be placed on the vertical surface of the pump on each side with gallonage and price meters and shall be on the upper two-thirds of the pump, clearly readable to the public.

53.3.2 The label lettering shall consist of block letters of no less than 20 point bold type, in a color contrasting with the intended background.

53.3.3 The label may include the length of the mandate season and percent oxygenate content and other information.

53.4 Oxygenated Gasoline Invoice Documentation:

53.4.1 All fuel delivery invoices, notes or orders for Gasoline containing oxygenate shall clearly state the type of oxygenate used and the intended or estimated percent of oxygen content by weight or the intended or estimated percent of oxygenate content by volume.

53.5 Transition and Potential Closure:

53.5.1 Transition after October 1:

53.5.1.1 If a Gasoline storage tank received its last delivery before September 15, Gasoline dispensed from that tank will be exempt from enforcement of subsection 53.2.1.1, 53.2.2.1(a) and 53.2.2.2(a) until the date that the first delivery is made after October 1.

53.6 The department shall prepare a report to be filed with the Clark County Board of County Commissioners on May 15 of each year regarding the results of the Oxygenated Gasoline program.

53.6.1 This will include an analysis of costs and benefits, investigations of complaints, enforcement activity, and best estimates of air quality improvements resulting from the program.

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History: Initial Adoption: November 17, 1988.
Amended: June 28, 1990; July 25, 1991; July 22, 1993; October 27, 1994; July 27, 1995; August 22, 1996; September 25, 1997; June 11, 2001; June 3, 2003; July 1, 2004; January 21, 2020.

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Suspended by the Board of County Commissioners, Effective 09/29/09

SECTION 54 - CLEANER BURNING GASOLINE (CBG): WINTERTIME PROGRAM

DEFINITIONS:

"**ASTM**" means the American Society for Testing and Materials.

"**Barrel"** means 42 U.S. gallons.

"**Bulk purchaser-consumer**" means a Person that purchases or otherwise obtains Gasoline in bulk and then dispenses it into the fuel tanks or Motor Vehicles owned or operated by the Person.

"**Bulk plant**" means an intermediate Gasoline distribution facility where delivery of Gasoline to and from the facility is solely by truck.

"**Cap**" or absolute limit means a standard that applies to all Gasoline whenever it is sold or supplied throughout the distribution system.

"**CBG or Cleaner Burning Gasoline**" means:

(A) Gasoline sold, intended for sale, or made available for sale as a Motor Vehicle fuel in Clark County Nevada; and

(B) Gasoline that the producer knows or reasonably should know will be offered for sale or supply at an out-of-state terminal or bulk plant at which it will be identified as Gasoline suitable for sale as a Motor Vehicle fuel in Clark County, Nevada.

"**CBGBOB or Cleaner Burning Gasoline blend stock for oxygenate blending,** means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute CBG upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.

"Designated Alternative Limit or DAL" means an alternative Gasoline specification limit, expressed in the nearest part per million by weight for sulfur content, nearest tenth percent by volume for aromatic hydrocarbon content, which is assigned by a producer or Importer to a final blend of CBG pursuant to Section 54.4.

"**Final blend**" means a distinct quantity of Gasoline or a batch of CBG or CBGBOB at a production facility from which some or all of the quantity or batch is delivered via pipeline to Clark County and/or a distinct quantity of CBG or CBGBOB that is imported into Clark County via either railway tank cars or trucks.

"**Further process**" means to perform any activity on Gasoline, including distillation, treating with hydrogen, or blending, for the purpose of bringing the gasoline into compliance with the standards in this section.

"**Gasoline**" means any fuel that is commonly or commercially known, sold or represented as Gasoline.

"**Imported CBG**" means CBG which is transported into Clark County, Nevada via rail car or tank truck or trailer.

"**Import facility**" means the facility at which Imported CBG or CBGBOB is first received in Clark County, Nevada, including, in the case of Gasoline or CBGBOB imported by cargo tank and delivered directly to a facility for dispensing Gasoline into Motor Vehicles, the cargo tank in which the CBG or CBGBOB is imported.

"**Importer of CBG**" means any Person who first accepts delivery in Clark County, Nevada of Imported CBG.

"**Motor vehicle**" has the same meaning as defined in Section 0.

"**Oxygenate**" is any oxygen-containing, ash-less, organic compound, such as an alcohol or ether, which, when added to Gasoline increases the amount of oxygen in Gasoline**.**

"**Oxygenate blending facility**" means any facility (including a truck) at which oxygenate is added to Gasoline or blend-stock, and at which the quality or quantity of Gasoline is not altered in any other manner except for the addition of deposit control additives or other similar additives.

"**Oxygenate blender**" means any Person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blend-stock or Gasoline used or the Gasoline produced at an oxygenate blending facility.

“Produce” means, except as otherwise provided in section (a) or (b) below, to convert liquid compounds which are not Gasoline into Gasoline. When a Person blends volumes of blend-stocks which are not Gasoline with volumes of gasoline acquired from another Person, and the resulting blend is Gasoline, the Person conducting such blending has produced only the portion of the blend which was not previously Gasoline. When a Person blends Gasoline with other volumes of Gasoline, without the addition of blend-stocks which are not Gasoline, the Person does not produce Gasoline.

(a) Where a Person supplies Gasoline to a refiner who agrees in writing to further process the Gasoline at the refiner's refinery and to be treated as a producer of the Gasoline, the refiner shall be deemed for all purposes under this article to be the producer of the Gasoline.

(b) Where a Person blends oxygenates into Gasoline which has already been supplied from a Gasoline production facility or import facility, and does not alter the quality or quantity of the Gasoline in any other way, the Person does not produce Gasoline.

"**Producer**" means any Person who owns, leases, operates, controls or supervises a production facility.

"**Production facility**" means a facility at which CBG or CBGBOB is produced. Upon request of a producer, the department may designate, as part of the producer's production facility, a physically separate bulk storage facility which (A) is owned or leased by the producer, and (B) is operated by or at the direction of the producer and (C) is not used to store or distribute CBG or CBGBOB that is not supplied from the production facility.

"**Refiner**" means any Person who owns, leases, operates, controls or supervises a refinery.

"**Refinery**" means a facility that produces liquid fuels by distilling petroleum.

"S**upply**" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

54.1 Applicability of Standards; Additional Standards; Registration

54.1.1 All sales, supplies, offer or movements of CBG for use in Clark County, Nevada, including transactions directly involving the fueling of Motor Vehicles at a retail outlet or bulk purchaser consumer facility.

54.1.2 Unless otherwise specifically provided, this section shall apply from November 1, 1999 to March 31, 2000, and each such winter season thereafter.

54.1.3 The standards in subsections 54.2.1and 54.2.2 shall not apply to:

(a) transactions directly involving the fueling of Motor Vehicles at a retail outlet or bulk purchaser-consumer facility, where the Person selling, offering, or supplying the Gasoline

demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by Gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to October 15th. If a Gasoline storage tank received its last delivery before October 15th, Gasoline dispensed from that tank will be exempt from enforcement of subsections 54.2.1, 54.2.2 and 54.5 until the date that the first delivery is made after November 1st.

(b) a sale, offer for sale, or supply of CBG to a refiner if:

(1) the refiner further processes the Gasoline at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the Gasoline, and

(2) in the case of standards applicable only to producers or importers, the refiner to whom the Gasoline is sold or supplied is the producer of the Gasoline pursuant to Section 54.

(c) Gasoline with an octane rating of 98 or greater (R+m)/2, also known as “racing fuel”:

(1) fuel within this category shall contain the following maximum sulfur and aromatic hydrocarbon content:
Sulfur - 10 ppm by weight
Aromatic Hydrocarbons - 30% by volume

(2) The requirements of the following sections shall not apply to *racing fuel*:
Section 54.3: Election of the Averaging Compliance Option for a Gasoline Supplied from a Production or Import Facility;
Section 54.4: Designated Alternative Limits;
Section 54.5: Election of the Flat Limit Option for a Gasoline Supplied from a Production or Import Facility.

54.1.4 Registration: Each producer and importer Of CBG shall register with the department by August 1, 1999 or in advance of the 1st date that such Person will produce or import CBG or CBGBOB. Registration shall be on forms prescribed by the department and shall include a statement of acceptance of the standards and enforcement provisions of this regulation; and shall include a statement of consent by the registrant that the department shall be permitted to collect

samples and access documentation and records. The department shall maintain a listing of all registered suppliers.

54.2 Standards

54.2.1 Standards for Sulfur Content

54.2.1.1 Maximum sulfur standard for all CBG. No Person shall sell, offer for sale, supply, offer for supply, or transport CBG which has a sulfur content exceeding 80 parts per million by weight.

54.2.1.2 Additional flat sulfur standard for producers and Importers. No producer or Importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG which has a sulfur content exceeding 40 parts per million by weight, unless the transaction occurs during a period for which the producer or importer has elected to be subject to subsection 54.2.1.3.

54.2.1.3 Sulfur averaging compliance option for producers and importers. A producer or importer may designate an "averaging compliance" period of any number of days up to the period of November 1 through the following March 31. No producer or importer shall, during such period for which the producer or importer has elected to be subject to this subsection 54.2.1.3, sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG that on average for the period has a sulfur content exceeding 30 parts per million by weight, unless elected:

(1) A designated alternative limit for sulfur content has been established for the Gasoline in accordance with the requirements of subsection 54.4,

(2) The sulfur content of the Gasoline does not exceed the designated alternative limit, and

(3) Where the designated alternative limit exceeds 30 parts per million, the excess sulfur content is fully offset in accordance with subsection 54.4.2.(1).

54.2.2 Standards for Aromatic Hydrocarbon Content

54.2.2.1 Maximum aromatic hydrocarbon standard for all CBG. No Person shall sell, offer for sale, supply, offer for supply, or transport CBG which has an aromatic hydrocarbon content exceeding 30.0 percent by volume.

54.2.2.2 Additional flat aromatic hydrocarbon standard for producers and importers. No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG which has an aromatic hydrocarbon content exceeding 25.0 percent by volume, unless the transaction occurs during a period for which the producer or importer has elected to be subject to 54.2.2.3.

54.2.2.3 Aromatic hydrocarbon averaging compliance option for producers and importers. A producer or importer may designate an "averaging compliance" period of any number of days up to the period of November 1 through the following March 31. No producer or importer shall, during such period for which the producer or importer has elected to be subject to this subsection 54.2.2.3, sell, offer for sale, supply, or offer for supply from its production facility or import facility CBG that on average for the period has an aromatic hydrocarbon content exceeding 22.0 percent by volume, unless elected:

(1) A designated alternative limit for aromatic hydrocarbon content has been established for the Gasoline in accordance with the requirements of subsection 54.4,

(2) The aromatic hydrocarbon content of the Gasoline does not exceed the designated alternative limit, and

(3) Where the designated alternative limit exceeds 22.0 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection 54.4.2(2).

54.3 Election of the Averaging Compliance Option for a Gasoline Supplied from a Production or Import Facility

54.3.1 A producer or importer selling or supplying a final blend of Gasoline from its production or import facility may elect pursuant to this subsection 54.3.1 to have the final blend subject to the averaging compliance option for one or more of the following properties: sulfur, aromatic hydrocarbons.

54.3.2 In order to elect to have a final blend subject to the averaging option for a Gasoline property, the producer or importer shall notify the department of such election and of the estimated volume (in (barrels), the blend identity, the blend batch number, and location (including tank numbers) of the final blend.

54.3.3 Once a producer or importer has made such an election under this subsection 54.3.3 with respect to a Gasoline property, all final blends

subsequently sold or supplied from the production or import facility shall be subject to the averaging compliance option for that property until the producer or importer elects in accordance with subsection 54.5 to have a final blend at the facility subject to the flat limit compliance option for that property.

54.4 Designated Alternative Limits

54.4.1 Assignment of a Designated Alternative Limit (DAL).

(1) A producer or importer that has elected to be subject to subsections 54.2.1.3 and/or 54.2.2.3 may assign a designated alternative limit (DAL) to a final blend of CBG produced or imported by the producer or importer by satisfying the notification requirements in this subsection 54.4.1. In no case shall a DAL be less than the sulfur or aromatic hydrocarbon content, of the final blend shown by the sample and test conducted pursuant to Section 54.10, as applicable. If a producer or importer intends to assign DALs for more than one Gasoline specification to a given quantity of Gasoline, the party shall identify the same final blend for all DALs for the Gasoline.

(2) The producer or importer shall notify the department of the estimated volume (in barrels), the designated alternative limit (DAL), the blend identity, the location and the averaging compliance period (if known) of each final blend receiving a DAL. This notification shall be received by the department when starting physical transfer of the Gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer to the common carrier pipeline or commingles the final blend.

(3) For each final blend receiving a designated alternative limit, the producer or importer shall notify the department with the following information for the final blend; final volume, fuel properties as determined under subsection 54.10.6 and date and time of the completion of physical transfer from the production or import facility. This notification will be provided on the monthly summation report, subsection 54.10.11. A final blend receiving a DAL can have a date of physical transfer prior to November 1 if it can be demonstrated that the CBG in that final blend is intended for sale in Clark County during the period of November 1 through March 31.

(4) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in 54.4.1(2) above, the producer or importer may notify the department of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the department determines that the conditions of this subsection 54.4.1(4) have been met, timely notification shall be deemed to have occurred.

(5) The department shall maintain an electronic data base for tracking and monitoring blend averages, designated alternative limits, shipment volumes, and other such parameters as deemed necessary. The sole purpose of this data base will be to ensure that the sulfur and aromatic hydrocarbons content of final delivered blends is in compliance with the specifications of this regulation.

54.4.2 Additional prohibitions regarding CBG to which a Designated Alternative Limit has been assigned.

(1) Offsetting excess sulfur. Before or after the start of physical transfer from a production or import facility of any final blend of CBG to which a producer has assigned a designated alternative limit for sulfur content exceeding 30 parts per million, the producer or importer shall complete physical transfer from the same production or import facility of CBG in sufficient quantity and with a designated alternative limit sufficiently below 30 parts per million to offset the mass of sulfur in excess of a limit of 30 parts per million. Offsetting shipments can have a date of physical transfer prior to November 1 if it can be demonstrated that the CBG in that final blend is intended for sale during the period of November 1 through March 31. Offsetting shipments must be completed by March 31.

(2) Offsetting excess aromatic hydrocarbons. Before or after the start of physical transfer from a production or import facility of any final blend of CBG to which a producer has assigned a designated alternative limit for aromatic hydrocarbon content exceeding 22.0 percent by volume, the producer or importer shall complete physical transfer from the same production or import facility of CBG in sufficient quantity and with a designated alternative limit sufficiently below 22.0 percent by volume to offset the volume of aromatic hydrocarbons in

excess of a limit of 22.0 percent. Offsetting shipments can have a date of physical transfer prior to November 1 if it can be demonstrated that the CBG in that final blend is intended for sale during the period of November 1 through March 31. Offsetting shipments must be completed by March 31.

54.5 Election of the Flat Limit Option for a Gasoline Supplied from a Production or Import Facility

54.5.1 A producer or importer selling or supplying a final bend of Gasoline from its production or import facility may elect to have the final blend subject to the flat limit compliance option in accordance with this subsection 54.5.1. No such election may be made if there are outstanding requirements to provide offsets for the Gasoline property at the facility.

54.5.2 A producer or importer shall notify the department when switching from the averaging compliance option to the flat compliance option. This notification shall be received by the department when starting physical transfer of the Gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer to the common carrier pipeline or commingles the final blend. The producer or importer will not be required to make further notifications unless and until they switch to using the averaging option as described in 54.4.1(2).

54.5.3 Once a producer or importer has made an election under this subsection 54.5.3 with respect to a Gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the flat limit compliance option for that property until the producer or importer elects in accordance with Subsection 54.3 to have a final blend at the facility subject to the averaging compliance option for that property.

54.5.4 Once a producer or importer has made an election under this subsection 54.5.4 with respect to a Gasoline property of a final blend at a Production or Import Facility, the Producer or Importer may not use any previously assigned designated alternative limit for that property to provide offsets pursuant to the applicable provision in subsection 54.3 for any final blend sold or supplied from the production or import facility subsequently to the election.

54.6 Gasoline Subject to PM Alternative Specifications Based on the Predictive Model [Reserve]

54.7 Certified Gasoline Formulations Resulting in Equivalent Emission Reductions Based on Motor Vehicle Emission Testing [Reserve]

54.8 Exemptions for Gasoline Used in Test Programs [Reserve]

54.9 Liability of Persons Who Commit Violations Involving Gasoline that Has Not Yet Been Sold or Supplied to a Motor Vehicle

54.9.1 For the purposes of this subsection, each sale of CBG at retail, and each dispensing of CBG into a Motor Vehicle fuel tank, shall also be deemed a sale or supply by any Person who previously sold or supplied such gasoline in violation of this subsection.

54.10 Sampling, Testing and Recordkeeping

54.10.1 The requirements of this subsection shall apply to each producer importer, or transporter that has elected to sell, offer for sale, supply, or offer for supply CBG. These requirements apply to CBG which has been produced, imported, or transported conforming with Subsection 54.2.1.2 (Sulfur Flat Standard); Subsection 54.2.1.3 (Sulfur Averaging Compliance Option); Subsection 54.2.2.2 (Aromatic Hydrocarbon Flat Standard); or Subsection 54.2.2.3 (Aromatic Hydrocarbon Averaging Compliance Standard). All records must contain a statement declaring whether the sample conforms to the *Flat Standard* or *Averaging Compliance Option.*

54.10.2 Sampling Procedures - In determining compliance with the standards set forth in subsection 54.2, a sampling methodology acceptable per ASTM standards shall be used.

54.10.3 Test Methods - In determining compliance with the standards set forth in subsection 54.2, the test methods presented in Table 1 shall be used. All identified test methods are incorporated herein by reference.

TABLE 1

Subsection	Gasoline Specification	Test Method
54.2.1	Sulfur Content	AS TM D 2622-94 AS TM D 5453-93
54.2.2	Aromatic Hydrocarbon Content	AS TM D 5580-95 or AS TM D 1319

54.10.4 Equivalent Test Methods - Whenever this subsection provides for the use of a specified test method, another test method may be used following a determination by the department that the other method produces results equivalent to the results with the specified method.

54.10.5 The department or its designee will consider and allow the appropriate test reproducibility as allowed by ASTM when enforcing these standards. Enforcement of the standards at locations where gasoline is sold, intended for sale, or made available for sale as a Motor Vehicle fuel in Clark County, Nevada will be at the standard defined in subsection 54.2.1.1 for sulfur content and 54.2.2.1 for aromatic hydrocarbon content.

54.10.6 Each producer shall sample and test for the sulfur and aromatic hydrocarbon content in each final blend of CBG which the producer has produced, by collecting and analyzing a representative sample of gasoline taken from the final blend, using the methodologies specified in subsections 54.10.2 and 54.10.3. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, identity of blend sampled, final blend volume, sulfur, aromatic hydrocarbon content.

54.10.7 Determining whether CBGBOB complies with the standards for CBG: If a producer or importer has designated a final blend as CBGBOB the sulfur and aromatic hydrocarbon content properties for compliance with subsections 54.2 and 54.10 for that blend shall be determined by adding the specified type and amount of oxygenate to a representative sample of the final blend of CBGBOB.

54.10.8 Each Importer shall sample and test for the sulfur and aromatic hydrocarbon content in each shipment of CBG which the Importer has imported by railway tank-cars, trucks and trailers, by collecting and analyzing a representative sample of the gasoline, using the methodologies specified in subsections 54.10.2 and 54.10.3. The Importer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, the volume of the shipment, sulfur and aromatic hydrocarbon content.

54.10.9 A producer or importer shall provide to the department any records required to be maintained by the producer or importer pursuant to this subsection within 20 days of a written request from the department if the request is received before expiration of the period during which the records are required to be maintained.

54.10.10 All parties in the distribution chain (producer, importer, terminals, pipelines, truckers, rail carriers, retailers) must maintain transfer documents for a minimum of two (2) years. The records as a minimum must contain the type and date of transfer, blend identity,

blend batch numbers, volume of transfer, container or transport type, test results, and certification that the fuel meets cap standards.

54.10.11 Each producer or importer electing to sale, offer for sale, supply, or offer to supply CBG pursuant to this regulation shall provide a monthly summation report to the department no later than the 15th of the following month. This report shall provide as a minimum, reconciliation of the month's transactions relative to the requirements of subsection 54.10.6. Updates or revisions to estimated transaction volumes for subsection 54.4.1 (2) shall be included in this report.

54.11 Requirements Pertaining to Cleaner Burning Gasoline Blend-stock for Oxygenate Blending (CBGBOB) and Downstream Blending

54.11.1 Requirements for oxygenate blenders: Whenever an oxygenate blender receives CBGBOB from a transferor to whom the oxygenate blender has represented that he/she will add oxygenate to the CBGBOB, the oxygenate blender must add to the CBGBOB oxygenate of the type(s) and amount (or within the range of amounts) identified in the documentation accompanying the CBGBOB.

54.11.2 No Person may combine CBG which has been supplied from a production or import facility with any non-oxygenate blend-stock, other than vapor recovery condensate. A Person may combine CBG with other blend-stocks if it can be clearly demonstrated that the resulting gasoline will not be sold in Clark County.

54.11.3. Notwithstanding 54.11.2, the department may enter into a written protocol with any Person to identify conditions under which the Person may lawfully blend trans-mix or reprocessed trans-mix into CBG which has been supplied from its production or import facility only if it is determined that the blending will not significantly affect the properties of the CBG.

54.11.4. Notwithstanding 54.11.2, a Person may add non-oxygenate blend-stock to CBG that does not comply with one or more of the cap limits contained in sections 54.2.1.1 and 54.2.2.1 where the Person obtains the prior approval of the department based on a demonstration that adding the blend-stock is a reasonable means of bringing the gasoline into compliance with the cap limits.

54.12 Enforcement

Failure to comply with any section of the Air Quality Regulations is subject to enforcement action, pursuant to subsection 4.7. Penalties of up to

$10,000 per day per Section violated may be imposed, pursuant to Section 9. Variances can be requested, pursuant to Subsection 7.5.

54.12.1 All Parties in the distribution chain through the retail level must maintain transfer documents as specified in subsection 54.10.10. Any producer, importer, terminal, pipeline operator, trucker, rail carrier, or retailer that fails to test and/or maintain records per Section 54.10; sells gasoline in Clark County not meeting the specifications of this regulation; or allows conventional gasoline to be commingled with Clark County CBG, is liable for violations and may be subject to the maximum penalties of this section.

History: Initial Adoption: April 22, 1999.
Amended: June 25, 2001; June 3, 2003; July 1, 2004; January 21, 2020.

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SECTION 70 - EMERGENCY PROCEDURES

70.1 If the CONTROL OFFICER determines that either a generalized condition of AIR POLLUTION or the operation of one or more particular sources of air contaminant is causing or may cause imminent danger to human health or safety, he may declare that an episode condition such as an alert, warning or an emergency exists. The CONTROL OFFICER may order the prohibition, restriction, reduction or discontinuance of the EMISSIONS of any air contaminant which is causing or may cause aggravation of the condition. The CONTROL OFFICER shall utilize Section 6 of the Air Quality Implementation Plan for the State of Nevada which is entitled, EMERGENCY EPISODE PLAN, as a guide for the actions during an episode condition.

70.2 Any order issued pursuant to Subsection 70.1 above, shall expire by limitation 24 hours after it takes effect, unless affirmed and extended, modified or set aside by the Air Pollution Control HEARING BOARD within that period of time.

70.3 Enforcement of restrictions on MOTOR VEHICLE operations may be carried out by law enforcement agencies having jurisdiction within incorporated or unincorporated areas of the Department of Air Quality and Environmental Management.

70.4 The OWNER or OPERATOR of any STATIONARY SOURCE which EMITS 100 short tons (90.7 metric tons) or more per year of any air contaminant shall prepare and submit to the CONTROL OFFICER a standby plan for reducing or eliminating EMISSIONS of air pollutants during periods of an AIR POLLUTION Alert, AIR POLLUTION Warning, or AIR POLLUTION Emergency as defined in the EMERGENCY EPISODE PLAN.

70.4.1 Each such plan shall be submitted within 90 days of this regulation and shall be subject to review and approval of the CONTROL OFFICER. Any such plan will be approved unless the CONTROL OFFICER notifies the OWNER OR OPERATOR within 60 days that such plan has been disapproved. The CONTROL OFFICER will set forth reasons for any disapproval. (This subsection effective 1/28/73.)

70.4.2 The provision of Subsection 70.4.1 shall supersede that contained as part of the EMERGENCY EPISODE PLAN which relates to the time of submittal of standby plans.

70.4.3 Each such plan shall identify the air pollutants EMITTED by the source, the specific facility from which each air pollutant is EMITTED, the manner in which reduction of EMISSIONS will be achieved during an AIR POLLUTION Alert, Warning, or Emergency, and the approximate reduction in EMISSIONS to be achieved by each reduction measure.

70.4.4 During an AIR POLLUTION Alert, Warning, or Emergency a copy of such plan shall be made available on the source premises for inspection by the CONTROL OFFICER.

70.5 Upon notification by the CONTROL OFFICER that an AIR POLLUTION Alert, Warning, or Emergency has been declared, the OWNER OR OPERATOR of each source which has a standby plan approved by the CONTROL OFFICER shall implement the EMISSION reduction measures specified in such plan.

70.6 Any OWNER OR OPERATOR of a STATIONARY SOURCE not subject to the requirements of Subsection 70.1 of this section shall, when requested by the CONTROL OFFICER in writing, prepare and submit a standby plan in accordance with this section.

History: Amended: July 24, 1979; June 11, 2001; June 3, 2003; July 1, 2004.

CLARK COUNTY

AIR QUALITY REGULATIONS

SECTION 80 - CIRCUMVENTION

80.1 A PERSON shall not build, erect, install or use any article, machine, equipment or other contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, reduces or conceals an EMISSION which would otherwise constitute a violation of these Regulations. This section shall not apply to cases in which the only violation involved is of Subsection 40.140 of the Nevada Revised Statutes or of Section 40 of these Regulations.

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SECTION 81 - PROVISIONS OF REGULATIONS SEVERABLE

81.1 If any provision of these Regulations or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of these Regulations which can be given effect without the invalid provision or application, and to this end the provisions of these Regulations are declared to be severable.

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SECTION 90: FUGITIVE DUST FROM OPEN AREAS AND VACANT LOTS

90.1 **Fugitive Dust from Open Areas and Vacant Lots**

90.1.1 **Purpose:** To limit the emission of particulate matter into the ambient air from Open Areas and Vacant Lots.

90.1.2 **Applicability:** The provisions of this regulation shall apply to Open Areas and Vacant Lots which are located in a PM_{10} nonattainment area, an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a, or the Apex Valley (hydrographic areas 216 and 217). Nothing in Section 90 of these Regulations shall be construed to prevent enforcement of Section 40 (Prohibition of Nuisance Conditions) of these Regulations. The provisions of this regulation shall not apply to normal farm cultural practices or the raising of fowl or animals. The provisions of this regulation shall not apply to Stationary Sources as defined in Section 0, except that these control measures shall be considered as part of a BACT determination.

90.1.3 **Effective Date of This Regulation:**

90.1.3.1 Section 90, adopted by the Clark County Board of County Commissioners on June 22, 2000, shall be effective in hydrographic area 212 on January 1, 2001, except as otherwise provided herein.

90.1.3.2 Section 90 shall be effective in hydrographic areas 216 and 217 on April 1, 2002, except as otherwise provided herein.

90.2 **Requirements:**

90.2.1 **Open Areas And Vacant Lots:** If Open Areas and Vacant Lots are 5,000 square feet or larger and are disturbed by any means, including use by Motor Vehicles and/or Off-Road Motor Vehicles or material dumping, then the Owner and or Operator of such Open Areas and Vacant Lots shall implement one or more of the Control Measures described in Subsection 90.2.1.1 of this regulation within 30 calendar days following the initial discovery of disturbance or vehicle use on Open Areas and Vacant Lots. The Owner and/or Operator shall implement all control measures necessary to limit the disturbance of Open Areas and Vacant Lots in accordance with the requirements of this regulation. **Advisory Notice:** In order to conserve water to the greatest extent practicable, the use of Reclaimed Water is highly encouraged.

90.2.1.1 **Control Measures:**

(a) Where there is evidence of soil disturbance by Motor Vehicles and/or Off-Road Vehicle use, prevent Motor Vehicle and/or Off-Road Vehicle trespassing, parking, and/or access, by installing barriers, curbs, fences, gates, posts, signs, shrubs, trees, or other effective traffic Control Measures. A stable surface area shall be established and maintained by using one of the Control Measures set forth in Subsections 90.2.1.1(b) or (c) or by the effective application of water in compliance with the stabilization standards set forth in Subsection 90.2.1.2. Where measures to prevent vehicular trespassing and movement are not effective, the application of water will not be utilized for surface stabilization. For the purposes of this subsection, use of or parking on Open Areas and Vacant Lots for noncommercial and non-institutional purposes by the Owner and/or Operator of such Open Areas and Vacant Lots shall not be considered vehicle use under this subsection. In addition, vehicle use related to landscaping maintenance shall not be considered vehicle use under this subsection. For the purpose of this regulation, landscape maintenance does not include grading, trenching, or any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes; or

(b) Where a Disturbed Surface Area exists (including disturbed surfaces caused by Motor Vehicles), uniformly apply and maintain surface gravel or Dust Palliatives to all areas disturbed by Motor Vehicles in compliance with one of the stabilization standards described in Subsection 90.2.1.2 of this regulation; or

(c) Where a Disturbed Surface Area exists (including disturbed surfaces caused by motor vehicles and/or Off-Road motor Vehicles), apply and maintain an alternative control measure approved in writing by the Control Officer and the Region IX Administrator of the Environmental Protection Agency (EPA).

90.2.1.2 **Stabilization Standards:**

(a) A visible crust shall be established, as determined by Subsection 90.4.1.1 (The Drop Ball/Steel Ball Test) of these Regulations; or,

(b) A percent cover that is equal to or greater than 20% for non-erodible elements shall be established, as determined by Subsection 90.4.1.2 (Rock Test Method) of these Regulations; or,

(c) A threshold friction velocity, corrected for non-erodible elements of 100 cm/second or higher, shall be established, as determined by

Subsection 90.4.1.3 (Determination of Threshold Friction Velocity) of this regulation; or,

(d) An alternative test method approved in writing by the Control Officer and the Region IX Administrator of the EPA.

90.2.2 **Dust Mitigation Plans Required:** Any Owner and/or Operator of Open Areas and Vacant Lots having a cumulative area of 10,000 acres or greater must submit a dust mitigation plan to the department for approval by March 31, 2003, in a format prescribed by the Control Officer.

90.2.3 **Mechanized Weed Abatement and/or Trash Removal:** If machinery is used to clear weeds and/or trash from Open Areas and Vacant Lots of 5,000 square feet or larger, then the following control measures set forth in Subsection 90.2.3.1 shall be applied. **Advisory Notice:** In order to conserve water to the greatest extent practicable, the use of reclaimed water is highly encouraged.

90.2.3.1 **Control Measures**

(a) Pre-wet surface soils before mechanized weed abatement and/or trash removal occurs; and,

(b) Maintain dust control measures while mechanized weed abatement and/or trash removal is occurring; and,

(c) Pave, apply gravel, apply water, or apply a suitable Dust Palliative, in compliance with the stabilization standards set forth in Subsection 90.2.1.2 of this regulation, after mechanized weed abatement and/or trash removal occurs.

90.3 **Record Keeping Requirements**

90.3.1 **Record Keeping:** Any Person subject to the requirements of this regulation shall compile and retain records that provide evidence of Control Measure application, by indicating type of treatment or Control Measure, extent of coverage, and date applied. The records and supporting documentation shall be made available to the Control Officer within 24 hours of a written request.

90.3.2 **Record Retention:** Copies of the records required by Subsection 90.3.1 (Record Keeping Requirements) of this regulation shall be retained for at least one year.

90.4 **Test Methods**

90.4.1 **Stabilization Standards for Open Areas and Vacant Lots**: The test methods described in Subsections 90.4.1.1 through Subsections 90.4.1.3 of this regulation shall be used to determine whether an Open Area or a Vacant Lot has a stabilized surface. Should a disturbed Open Area or Vacant Lot contain more than one type of disturbance, soil, or other characteristics which are visibly distinguishable, each representative surface must be tested separately for stability in an area that represents a random portion of the overall disturbed conditions of the site, utilizing the appropriate test methods in Subsections 90.4.1.1 through Subsections 90.4.1.3 of this regulation. Depending upon test method results, include or eliminate each representative surface from the total size assessment of the Disturbed Surface Area(s).

90.4.1.1 **Soil Crust Determination** (**The Drop Ball Test):** Drop a steel ball with a diameter of 15.9 millimeters (0.625 inches) and a mass ranging from 16-17 grams from a distance of 30 centimeters (one foot) directly above the soil surface. If blowsand is present, clear the blowsand from the surfaces on which the soil crust test method is conducted. Blowsand is defined as thin deposits of loose uncombined grains covering less than 50% of an Open Area or Vacant Lot which have not originated from the representative Open Area or Vacant Lot surface being tested. If material covers a visible crust, which is not blowsand, apply the test method in Subsection 90.4.1.3 (Determination of Threshold Friction Velocity) of this regulation to the loose material to determine whether the surface is stabilized.

(a) A sufficient crust is defined under the following conditions: once a ball has been dropped according to Subsection 90.4.1.1 of this regulation, the ball does not sink into the surface, so that it is partially or fully surrounded by loose grains and, upon removal of the ball, the surface upon which it fell has not been pulverized, so that loose grains are visible.

(b) Randomly select each representative Disturbed Surface Area for the drop ball test by using a blind “over the shoulder” toss of a throwable object (for example, a metal weight with survey tape attached). Using the point of fall as the lower left hand corner, measure a 1-foot square area. Drop the ball three times within the 1-foot by 1-foot square survey area, using a consistent pattern across the survey area. The survey area shall be considered to have passed the Soil Crust Determination Test if at least two of the three times the ball was dropped, the results met the criteria in Subsection 90.4.1.1(a) of this regulation. Select at least two other survey areas that represent a random portion of the overall disturbed conditions of the site, and repeat this procedure. If the results meet the criteria of Subsection 90.4.1.1(a) of this regulation for all of the survey areas tested, then

the site shall be considered to have passed the Soil Crust Determination Test and shall be considered sufficiently crusted.

(c) At any given site, the existence of a sufficient crust covering one portion of the site may not represent the existence or protectiveness of a crust on another portion of the site. Repeat the soil crust test as often as necessary on each portion of the overall conditions of the site using the random selection method set forth in Subsection 90.4.1.1(b) of this regulation for an accurate assessment.

90.4.1.2 **Rock Test Method:** The Rock Test Method, which is similar to Subsection 90.4.1.3 (Determination of Threshold Friction Velocity) of this Regulation, examines the wind-resistance effects of rocks and other non-erodible elements on disturbed surfaces. Non-erodible elements are objects larger than 1 centimeter (cm) in diameter that remain firmly in place even on windy days. Typically, non-erodible elements include rocks, stones, glass fragments, and hardpacked clumps of soil lying on or embedded in the surface. Vegetation does not count as a non-erodible element in this method. The purpose of this test method is to estimate the percent cover of non-erodible elements on a given surface to see whether such elements take up enough space to offer protection against windblown dust. For simplification, the following test method refers to all non-erodible elements as “rocks.”

(a) Randomly select a 1 meter by 1 meter survey area within an area that represents the general rock distribution on the surface (a 1 meter by 1 meter area is slightly greater than a 3 foot by 3 foot area). Use a blind “over the shoulder” toss of a throwable object (for example, a metal weight with survey tape attached) to select the survey surface and using the point of fall as the lower left hand corner, measure a 1 meter by 1 meter survey area. Mark-off the survey area by tracing a straight, visible line in the dirt along the edge of a measuring tape or by placing short ropes, yard sticks, or other straight objects in a square around the survey area.

(b) Without moving any of the rocks or other elements, examine the survey area. Since rocks greater than 3/8 inch (1 cm) in diameter are of interest, measure the diameter of some of the smaller rocks to a get a sense of which rocks need to be considered.

(c) Mentally group the rocks greater than 3/8 inch (1cm) diameter lying in the survey area into small, medium, and large size categories. If the rocks are all approximately the same size, simply select a rock of average size and typical shape. Without removing any of the rocks from the ground, count the number of rocks in the survey area in each group and write down the resulting number.

(d) Without removing rocks, select one or two average-size rocks in each group and measure the length and width. Use either metric units or standard units. Using a calculator, multiply the length times the width of the rocks to get the average dimensions of the rocks in each group. Write down the results for each rock group.

(e) For each rock group, multiply the average dimensions (length times width) by the number of rocks counted in the group. Add the results from each rock group to get the total rock area within the survey area.

(f) Divide the total rock area, calculated in Subsection 90.4.1.2(e) of this regulation, by two (to get frontal area). Divide the resulting number by the size of the survey area (make sure the units of measurement match), and multiply by 100 for percent rock cover. For example, the total rock area is 1,400 square centimeters, divide 1,400 by 2 to get 700. Divide 700 by 10,000 (the survey area is 1 meter by 1 meter, which is 100 centimeters by 100 centimeters or 10,000 centimeters) and multiply by 100. The result is 7% rock cover. If rock measurements are made in inches, convert the survey area from meters to inches (1 inch = 2.54 centimeters).

(g) Select and mark-off two additional survey areas and repeat the procedures described in Subsection 90.4.1.2(a) through Subsection 90.4.1.2(f) of this regulation. Make sure the additional survey areas also represent the general rock distribution on the site. Average the percent cover results from all three survey areas to estimate the average percent of rock cover.

(h) If the average rock cover is greater than or equal to 20%, the surface is stable. If the average rock cover is less than 20%, follow the procedures in Subsection 90.4.1.2(i) of this regulation.

(i) If the average rock cover is less than 20%, the surface may or may not be stable. Follow the procedures in Subsection 90.4.1.3 (Determination of Threshold Friction Velocity) of this regulation and use the results from the rock test method as a correction (i.e., multiplication) factor. If the rock cover is at least 1%, such rock cover helps to limit windblown dust. However, depending on the soil's ability to release fine dust particles into the air, the percent rock cover may or may not be sufficient enough to stabilize the surface. It is also possible that the soil itself has a high enough Threshold Friction Velocity (TFV) to be stable without accounting for rock cover.

(j) After completing the procedures described in Subsection 90.4.1.2(i) of this regulation, use Table 2 of this regulation to identify the appropriate correction

factor to the TFV, depending on the percent rock cover. Multiply the correction factor by the TFV value for a final TFV estimate that is corrected for non-erodible elements.

90.4.1.3 **Determination Of Threshold Friction Velocity (TFV):** For Disturbed Surface Areas that are not crusted or vegetated, determine TFV according to the following sieving field procedure (based on a 1952 laboratory procedure published by W. S. Chepil).

(a) Obtain and stack a set of sieves with the following openings: 4 millimeters (mm), 2 mm, 1 mm, 0.5 mm, and 0.25 mm, or obtain and stack a set of standard/commonly available sieves. Place the sieves in order according to size openings, beginning with the largest size opening at the top. Place a collector pan underneath the bottom (0.25 mm) sieve. Collect a sample of loose surface material from an area at least 30 cm by 30 cm in size, to a depth of approximately 1 cm using a brush and dustpan or other similar device. Only collect soil samples from dry surfaces (i.e., when the surface is not damp to the touch). Remove any rocks larger than 1 cm in diameter from the sample. Pour the sample into the top sieve (4 mm opening) and cover the sieve/collector pan unit with a lid. Minimize escape of particles into the air when transferring surface soil into the sieve/collector pan unit. Move the covered sieve/collector pan unit by hand using a broad, circular arm motion in the horizontal plane. Complete twenty circular arm movements, ten clockwise and ten counterclockwise, at a speed just necessary to achieve some relative horizontal motion between the sieves and the particles. Remove the lid from the sieve/collector pan unit and disassemble each sieve separately, beginning with the largest sieve. As each sieve is removed, examine it for loose particles. If loose particles have not been sifted to the finest sieve through which they can pass, reassemble and cover the sieve/collector pan unit and gently rotate it an additional ten times. After disassembling the sieve/collector pan unit, slightly tilt and gently tap each sieve, and the collector pan, so that material aligns along one side. In doing so, minimize escape of particles into the air. Line up the sieves and collector pan in a row and visibly inspect the relative quantities of catch in order to determine which sieve (or whether the collector pan) contains the greatest volume of material. If a visual determination of relative volumes of catch among sieves is difficult, use a graduated cylinder to measure the volume. Estimate TFV for the sieve catch with the greatest volume using Table 1 of this Subsection, which provides a correlation between sieve opening size and TFV.

Table 1. Determination of Threshold Friction Velocity

Tyler Sieve No.	ASTM 11 Sieve No.	Opening (mm)	TFV (cm/s)
5	5	4	135
9	10	2	100
16	18	1	76
32	35	0.5	58
60	60	0.25	43
Collector Pan	—	—	30

(b) Collect at least three soil samples which represent random portions of the overall conditions of the site, repeat the above TFV test method for each sample and average the resulting TFVs together to determine the TFV uncorrected for non-erodible elements. Non-erodible elements are distinct elements, in the random portion of the overall conditions of the site, that are larger than 1 cm in diameter, remain firmly in place during a wind episode, and inhibit soil loss by consuming part of the shear stress of the wind. Non-erodible elements include stones and bulk surface material but do not include flat or standing vegetation. For surfaces with non-erodible elements, determine corrections to the TFV by identifying the fraction of the survey area, as viewed from directly overhead, that is occupied by non-erodible elements using the following procedure. For a more detailed description of this procedure, see Subsection 90.4.1.2 (Rock Test Method) of this regulation. Select a survey area of 1 meter by 1 meter that represents a random portion of the overall conditions of the site. Where many non-erodible elements lie within the survey area, separate the non-erodible elements into groups according to size. For each group, calculate the overhead area for the non-erodible elements according to the following equations:

Eq. 1: (Average length) x (Average width) = Average Dimensions.
Eq. 2: (Average Dimensions) x (Number of Elements) = Overhead Area.
Eq. 3: Overhead Area of Group 1 + Overhead Area of Group 2 (etc.) = Total Overhead Area.
Eq. 4: Total Overhead Area/2 = Total Frontal Area.
Eq. 5: (Total Frontal Area/Survey Area) x 100 = Percent Cover Of Non-Erodible Elements.

Note: Ensure consistent units of measurement (e.g. square meters or square inches when calculating percent cover).

Repeat this procedure on an additional two distinct survey areas that represent a random portion of the overall conditions of the site and average the results. Use Table 2 of this Subsection to identify the correction factor for the percent

cover of non-erodible elements. Multiply the TFV by the corresponding correction factor to calculate the TFV corrected for non-erodible elements.

Table 2. Correction Factors for Threshold Friction Velocity

Percent Cover of Non-Erodible Elements	Correction Factor
Greater than or equal to 10%	5
Greater than or equal to 5% and less than 10%	3
Less than 5% and greater than or equal to 1%	2
Less than 1%	None

History: Initial adoption: June 22, 2000
Amended: November 16, 2000; November 20, 2001; December 17, 2002; June 3, 2003; July 1, 2004; April 15, 2014; January 21, 2020.

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SECTION 91: FUGITIVE DUST FROM UNPAVED ROADS, UNPAVED ALLEYS, AND UNPAVED EASEMENT ROADS

91.1 **FUGITIVE DUST From Unpaved Roads, Unpaved Alleys, and Unpaved EASEMENT Roads**

91.1.1 **Purpose:** To limit the Emission of PARTICULATE MATTER into the AMBIENT AIR from unpaved roads, unpaved alleys, unpaved ROAD EASEMENTS and unpaved access roads for utilities and railroads.

91.1.2 **Applicability:** The provisions of this Regulation shall apply to unpaved roads, which includes unpaved alleys, unpaved ROAD EASEMENTS and unpaved access roads for utilities and railroads which are located in a PM_{10} nonattainment area, an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a, or the Apex Valley (hydrographic areas 216 and 217). Nothing in Subsections 91.1 through 91.3 of these Regulations shall be construed to prevent enforcement of Section 40 (Prohibition of NUISANCE Conditions) of these Regulations. The provisions of this Regulation shall not apply to non-commercial and non-institutional private driveways and shall not apply to horse trails, hiking paths, bicycle paths, or other similar paths that have been officially designated by a governing body for exclusive use for purposes other than travel by motor vehicles. The provisions of this Regulation shall not apply to STATIONARY SOURCES as defined in Section 0, except that these control measures shall be considered as part of a BACT determination.

91.1.3 **Effective Date Of This Regulation**:

91.1.3.1 Regulations 91.1 through 91.3 shall be effective in hydrographic area 212 on their adoption by the District Board of Health of Clark County on June 22, 2000.

91.1.3.2 Regulations 91.1 through 91.3 shall be effective in hydrographic areas 216 and 217 on April 1, 2002.

91.2 **Requirements:**

91.2.1 **Unpaved Roads:** An OWNER AND/OR OPERATOR of an unpaved road in a PM_{10} nonattainment area, an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a, or the Apex Valley (hydrographic areas 216 and 217) shall implement one of the CONTROL MEASURES set forth in Subsection 91.2.1.3 of this Regulation, except as set forth in Subsection 91.2.1.1 of this Regulation. For the purpose of this Regulation, the CONTROL MEASURES shall be considered effectively implemented when the unpaved roadway complies with the stabilization standards set forth in Subsection 91.2.1.4 of this Regulation. **Advisory Notice:** In order to

conserve water to the greatest extent practicable, the use of RECLAIMED WATER is highly encouraged.

91.2.1.1 **Implementation Of CONTROL MEASURES For Existing Unpaved Roads:**

91.2.1.1.1 OWNERS AND/OR OPERATORS of existing unpaved roads that were constructed prior to June 22, 2000 in hydrographic area 212 shall implement one of the CONTROL MEASURES set forth Subsection 91.2.1.3 of this Regulation according to the following schedule:

(a) CONTROL MEASURES shall be implemented for one third (1/3) of the total miles of unpaved roads having vehicular traffic of 150 vehicles or more per day in accordance with Subsection 91.2.1.3 (CONTROL MEASURES) of this Regulation by June 1, 2001.

(b) CONTROL MEASURES shall be implemented for two thirds (2/3) of the total miles of unpaved roads having vehicular traffic of 150 vehicles or more per day in accordance with Subsection 91.2.1.3 (CONTROL MEASURES) of this Regulation by June 1, 2002.

(c) CONTROL MEASURES shall be implemented for all unpaved roads having vehicular traffic of 150 vehicles or more per day in accordance with Subsection 91.2.1.3 (CONTROL MEASURES) of this Regulation by June 1, 2003.

(d) CONTROL MEASURES set forth in Subsection 91.2.1.3 shall be implemented for existing unpaved roads on which vehicular traffic is equal to or greater than 150 vehicles per day that develops after June 1, 2003. CONTROL MEASURES shall be implemented within 365 calendar days following the initial discovery that vehicular traffic equals or exceeds 150 vehicles per day and that the road surface does not comply with the stabilization standards set forth in Subsection 91.2.1.4 of this Regulation. The CONTROL OFFICER may require short-term stabilization of any unpaved road subject to Subsection 91.2.1.1(d).

(e) Non-federal Requirement: CONTROL MEASURES set forth in Subsection 91.2.1.3 shall be implemented for existing unpaved roads having vehicular traffic of less than 150 vehicles per day within 365 calendar days following the initial discovery that the road surface does not comply with the stabilization standards set forth in Section 91.2.1.4 of this Regulation. The requirements of this Subsection (91.2.1.1 (e) shall not constitute applicable State Implementation Plan requirements pursuant to Section 189 of the federal Clean Air Act. The CONTROL OFFICER may require short-term stabilization of any unpaved road subject to Subsection 91.2.1.1 (e)). For the purpose of this Subsection, the CONTROL

MEASURES shall be considered effectively implemented when the unpaved road complies with the stabilization standards set forth in Subsection 91.2.1.4 of this Regulation.

91.2.1.1.2 OWNERS AND/OR OPERATORS of existing unpaved roads that were constructed prior to April 1, 2002 in hydrographic areas 216 and 217 shall implement one of the CONTROL MEASURES set forth Subsection 91.2.1.3 of this Regulation according to the following schedule:

(a) CONTROL MEASURES shall be implemented for one third (1/3) of the total miles of unpaved roads having vehicular traffic of 150 vehicles or more per day in accordance with Subsection 91.2.1.3 (CONTROL MEASURES) of this Regulation by April 1, 2003.

(b) CONTROL MEASURES shall be implemented for two thirds (2/3) of the total miles of unpaved roads having vehicular traffic of 150 vehicles or more per day in accordance with Subsection 91.2.1.3 (CONTROL MEASURES) of this Regulation by April 1, 2004.

(c) CONTROL MEASURES shall be implemented for all unpaved roads having vehicular traffic of 150 vehicles or more per day in accordance with Subsection 91.2.1.3 (CONTROL MEASURES) of this Regulation by April 1, 2005.

(d) CONTROL MEASURES set forth in Subsection 91.2.1.3 shall be implemented for existing unpaved roads on which vehicular traffic is equal to or greater than 150 vehicles per day that develops after April 1, 2005. CONTROL MEASURES shall be implemented within 365 calendar days following the initial discovery that vehicular traffic equals or exceeds 150 vehicles per day and that the road surface does not comply with the stabilization standards set forth in Subsection 91.2.1.4 of this Regulation. The CONTROL OFFICER may require short-term stabilization of any unpaved road subject to Subsection 91.2.1.1(d).

(e) Non-federal Requirement: CONTROL MEASURES set forth in Subsection 91.2.1.3 shall be implemented for existing unpaved roads having vehicular traffic of less than 150 vehicles per day within 365 calendar days following the initial discovery that the road surface does not comply with the stabilization standards set forth in Section 91.2.1.4 of this Regulation. The requirements of this Subsection (91.2.1.1 (e) shall not constitute applicable State Implementation Plan requirements pursuant to Section 189 of the federal Clean Air Act. The CONTROL OFFICER may require short-term stabilization of any unpaved road subject to Subsection 91.2.1.1 (e)). For the purpose of this Subsection, the CONTROL MEASURES shall be considered effectively implemented when the

unpaved road complies with the stabilization standards set forth in Subsection 91.2.1.4 of this Regulation.

91.2.1.2 No unpaved roads or alleys may be constructed in public thoroughfares in hydrographic area 212 after June 22, 2000, or in hydrographic areas 216 and 217 after April 1, 2002, unless the unpaved road is an interim component of an active paving project.

91.2.1.3 **CONTROL MEASURES:**

(a) PAVE, or

(b) Apply DUST PALLIATIVES, in compliance with the stabilization standards set forth in Subsection 91.2.1.4 of this Regulation, or

(c) Apply and maintain and alternative CONTROL MEASURE approved in writing by the CONTROL OFFICER and the Region IX Administrator of the EPA.

91.2.1.4 **Stabilization Standards:** For the purpose of this rule, CONTROL MEASURES shall be considered effectively implemented when stabilization observations for FUGITIVE Dust EMISSIONS from unpaved roads and unpaved alleys do not exceed 20% OPACITY and do not equal or exceed 0.33 oz/ft^2 silt loading, or do not exceed 6% silt content, as determined by Subsection 91.4.1 of these Regulations.

91.3 **Record Keeping Requirements**

91.3.1 **Record Keeping:** Any person subject to the requirements of this Regulation shall compile and retain records that provide evidence of CONTROL MEASURE application, by indicating type of treatment or CONTROL MEASURE, extent of coverage, and date applied. The records and supporting documentation shall be made available to the CONTROL OFFICER within 24 hours from written or verbal request.

91.3.2 **Records Retention:** Copies of the records required by Subsection 91.3.1 (Record Keeping Requirements) of this Regulation shall be retained for at least one year.

91.3.3 **Reports Required:** In addition to complying with the record keeping requirements specified in Subsection 91.3.1, OWNERS of unpaved roads shall be subject to the requirements set forth in Subsection 91.2.1.1, and shall prepare and submit a written report to the CONTROL OFFICER documenting compliance with the provisions of Subsection 91.2.1.1. This report shall be prepared for the years 2001, 2002, and 2003 for OWNERS of unpaved roads in hydrographic areas 212, for the years 2003, 2004, and 2005 for OWNERS of unpaved roads in hydrographic areas 216 and

217, and shall be submitted to the CONTROL OFFICER no later than October first of each year and shall include:

91.3.3.1 The total miles of unpaved roads under the jurisdiction of the OWNER and the miles PAVED during the reporting period subject to the requirements of Subsection 91.2.1.1. Miles of PAVING for roads subject to Subsections 91.2.1.1.1(a), 91.2.1.1.1(b), and 91.2.1.1.1(c) must be listed separately from paving of roads found to be subject Subsection 91.2.1.1.1 (d). Miles of PAVING for roads subject to Subsections 91.2.1.1.2(a), 91.2.1.1.2(b), and 91.2.1.1.2(c) must be listed separately from paving of roads found to be subject Subsection 91.2.1.1.2(d).

91.4 Test Methods

91.4.1 Stabilization Test Methods For Unpaved Roads And Unpaved Alleys:

91.4.1.1 **OPACITY Test Method**: The purpose of this test method is to estimate the percent OPACITY of FUGITIVE DUST plumes caused by vehicle movement on unpaved roads, unpaved alleys, and unpaved EASEMENTS. This method can only be conducted by an individual who has received certification as a qualified Visible EMISSIONS Evaluator.

(a) Step 1: Stand at least 16.5 feet from the FUGITIVE DUST source in order to provide a clear view of the EMISSIONS with the sun oriented in the 140-degree sector to the back. Following the above requirements, make OPACITY observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.

(b) Step 2: Record the FUGITIVE DUST source location, source type, method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the FUGITIVE DUST source. Also, record the time, estimated distance to the FUGITIVE DUST source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position to the FUGITIVE DUST source, and color of the plume and type of background on the visible emission observation form both when OPACITY readings are initiated and completed.

(c) Step 3: Make OPACITY observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make OPACITY observations approximately 1 meter above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a

dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume but, instead, observe the plume briefly at zero seconds and then again at five seconds.

(d) Step 4: Record the OPACITY observations to the nearest 5% on an observational record sheet. Each momentary observation recorded represents the average OPACITY of EMISSIONS for a 5-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles which generate dust plumes for which readings are taken (e.g. mid-size passenger car or heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.

(e) Step 5: Repeat Step 3 (Subsection 91.4.1.1(c) of this Regulation) and Step 4 (Subsection 91.4.1.1 (d) of this Regulation) until you have recorded a total of 12 consecutive OPACITY readings. This will occur once six vehicles have driven on the source in your line of observation for which you are able to take proper readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

(f) Step 6: Average the 12 OPACITY readings together. If the average OPACITY reading equals 20% or lower, the source is in compliance with the OPACITY standard described in Section 91 of these Regulations.

91.4.1.2 **Silt Content Test Method:** The purpose of this test method is to estimate the silt content of the trafficked parts of unpaved roads, unpaved alleys, and unpaved EASEMENTS. The higher the silt content, the greater the amount of fine dust particles that are entrained into the atmosphere when cars and trucks drive on unpaved roads, unpaved alleys, and unpaved EASEMENTS.

(a) Equipment:

(1) A set of sieves with the following openings: 4 millimeters (mm), 2 mm, 1 mm, 0.5 mm and 0.25 mm, a lid, and collector pan

(2) A small whiskbroom or paintbrush with stiff bristles and dustpan 1 foot in width (the broom/brush should preferably

have one, thin row of bristles no longer than 1.5 inches in length)

(3) A spatula without holes

(4) A small scale with half ounce increments (e.g., postal/ package scale)

(5) A shallow, lightweight container (e.g., plastic storage container)

(6) A sturdy cardboard box or other rigid object with a level surface

(7) A calculator

(8) Cloth gloves (optional for handling metal sieves on hot, sunny days)

(9) Sealable plastic bags (if sending samples to a laboratory)

(10) A pencil/pen and paper

(b) Step 1: Look for a routinely traveled surface, as evidenced by tire tracks (only collect samples from surfaces that are not damp due to precipitation or dew). This statement is not meant to be a standard in itself for dampness where watering is being used as a CONTROL MEASURE. It is only intended to ensure that surface testing is done in a representative manner. Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material using a whiskbroom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is greater than 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm in depth, a wooden dowel or other similar narrow object at least one foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel.

- At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent

laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is at the end of this section.

(c) Step 2: Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.

(d) Step 3: Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.

(e) Step 4: Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whiskbroom or brush (on windy days, use the trunk or door of a car as a wind barricade). Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways for at least 1 minute.

(f) Step 5: Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass; e.g. material in each sieve (besides the top sieve that captures a range of larger elements) should look the same size. If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute (you only need to reassemble the sieve(s) that contain material, which requires further sifting).

(g) Step 6: After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves; only the collector pan. Weigh the container with the material from the collector pan and record its weight.

(h) Step 7: If the source is an unpaved road, multiply the resulting weight by 0.38. If the source is an UNPAVED PARKING LOT, multiply the resulting weight by 0.55. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 (Subsection 91.4.1.2(c) of this Regulation) and multiply by 100 to estimate the percent silt content.

(i) Step 8: Select another two routinely traveled portions of the unpaved road or UNPAVED PARKING LOT and repeat this test method. Once you have calculated the silt loading and percent silt content of the 3 samples collected, average your results together.

(j) Step 9: Examine Results. If the average silt loading is less than 0.33 oz/ft², the surface is stable. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average percent silt content. If the source is an unpaved road, unpaved alley, or unpaved EASEMENT and the average percent silt content is 6% or less, the surface is stable. If your field test results are within 2% of the standard (for example, 4%-8% silt content on an unpaved road, alley, or EASEMENT), it is recommended that you collect 3 additional samples from the source according to Step 1 (Subsection 91.4.1.2(b) of this Regulation) and take them to an independent laboratory for silt content analysis.

(k) Independent Laboratory Analysis: You may choose to collect 3 samples from the source, according to Step 1 (Subsection 91.4.1.2(b) of this Regulation), and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use is:

"Procedures For Laboratory Analysis Of Surface/Bulk Loading Samples", (Fifth Edition, Volume I, Appendix C.2.3 "Silt Analysis", 1995), AP-42, Office of Air Quality Planning & Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina

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SECTION 92: FUGITIVE DUST FROM UNPAVED PARKING LOTS AND STORAGE AREAS

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92.1 Fugitive Dust from Unpaved Parking Lots and Storage Areas

92.1.1 Purpose

The purpose of this section is to limit the emission of particulate matter into the ambient air from unpaved parking lots, including storage areas as defined in Section 0.

92.1.2 Applicability

The provisions of this regulation shall apply to unpaved parking lots and storage areas which are located in a PM_{10} nonattainment area, an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a, or in the Apex Valley (hydrographic areas 216 and 217), and which are not regulated by Section 94. Unpaved parking lots and storage areas include automobile impound yards, wrecking yards, automobile dismantling yards, salvage yards, material handling yards, equestrian staging facilities, and storage yards. For the purposes of this regulation, maneuvering shall not include military maneuvers or exercises conducted on federal facilities. Nothing in Sections 92.1 through 92.6 shall be construed to prevent enforcement of Section 40 ("Prohibition of Nuisance Conditions"). The provisions of this regulation shall not apply to stationary sources as defined in Section 0, except that these control measures shall be considered as part of a BACT determination.

92.2 Definitions

(a) The following term has the meanings set forth below for the purposes of Section 92. Any term not defined in these paragraphs shall have the meaning given in Section 0 or the Clean Air Act.

(b) "Equestrian staging area" means the area(s) used exclusively to load, unload, and saddle horses; organize riders before a ride; and park vehicles used to transport horses.

92.3 Requirements

92.3.1 The owner and/or operator of an existing unpaved parking lot or storage area in a PM_{10} nonattainment area, an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a, or in the Apex Valley (hydrographic areas 216 and 217) shall implement one or more of the control measures described in Section 92.3.1.2 as necessary to comply with the stabilization standards of Section 92.4.1. For unpaved parking lots and storage areas that are utilized intermittently, for a period of 35 days or less during the calendar year, the owner and/or operator shall implement one or more of the control measures described in Section 92. 3.1.2 during the period that the unpaved parking lot or storage area is

utilized for vehicle parking or storage. For the purpose of this regulation, the control measures set forth in Section 92.3.1.2 shall be considered effectively implemented when the unpaved parking lot or storage area meets the stabilization standards described in Section 92.4.1.

92.3.1.1 New Unpaved Parking Lots or Storage Areas

No unpaved parking lots or storage areas may be constructed in hydrographic areas 212, 216, or 217 as of January 1, 2003; or in any other hydrographic area upon it being designated as nonattainment for PM_{10}; or in any other hydrographic area upon it being subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a except as provided in this section.

(a) **Exemptions.** The requirements of this Section shall not be applicable to parking lots for rural public facilities, such as trailheads, campgrounds, and similar facilities where paved parking lots would conflict with the rural nature of these facilities, provided such unpaved parking lot is stabilized in accordance with Sections 92. 3.1.2(b) through (d) prior to being used. For the purposes of this Section, a rural public facility shall not include any facility located within the BLM Disposal Boundary.

(b) **Material Storage and Handling Areas.** If an area is used for storing and handling of landscaping, aggregate, and other similar bulk materials, the owner and/or operator shall implement one or more of the control measures described in Section 92.3.1.2, subject to the approval of the Control Officer, provided, however, that all access, parking, and loading areas used by on-road vehicles shall be paved.

(c) **Tracked, Non-Rubber Tired Vehicle, or Heavy Equipment Storage Areas.** If an area is used primarily for storage of non-rubber tired vehicles or equipment that the control officer has determined to be of such weight as to damage or destroy pavement (e.g., heavy equipment), the owner and/or operator shall implement one or more of the control measures described in Section 92.3.1.2, subject to the approval of the Control Officer, provided, however, that all access, parking, and loading areas primarily used by rubber-tired vehicles shall be paved.

(d) **Equestrian Staging Areas:** Areas designed and used exclusively for the loading, unloading, and saddling of horses for equestrian activities shall be exempt from the paving requirements of this section if control measures applied to the designated areas meet the performance standards of Section 92.4. Posted vehicle speed

limits for vehicles using such designated areas shall not exceed 10 miles per hour.

92.3.1.2 Control Measures

(a) Pave;

(b) Apply dust palliatives, in compliance with the stabilization standards set forth in Section 92. 4.1;

(c) Apply dust palliatives to vehicle travel lanes within the parking lot or storage area in compliance with the stabilization standards set forth in Section 92.4.1, and uniformly apply and maintain surface gravel or recycled asphalt to a depth of two inches on the vehicle parking areas;

(d) Apply and maintain an alternative control measure approved in writing by the Control Officer and the EPA Region 9 Administrator.

92.4 Performance Standards

92.4.1 Stabilization Standards

For the purpose of this regulation, control measures shall be considered effectively implemented when stabilization observations for fugitive dust emissions from unpaved parking lots or storage areas do not exceed 20 percent opacity and do not equal or exceed 0.33 oz/ft^2 silt loading, or do not exceed 8 percent silt content, as determined by Section 92.6 (“Test Methods”), except in areas on which gravel has been applied under the provisions of Section 92.3.1.2(c).

92.4.2 Prohibition of Dust Over Property Line

Where Best Available Control Measures provided for in this regulation have not been applied, no owner and/or operator of an unpaved parking lot or storage area shall permit a dust plume from that unpaved parking lot or storage area to cross a property line.

92.5 Recordkeeping Requirements

92.5.1 Recordkeeping

Any person subject to the requirements of this regulation shall compile and retain records that provide evidence of control measure application, by indicating type of treatment or control measure, extent of coverage, and date applied. The records and supporting documentation shall be made available to the Control Officer within 24 hours of a written request.

92.5.2 Records Retention

Copies of the records required by Section 92.5.1 shall be retained for at least one year. Facilities subject to Section 12.5 ("Part 70 Operating Permit Requirements") shall maintain records in accordance with Part 70 record keeping requirements.

92.6 Test Methods

92.6.1 Stabilization Test Methods for Unpaved Parking Lots and Storage Areas

92.6.1.1 Opacity Test Method

The purpose of this test method is to estimate the percent opacity of fugitive dust plumes caused by vehicle movement on unpaved parking lots and storage areas. This method can only be conducted by an individual who has received certification as a qualified Visible Emissions Evaluator.

(a) Step 1: Stand at least 16.5 feet from the fugitive dust source in order to provide a clear view of the emissions, with the sun oriented in the 140-degree sector to the back. Following the above requirements, make opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.

(b) Step 2: Record the fugitive dust source location, source type, method of control used (if any), evaluator's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also, record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), and color of the plume and type of background on the visible emission observation form when opacity readings are both initiated and completed.

(c) Step 3: Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make opacity observations approximately 1 meter above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above

the surface involved. Do not look continuously at the plume but, instead, observe the plume briefly at zero seconds and then again at five seconds.

(d) Step 4: Record the opacity observations to the nearest 5 percent on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a five-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles that generate dust plumes for which readings are taken (e.g., mid-size passenger car or heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.

(e) Step 5: Repeat Steps 3 and 4 until you have recorded a total of 12 consecutive opacity readings. This will occur once six vehicles have driven on the source in your line of observation for which you are able to take proper readings. The 12 consecutive readings must be taken within the same period of observation, but must not exceed one hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

(f) Step 6: Average the 12 opacity readings together. If the average opacity reading equals 20 percent or lower, the source is in compliance with the opacity standard described in this regulation.

92.6.1.2 Silt Content Test Method

The purpose of this test method is to estimate the silt content of the trafficked parts of unpaved parking lots and storage areas. The higher the silt content, the greater the amount of fine dust particles that are entrained into the atmosphere when cars and trucks drive on unpaved parking lots or storage areas.

(a) Equipment:

(1) Set of sieves with the following openings: 4 millimeters (mm), 2 mm, 1 mm, 0.5 mm, and 0.25 mm; a lid; and collector pan;

(2) Small whiskbroom or paintbrush with stiff bristles and dustpan one foot in width (the broom/brush should preferably have one thin row of bristles no longer than 1.5 inches in length);

(3) Spatula without holes;

(4) Small scale with half-ounce increments (e.g., postal/package scale);

(5) Shallow, lightweight container (e.g., plastic storage container);

(6) Sturdy cardboard box or other rigid object with a level surface;

(7) Basic calculator;

(8) Cloth gloves (optional for handling metal sieves on hot, sunny days);

(9) Sealable plastic bags (if sending samples to a laboratory); and

(10) Pencil/pen and paper.

(b) Step 1: Look for a routinely traveled surface, as evidenced by tire tracks (only collect samples from surfaces that are not damp due to precipitation or dew). This statement is not meant to be a standard in itself for dampness where watering is being used as a control measure; it is only intended to ensure that surface testing is done in a representative manner. Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material using a whiskbroom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is greater than 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm in depth, a wooden dowel or other similar narrow object at least one foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel.

(1) At this point, the sample can be collected into a plastic bag or container and take it to an independent laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is at the end of this section.

(c) Step 2: Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.

(d) Step 3: Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.

(e) Step 4: Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whiskbroom or brush (on windy days, use the trunk or door of a car as a wind barricade). Cover the stack with a lid. Lift the sieve stack and shake it vigorously up, down, and sideways for at least 1 minute.

(f) Step 5: Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass; e.g., material in each sieve (besides the top sieve that captures a range of larger elements) should look the same size. If this is not the case, restack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute (you only need to reassemble the sieve(s) that contain material, which requires further sifting).

(g) Step 6: After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves; only the collector pan. Weigh the container with the material from the collector pan and record its weight.

(h) Step 7: If the source is an unpaved road, multiply the resulting weight by 0.38. If the source is an unpaved parking lot or storage area, multiply the resulting weight by 0.55. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 and multiply by 100 to estimate the percent silt content.

(i) Step 8: Select another two routinely traveled portions of the unpaved road or unpaved parking lot and repeat this test method. Once you have calculated the silt loading and percent silt content of the three samples collected, average your results together.

(j) Step 9: Examine the results. If the average silt loading is less than 0.33 oz/ft^2, the surface is stable. If the average silt loading is greater than or equal to 0.33 oz/ft^2, then examine the average percent silt content. If the source is an unpaved parking lot or storage area and the average percent silt content is 8 percent or less, the surface is

stable. If your field test results are within 2 percent of the standard (for example, 6-10 percent silt content on an unpaved parking lot or storage area), it is recommended that you collect three additional samples from the source according to Step 1 and take them to an independent laboratory for silt content analysis.

(k) You may choose to collect three samples from the source, according to Step 1, and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use is described in Volume 1, Appendix C.2.3 ("Silt Analysis") of EPA's *Procedures For Laboratory Analysis of Surface/Bulk Loading Samples* (1995, fifth edition).

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SECTION 93: FUGITIVE DUST FROM PAVED ROADS AND STREET SWEEPING EQUIPMENT

93.1 **Fugitive Dust from Paved Roads and Street Sweeping Equipment**

93.1.1 **Purpose:** To limit the Emission of particulate matter into the ambient air from paved roads and Paved alleys.

93.1.2 **Applicability:** The provisions of this regulation shall apply to Paved roads and Paved alleys which are located in a PM_{10} nonattainment area, an area subject to a PM_{10} maintenance plan defined under 42 U.S. Code § 7505a, or the Apex Valley (hydrographic areas 216 and 217). Nothing in Subsections 93.1 through 93.4 of these Regulations shall be construed to prevent enforcement of Section 40 (Prohibition of Nuisance Conditions) of these Regulations. The provisions of this regulation shall not apply to non-commercial and non-institutional private driveways. The provisions of this regulation shall not apply to Stationary Sources as defined in Section 0, except that these Control Measures shall be considered as part of a BACT determination.

93.2 **Requirements:**

93.2.1 **Paved Road Development Standards:** Owners and/or Operators having jurisdiction over, or ownership of, public or private Paved roads shall construct, or require to be constructed, all new or modified Paved roads in conformance with the road shoulder width and drivable median stabilization requirements as specified below:

93.2.1.1 New construction, modification, or approvals of Paved roads shall be constructed with a Paved travel section, and four (4) feet of Paved or stabilized shoulder on each side of the Paved travel section. The four (4) feet of shoulder shall be Paved or stabilized with a dust palliative or gravel to prevent the trackout of mud and dirt to the Paved section. Where shoulder stabilization is used in place of paving, the stabilized shoulders must be maintained in compliance with the stabilization standards set forth in Subsection 93.2.1.5 of this regulation.

93.2.1.2 New construction, modification, or approvals of Paved roads on which vehicular traffic is greater than or equal to 3,000 vehicles per day after March 1, 2003 shall be constructed with a Paved travel section, and eight (8) feet of stabilized shoulder adjacent to the Paved travel section where right-of-way is available for the stabilized shoulder. Where the right-of-way is not available for the full eight (8) feet of stabilized shoulder, curbing shall be installed adjacent to the shoulder. Stabilized shoulders must be maintained in

compliance with the stabilization standards set forth in Subsection 93.2.1.5 of this regulation.

93.2.1.3 Where curbing is constructed adjacent to and contiguous with the travel lane or Paved shoulder of a road, the shoulder width design standards specified in Subsection 93.2.1.1 shall not be applicable.

93.2.1.4 Where Paved roads are constructed, or modified with shoulders and/or medians, the shoulders and/or medians shall be constructed as set forth below. If the shoulder, median, or extended right-of-way is located in a limited access freeway right-of-way, then the requirements of Section 90 apply.

(a) With curbing, or

(b) With solid paving across the median, or

(c) Apply dust palliatives, in compliance with the stabilization standards set forth in Subsection 93.2.1.5 of this regulation, or

(d) Apply two (2) inches of gravel in compliance with the stabilization standards set forth in Subsection 93.2.1.5 of this regulation, or

(e) With materials that prevent the trackout of mud and dirt to the Paved section such as landscaping or decorative rock.

93.2.1.5 Stabilization Standards: For the purpose of this regulation, the unpaved shoulders and medians of Paved roads shall be considered to have Control Measures effectively implemented when Fugitive Dust Emissions do not exceed 20% Opacity and silt loading does not equal or exceed 0.33 oz/ft^2 silt loading, as determined by Subsection 93.4.1 (Test Methods-Stabilized Paved Road Shoulders and Medians) of these Regulations, except for unpaved shoulders on which gravel has been applied under the provisions of Subsection 93.2.1.1. Failure to comply with either the 20% Opacity limit or silt loading limit indicates that the shoulder is not stable. Where gravel is utilized to prevent trackout from unpaved shoulders and medians of Paved roads, surface gravel shall be uniformly applied and maintained to a depth of two (2) inches to comply with the 20% Opacity standards set forth in Subsection 93.4.1.1 of these Regulations and the gravel depth and Silt Content Test Method set forth in Subsection 93.4.1.3 of these Regulations. For the purposes of this section, the term gravel shall include “aggregate” and shall mean unconsolidated material greater than 0.25 (1/4) inch but less than three (3) inches, and contain no more than six (6) percent silt, by dry weight, that will pass through a No. 200 sieve. Failure to comply with either the 20% Opacity limit or the Gravel Depth and Silt Content Test Method indicates that the shoulder is not stable.

93.2.1.6 Requirements For existing nonconforming Paved roads: Owners and/or Operators having jurisdiction over, or ownership of, existing public or private Paved roads which do not conform with the requirements of Subsections 93.2.1.1 through 93.2.1.5 of this regulation, shall reconstruct, or require to be reconstructed, the existing nonconforming Paved road within 365 calendar days following the initial discovery that the road fails to meet the requirements set forth in Subsections 93.2.1.1 through 93.2.1.5 of these Regulations. The Control Officer may require short-term stabilization of any Paved road subject to the requirements set forth in Subsections 93.2.1.1 through 93.2.1 of these Regulations. Other stabilization methods of equal or greater effectiveness may be implemented with the written approval of the Control Officer, providing emissions do not exceed 20% Opacity, unless the US EPA Region 9 objects to such approval within ninety (90) days from the date notification of the proposed alternative stabilization method is sent to the US EPA Region 9 by the Control Officer. If the US EPA Region 9 does not object within the ninety (90) days from the date notification, the proposed alternative stabilization method may be implemented. If the US EPA Region 9 objects to the proposed alternative stabilization method, the proposed alternative stabilization method shall require written approval from both the Control Officer and the US EPA Region 9 prior to the implementation of the proposed alternative stabilization method.

93.2.2 **Street Sweeper Requirements:** After January 1, 2001, any Owner and/or Operator which utilizes street sweeping equipment or street sweeping services for street sweeping on Paved roads or Paved parking lots, shall acquire or contract to acquire only certified PM_{10}-efficient street sweeping equipment.

93.2.2.1 PM_{10}-Efficient Street Sweepers: For the purposes of Subsection 93.2.2 of this regulation, a PM_{10}-efficient street sweeper is a street sweeper which has been certified by the South Coast Air Quality Management District (California) (SCAQMD) to comply with the District's performance standards set forth in SCAQMD Rule 1186 utilizing the test methods set forth in SCAQMD Rule 1186, Appendix A.

93.2.3 **Equipment Restriction:** The use of dry rotary brushes and blower devices for the removal of dirt, rock, or other debris from a Paved road or Paved parking lot is prohibited without the use of sufficient wetting to limit the visible emissions to not greater than 20%Oopacity when measured as set forth in Subsection 93.4.1.1. The use of dry rotary brushes or blower devices without the use of water is expressly prohibited.

93.2.4 **Crack Seal Equipment Requirements:** After December 31, 2005 any Owner and/or Operator which utilizes crack seal cleaning equipment shall acquire, or contract to acquire, only vacuum type crack cleaning seal equipment.

93.3 **Record Keeping and Reporting Requirements**

93.3.1 **Record Keeping:** Any Person subject to the requirements of this regulation shall compile and retain records that provide evidence of Control Measure application, by indicating type of treatment or Control Measure, extent of coverage, and date applied. The records and supporting documentation shall be made available to the Control Officer within 24 hours of a written request.

93.3.2 **Reporting Requirements:** Owners and/or Operators having jurisdiction over Paved roads shall prepare and submit a written report to the department documenting compliance with the provisions of this regulation. This report shall be prepared annually on a calendar year basis. The reports shall be transmitted no later than 90 days after the end of the calendar year and shall include:

93.3.2.1 The total miles of Paved roads under the jurisdiction of the Owner and/or Operator and the miles of Paved roads constructed or modified during the reporting period.

93.3.2.2 For newly constructed or modified roads, documentation on how the requirements of Subsections 93.2.1.1 through 93.2.1.5 have been met.

93.3.2.3 Other information which may be needed by the Control Officer for compliance with EPA requirements for enforcement of this regulation.

93.3.3 **Records Retention:** Copies of the records required by Subsection 93.3.1 (Record Keeping Requirements) of this regulation shall be retained for at least one year.

93.4 **Test Methods**

93.4.1 **Stabilization Test Methods for Unpaved Shoulders and Medians of Paved Roads:**

93.4.1.1 Opacity Test Method: The purpose of this test method is to estimate the percent Opacity of Fugitive Dust plumes caused by vehicle movement on unpaved road shoulders and medians of Paved roads. This method can only be conducted by an individual who has received certification as a qualified observer.

(a) Step 1: Stand at least 20 feet from the Fugitive Dust source in order to provide a clear view of the Emissions with the sun oriented in the 140-degree sector to the back. Following the above requirements, make Opacity observations so that the line of vision is approximately

perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.

(b) Step 2: Record the Fugitive Dust source location, source type, method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the Fugitive Dust source. Also, record the time, estimated distance to the Fugitive Dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position to the Fugitive Dust source, and color of the plume and type of background on the visible Emission observation form both when Opacity readings are initiated and completed.

(c) Step 3: Make Opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make Opacity observations approximately 3 feet above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume but, instead, observe the plume briefly at zero seconds and then again at five seconds.

(d) Step 4: Record the Opacity observations to the nearest 5% on an observational record sheet. Each momentary observation recorded represents the average Opacity of Emissions for a 5-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles which generate dust plumes for which readings are taken (e.g. mid-size passenger car or heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.

(e) Step 5: Repeat Step 3 (Subsection 93.4.1.1 (c) of this regulation) and Step 4 (Subsection 93.4.1.1 (d) of this regulation) until you have recorded a total of 12 consecutive Opacity readings. This will occur once six vehicles have driven on the source in your line of observation for which you are able to take proper readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

(f) Step 6: Average the 12 Opacity readings together. If the average Opacity reading equals 20% or lower, the source is in compliance with the Opacity standard described in Section 93 of these Regulations.

93.4.1.2 Silt Loading Test Method: The purpose of this test method is to estimate the silt loading of the representative surfaces of dust palliative and untreated shoulders and medians of Paved roads. The higher the silt loading, the greater the amount of fine dust particles that are entrained into the atmosphere when vehicles drive on unpaved shoulders and medians of Paved roads.

(a) Equipment:

(1) A set of sieves with the following openings: 4 millimeters (ASTM No. 5), 2 millimeters, (ASTM No. 10), 1 millimeter (ASTM No. 18), 0.5 millimeter (ASTM No. 35) and 0.25 millimeter (ASTM No. 60), (or a set of standard/commonly available sieves), a lid, and collector pan.

(2) Equipment necessary to collect a sample of material from the surface of the subject area. (e.g., a small whisk broom or paintbrush with bristles no longer than 1.5 inches, dustpan, spatula, shallow container, sealable plastic bags.)

(3) Equipment necessary to complete field analysis of material. (e.g., weighting scale with half once increments, calculator, writing material.)

(b) Step 1: Look for a representative surface within four (4) feet of the edge of the pavement. [Only collect samples from surfaces that are not damp due to precipitation or dew. This statement is not meant to be a standard in itself for dampness where watering is being used as a Control Measure. It is only intended to ensure that surface testing is done in a representative manner.] Gently press the edge of a dustpan into the surface to mark an area that is 1 square foot. Collect a sample of loose surface material using a whiskbroom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula or similar device to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch in the 1 square foot area. If you reach a hard, underlying subsurface that is less than 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 3/8 inch. In order to confirm that samples are

collected to 3/8 inch in depth, a wooden dowel or other similar narrow object at least one foot in length can be laid horizontally across the survey area while a ruler is held perpendicular to the dowel.

- At this point, you can choose to place the sample collected into a plastic bag or container and return to the department facilities to complete the remaining steps or take it to an independent laboratory for silt loading analysis. A reference to the procedure the laboratory is required to follow is at the end of this section.

(c) Step 2: Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it.

(d) Step 3: Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.

(e) Step 4: Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whiskbroom or brush, (on windy days, use the trunk or door of a car as a wind barricade). Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways or place on a powered shaker for at least 1 minute.

(f) Step 5: Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass; e.g., material in each sieve (besides the top sieve that captures a range of larger elements) should look the same size. If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute (you only need to reassemble the sieve(s) that contain material, which requires further sifting).

(g) Step 6: After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container calibrated on the scale in Step 2 (Subsection 93.4.1.2(c)). Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves; only the collector pan. Weigh the container with the material from the collector pan and record its weight.

(h) Step 7: Multiply the resulting weight by 0.38. The resulting number is the estimated silt loading.

(i) Step 8: Select another two representative surfaces of the unpaved road shoulder or median and repeat this test method. Once you have calculated the silt loading of the 3 samples collected, average your results together.

(j) Step 9: Examine Results. If the average silt loading is less than 0.33 oz/ft^2, the surface is stable.

(k) Independent Laboratory Analysis: You may choose to collect 3 samples from the source, according to Step 1 (Subsection 93.4.1.2 (b) of this regulation), and send them to an independent laboratory for silt loading analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use is:

"Procedures for Laboratory Analysis of Surface/Bulk Loading Samples", (Fifth Edition, Volume I, Appendix C.2.3 "Silt Analysis", 1995), AP-42, Office of Air Quality Planning & Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina

93.4.1.3 **GRAVEL DEPTH AND SILT CONTENT TEST METHOD:** The purpose of this two (2) part test method is to estimate the gravel depth and silt content of graveled road shoulders and medians of Paved roads. Two (2) inches of gravel are required to prevent vehicle tires from digging through the gravel. The higher the silt content in the top inch of the gravel, the greater the amount of fine dust particles that are entrained into the atmosphere when vehicles drive on gravel-stabilized shoulders.

(a) Equipment necessary to collect a sample of material from the surface of the subject area, including a sampling device one (1) foot by one (1) foot by one (1) inch deep, and other equipment such as, a small whisk broom or paintbrush with bristles no longer than 1.5 inches, dustpan, spatula, shallow container, sealable plastic bags, ruler, and wood dowel or similar straight edge device.

(b) Step 1: Look for a section within four (4) feet of the edge of pavement that has an existing gravel surface that appears representative of the gravel shoulder. Using the spatula, remove the gravel from a three (3) to five (5) inch diameter area to the depth of the applied gravel surface. Make sure that the removed gravel is placed well away from the cleared area. Place a wooden dowel or other similar narrow object across the cleared survey area, and

measure, perpendicular to the narrow object, to depth of the cleared area to determine the depth of the gravel material. If the depth of the gravel material is less than two (2) inches, the area fails and is not considered stable. If the depth of the gravel material is two (2) inches or greater, go to Step 2 (Subsection 93.4.1.3 (c) of this regulation).

(c) Step 2. Using the one (1) foot by one (1) foot by one (1) inch deep sampling frame, gently press the edges of the frame into the road shoulder surface to a depth of one (1) inch. Collect the sample of loose surface material using the whiskbroom, brush, spatula, and dustpan to collect the material into the sample bag, minimizing escape of dust particles. Collect all material to a one (1) inch depth in the one (1) square foot sampling frame.

(d) Step 3. Repeat Steps 1 and 2 to obtain two (2) additional samples for a total of three (3) samples. In the event any sampled location is found to have less than (2) inches of gravel under Step 1, the shoulder is considered to be unstable. Do not proceed with additional sampling.

(e) Step 4. Laboratory Analysis: Samples collected from this source, according to Step 3 (Subsection 93.4.1.3 (d) of this regulation), are sent to a laboratory for silt content analysis. The test method the laboratory is required to use is:

i. Wet screen the entire sample through a one (1) inch sieve.

ii. For all material passing through the one (1) inch sieve, use ASTM No. 200 wet Sieve Method to determine the percentage content of silt.

(f) Step 5: Examine Results. Average the silt content for the (3) samples. If the average silt content of the three samples is equal to or less than or six (6) percent, the surface is stable.

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SECTION 94: PERMITTING AND DUST CONTROL FOR CONSTRUCTION ACTIVITIES

94.1 **Purpose.**

94.1.1 The purpose of this section of the Air Quality Regulations is:

(a) To limit the Emission of Particulate Matter into the ambient air by preventing, controlling, and mitigating Fugitive Dust from Construction Activities; and

(b) To establish Fugitive Dust control standards for Clark County, define reasonable precautions for the prevention and control of Fugitive Dust from all Construction Activities and to establish thresholds for enforcement of these standard.

94.2 **Applicability.**

94.2.1 This section of the Air Quality Regulations applies to all Construction Activities that disturb or have the potential to disturb soils and that emit or have the Potential to Emit Particulate Matter into the atmosphere. This section covers the requirements for a Dust Control Permit and a Dust Mitigation Plan as well as the application procedures.

94.2.2 For the purpose of this regulation, Construction Activities include, but are not limited to, the following practices:

(a) Land clearing, maintenance, and land cleanup using machinery;

(b) soil and rock excavation or removal;

(c) soil or rock hauling;

(d) soil or rock crushing or screening;

(e) filling, compacting, stockpiling and grading;

(f) explosive blasting;

(g) demolition;

(h) implosion;

(i) handling of building materials capable of entrainment in air (e.g., sand, cement powder);

(j) abrasive blasting;

(k) concrete, stone, and tile cutting;

(l) mechanized Trenching;

(m) initial landscaping;

(n) operation of motorized machinery;

(o) driving vehicles on a Construction site; and

(p) establishing and/or using staging areas, parking areas, material storage areas, or access routes to or from a Construction site.

94.2.3 This regulation shall not apply to operation of Emission Units or activities permitted under any other section of the Air Quality Regulations, with the specific exception that any Construction Activities that occur at such facilities and the land area that Various Location Operating Permits are located on shall be subject to this regulation. In all permits issued under the Air Quality Regulations the provisions of this section shall be considered as part of a BACT determination.

94.2.4 This regulation shall not apply to Normal Farm Cultural Practices and existing equestrian facilities that are in compliance with zoning requirements.

94.2.5 This regulation shall not apply to emergency activities that may disturb the soil, conducted by any utility or government agency in order to prevent public injury or restore critical utilities to functional status.

94.3 **Definitions.**

94.3.1 For the purpose of this section of the Air Quality Regulations, terms listed in this subsection have the meanings ascribed.

94.3.2 Best Available Control Measures (BACM): means those Control Measures that are the best available with current technology for reducing or eliminating the release of Particulate Matter into the atmosphere from Construction Activities. These include but are not limited to all measures listed in the Construction Activities Dust Control Handbook as Best Management Practices, any control measure required by a Corrective Action Order, and any other Control Measures required by the Control Officer.

94.3.3 Construction Activities Dust Control Handbook: means the reference manual used to complete a Dust Control Permit and a Dust Mitigation Plan, and contains a listing of the Best Management Practices, copies of which are on file at the department.

94.3.4 Department: means the Clark County Nevada department responsible for the air quality programs.

94.3.5 Dust Mitigation Plan: means an attachment to a Dust Control Permit that lists all the Construction Activities that shall occur and the Best Management Practices that shall be used, to mitigate dust at a permitted site. Upon approval of the application the Dust Mitigation Plan becomes an enforceable part of the dust control permit.

94.3.6 Gravel: means a mineral or rock aggregate ranging in size from 0.25 inch to 3 inch on its longest dimension that is either natural or the product of a mineral processing operation and contains no more than 6% silt, by weight.

94.4 **Permits Required, Exemptions from Required Permit and Responsibility when Exempt.**

94.4.1 Prior to engaging in any Construction Activities, the property Owner and/or Operator, who is the owner's designee shall apply for and obtain a dust control permit from the department.

94.4.2 A dust control permit shall not be required for soil disturbing or Construction Activities less than 0.25 acre in overall area, mechanized Trenching less than one hundred (100) feet in length, or for mechanical demolition of any structure smaller than one thousand (1,000) square feet.

94.4.3 The following activities shall not require a dust control permit:

(a) Landscaping by an individual at his/her place of residence;

(b) Emergency maintenance activities conducted by government agencies on publicly maintained roads, road shoulders, right-of-ways and on public flood control facilities; or,

(c) Weed removal or Dust Palliative application projects conducted solely for the purpose of compliance with weed abatement or vacant land dust control regulations, wherein no grade elevation changes, no soil or rock is imported or exported, or no cut and fill operations occur. Importing of gravel or rock for use as a Dust Palliative is allowed under this subsection.

94.5 **Permit Applications.**

94.5.1 Application for issuance or Renewal of a dust control permit shall be made on a form and in a manner prescribed by the Control Officer.

94.5.2 Each application shall be accompanied by payment of a fee in accordance with Section 18.

94.5.3 Public agency maintenance projects, performed by that agency's employees, may be eligible for a waiver of permit fees upon approval of the Control Officer.

94.5.4 All applications for a Dust Control Permit shall include a Dust Mitigation Plan with appropriate Control Measures from the Construction Activities Dust Control Handbook for every construction activity to be conducted. Other Control Measures that are at least as effective as Control Measures contained in the Construction Activities Dust Control Handbook may be implemented

provided they meet the criteria outlined in Section 2 of the introduction to the Best Management Practices section of the handbook and with the approval of the Control Officer.

94.5.5 An application for a Dust Control Permit for a Construction project ten (10) acres or more in area, for Trenching activities one (1) mile or greater in length, or for structure demolition using implosive or explosive blasting techniques, shall be required to submit a detailed supplement to the Dust Mitigation Plan. This supplement shall be in the form of a written report and shall, at minimum, detail the project description, the area and schedule of the phases of land disturbance, the Control Measures and the contingency measures to be used for all Construction Activities. This supplement shall become part of the Dust Control Permit as an enforceable permit condition.

94.5.6 An application for a Dust Control Permit that includes demolition of a structure One thousand (1,000) square feet or greater in area or explosive blasting of rock or soil, shall include the appropriate supplemental form that is provided in Attachment 1 of the Construction Activities Dust Control Handbook for each activity. These forms shall become part of the Dust Control Permit as an enforceable permit condition.

94.5.7 If an applicant elects not to use the Soil Maps in the Dust Control Handbook for the purpose of determining the appropriate Best Management Practices, and the application is for a Dust Control Permit for a construction project of fifty (50) acres or more in area, then the application shall contain an actual soils analysis of the entire project. The soils analysis shall use the appropriate ASTM test method to determine soil types. If the soils analysis identifies two or more soil types, the area of each soil type shall be shown on a map of the project. A copy of the map shall be included in the application for the Dust Control Permit. The soils analysis shall utilize at least one (1) sample taken from the top one (1) foot of soil for each soil type identified. The soils analysis shall use the appropriate ASTM test to determine the silt content and optimum moisture of the sample(s). The application for the Dust Control Permit shall contain the particulate Emission potential (PEP) for each soil type identified calculated from the results of the soils analysis and the Silt Content vs. Optimum Moisture Content Chart (figure 2) in the Construction Activities Dust Control Handbook. The choice of Best Management Practices for the Dust Mitigation Plan may be different for each soil type area, if not, the highest PEP identified on the project shall be used.

94.5.8 The application shall be signed by the property owner or the owner's designee as listed on the "Owner's Designee for Dust Control Permit for Construction Activities" form.

94.5.9 Upon approval, the completed Dust Control Permit application, Dust Mitigation Plan and related maps and forms shall become a part of the Dust Control Permit.

94.5.10 If the applicant is notified by the Control Officer that the Dust Control Permit application is incomplete and requests additional information and the applicant fails to provide the requested information within 30 days of such notice, the application will be terminated and all fees submitted will not be refundable.

94.6 **Dust Control Permit Requirements.**

94.6.1 Issuance or Renewal of each Dust Control Permit requires payment of a Dust Control Permit fee in accordance with Section 18.

94.6.2 A Dust Control Permit is to be granted subject to the right of inspection of such affected land without prior notice by the Control Officer.

94.6.3 The permit shall be granted subject to, but not limited to, the following conditions:

(a) The permittee is responsible for ensuring that all persons abide by the conditions of the permit and these Regulations;
(b) The permittee is responsible for supplying complete copies of the Dust Control Permit including the Dust Mitigation Plan, to all project contractors and subcontractors; and,
(c) The permittee is responsible for all permit conditions, until a Certificate of Project Completion (form DCP 08 see Attachment 1) has been submitted by the permittee and approved by the Control Officer.

94.6.4 The signature of the Owner and/or Operator who is the Owner's designee on the Dust Control Permit shall constitute agreement to accept responsibility for meeting the conditions of the permit and for ensuring that Best Available Control Measures are implemented throughout the project site.

94.6.5 Requirements and conditions of the Dust Control Permit shall be made a part of the specifications of the Construction contract between the owner and prime contractor and contracts between the prime contractor and applicable subcontractors. Said contracts must provide a monetary allowance for any dust control options specified in the Dust Mitigation Plan. The amount of the allowance may be specified either by the Owner, competitively bid, or negotiated by and amongst the parties.

94.6.6 Projects less than 0.25 acres in area under common control that are either contiguous or separated only by a public or private roadway and that cumulatively equal or exceed 0.25 acre in area are also required to obtain a Dust Control Permit. These projects are required to meet all Dust Control Permit requirements based on cumulative area. All contiguous projects under common control may be required to obtain and operate under a single permit, at the discretion of the Control Officer.

94.6.7 A Dust Control Permit shall be required for routine, public agency road maintenance, road shoulder maintenance, flood control facility maintenance, and maintenance activities that disturb soil and are capable of causing Fugitive Dust. Such Dust Control Permits may be issued based upon written monthly, quarterly, semi-annual, or annual schedules of work for routine maintenance activities. Such permits shall include a Dust Mitigation Plan listing all activities to be performed that may disturb the soil, and shall include Best Management Practices for all these activities. Public agencies shall quantify miles and acres of maintenance activities to be performed under the conditions of the Dust Control Permit.

94.6.8 The permit holder shall notify the department in writing within ten (10) days following the cessation of active operations on all or part of a Construction site when cessation will extend thirty (30) days or longer.

94.6.9 A Dust Control Permit is valid for one calendar year from the date of issuance.

94.6.10 A complete copy of the Dust Control Permit shall be kept on the project site at all times that Construction Activities occur and made available upon request of the Control Officer.

94.7 **General and Administrative Standards.**

94.7.1 Anyone engaging in Construction Activities on a site having a Dust Control Permit shall be subject to all conditions set forth in that permit. Failure to comply with any condition set forth in the permit shall be in violation of this section of the Air Quality Regulations.

94.7.2 The Construction Activities Dust Control Handbook, excluding all attachments, is adopted and made a part of this section of the Air Quality

Regulation, as if it were fully set forth herein, except as amended by this regulation.

94.7.3 **Dust Control Permit: Restrictions on issuance; Suspension; Revocation; Requirement for Bond; Right to Appeal:**

94.7.3.1 Permits shall not be issued to an applicant having outstanding unpaid department fees and/or penalties, not under appeal.

94.7.3.2 If an Owner and/or Operator has three (3) Notices of Violation that have been adjudicated by the Hearing Officer at the same project for which the Dust Control Permit was issued, the Control Officer or his/her representative may suspend or revoke the permit. Upon suspension or revocation of a permit, all activities that are authorized by that permit shall cease. The Control Officer shall post notices of suspension or revocation conspicuously on the property involved. The notice shall state the reasons and indicate the date and time of suspension and/or revocation. The suspension or revocation shall remain in effect until such time as rescinded by the Control Officer. If the permit has been suspended, the permit may be reinstated. If revoked, a new permit will not be issued until an application is made and fees paid in accordance with Section 18 of these Regulations. The permittee shall have a right to hearing before the Hearing Officer within five (5) working days from date of issuance of the suspension or revocation. Alternatively, in such instances, the Control Officer may require compliance with Subsection 94.7.6 for all operators of earth moving or soil disturbing equipment.

94.7.3.3 If during any 180 day period an Owner and/or Operator has three (3) Notices of Violation that have been adjudicated by the Hearing Officer for the same Construction site, the Control Officer shall require the posting of a surety bond to ensure implementation of the mitigation measures set forth in the approved Dust Control Permit for the subject site. If an Owner and/or Operator has two (2) or more Notices of Violation that have been adjudicated by the Hearing Officer from the department for: failure to obtain a Dust Control Permit; failure to implement Best Management Practices; or failure to comply with a Corrective Action Order, the Control Officer may, as a condition of obtaining or maintaining a Dust Control Permit, issue a Corrective Action Order requiring the Owner and/or Operator to post a surety bond to ensure the implementation of the mitigation measures set forth in said Dust Control Permits.

The Owner and/or Operator shall provide the Control Officer the surety bond executed in a form acceptable to the Control Officer for the approved Dust Control Permit as the principal with a corporation authorized to transact surety business in the State of Nevada. The Owner and/or Operator shall condition the surety bond upon the faithful performance of all other conditions of the permit and faithful compliance with the provisions of these

Regulations. The surety bond shall remain in effect until the Construction Activity specified in the said Dust Control Permit is complete and the department closes the said Dust Control Permit. The amount of each bond required by this section shall equal the estimated cost of implementing the dust Control Measures set forth in the approved Dust Control Permit plus an additional 10% of the estimated cost to cover contingencies, as determined by the department.

94.7.3.4 Any Person aggrieved by a decision of the Control Officer pursuant to this section may appeal in accordance with Section 7 of these Regulations.

94.7.4 **Corrective Action Orders (CAO) and Notices of Violation (NOV).**

94.7.4.1 If it is found that any provision of Section 94, a Dust Control Permit, or a Dust Mitigation Plan has not been complied with, the Control Officer may issue a Corrective Action Order to any Owner and/or Operator or other person that they may be in violation of these Regulations and said finding shall be corrected within a specified period of time, dependent upon the scope and extent of the problem.

94.7.4.2 The failure to comply with the corrective measures of a Corrective Action Order within the specified period of time shall be a violation of this section of the Air Quality Regulations.

94.7.4.3 Regardless of whether a Corrective Action Order has been issued, the Control Officer may issue a Notice of Violation upon determination that the Owner and/or Operator is out of compliance with any provisions of this section of the Air Quality Regulations, a Dust Control Permit, a Dust Mitigation Plan, or upon the failure to comply with a previously issued Corrective Action Order.

94.7.4.4 The Control Officer, or his/her designee shall be further empowered to enter upon any said land where any loose soil or dust problem exists, and to take such remedial and corrective action as may be deemed appropriate to cope with and relieve, reduce, or remedy the loose soil, dust situation or condition, when the Owner and/or Operator fails to do so.

94.7.4.4.1 Any cost incurred in connection with any such remedial or corrective action by the department or any person acting for the department shall be reimbursed by the land Owner and/or Operator. If these costs are not reimbursed the Control Officer may request a lien be placed on the subject lands that shall remain in full force and effect until any and all such costs have been collected.

94.7.4.5 Any additional Control Measures prescribed by the Control Officer in a Corrective Action Order, issued to the holder of a Dust Control Permit, shall become a part of that permit's Dust Mitigation Plan.

94.7.5 **Dust Control Monitor.**

94.7.5.1 Any Construction project having 50 acres or more of actively disturbed soil at any given time shall be required by the Control Officer to have in place an individual designated as the Dust Control Monitor with full authority to ensure that dust Control Measures are implemented, including inspections, record keeping, deployment of resources, and shut-down or modification of Construction Activities as needed. This individual shall be listed on the Construction Site Dust Control Monitor form provided in Attachment 1 of the Construction Activities Dust Control Handbook.

94.7.5.2 A Dust Control Monitor shall also be required for individually permitted projects that have less than fifty (50) acres of actively disturbed soil if they are:

(a) under common control and are either contiguous or separated by a public or private roadway and cumulatively have fifty (50) acres or more of actively disturbed soil; or

(b) under common control and not contiguous, but are contained within a common master-planned community and cumulatively have fifty (50) acres or more of disturbed soil.

94.7.5.3 The Dust Control Monitor shall be present at all times Construction Activities occur on the project site and shall devote the majority of his/her time specifically to managing dust prevention and control on the site.

94.7.5.4 The requirement for a Dust Control Monitor shall lapse when:

(a) the area of actively disturbed soil becomes less than fifty (50) acres;

(b) the previously disturbed areas have been stabilized in accordance with the requirements of these Regulations; and,

(c) the stabilization has been approved and the acreage verified by the Control Officer.

94.7.5.5 A Dust Control Monitor shall be considered qualified when he/she has met the following minimum qualifications:

(a) successfully completed the Basic Dust Control Class;

(b) successfully completed the Dust Control Monitor Class;

(c) two years of experience in the Construction industry; and,

(d) successfully completed a course that certifies him/her in Visual Emissions Evaluation (VEE) that has been approved or is conducted by the Control Officer.

94.7.5.6 For a Dust Control Monitor to maintain his/her certification he/she must successfully complete the Dust Control Monitor class at least once every three years.

94.7.6 **Dust Control Class.**

94.7.6.1 The Construction site superintendent or other designated on-site representative of the project developer and all Construction site supervisors and foremen shall be required to have successfully completed a Dust Control Class.

94.7.6.2 Water truck and water pull driver(s) for each Construction project shall be required to have successfully completed a ~~Clark County Department of Air Quality and Environmental Management~~ Dust Control Class.

94.7.6.3 All individuals required to attend and successfully complete the Dust Control Class shall do so at least once every three years.

94.7.6.4 Construction site workers and equipment operators, may be required to attend a Dust Control Class as a remedial or corrective measure.

94.7.7 **Signage Requirements.**

94.7.7.1 For each Dust Control Permit issued where the project site is less than or equal to ten (10) acres, or for Trenching projects between one hundred (100) feet and one (1) mile in length, or for demolition of a structure totaling one thousand (1,000) square feet or more, the permittee shall install a sign on the project site prior to commencing Construction activity that is visible to the public and measures, at minimum, four (4) feet wide by four (4) feet high, conforming to department policy on Dust Control Permit Design and Posting of Signage listed in Attachment 4 of the Construction Activities Dust Control Handbook.

94.7.7.2 For each Dust Control Permit issued where the project site is over ten (10) acres, or for Trenching projects aggregating one (1) mile or greater in length, the permittee shall install a sign on the project site prior to commencing Construction Activity and visible to the public and measures, at minimum, eight (8) feet wide by four (4) feet high, conforming to department policy on Dust Control Permit Design and Posting of Signage listed in Attachment 4 of the Construction Activities Dust Control Handbook.

94.7.7.3 Projects shorter than two (2) weeks in duration may request a waiver of the requirement of posting a Dust Control Permit Sign.

94.7.8 **Record Keeping.**

94.7.8.1 On a site having a Dust Control Permit a written record of self-inspection shall be made each day soil disturbing work is conducted. The “Record of Daily Dust Control” form provided in Appendix A of the Construction Activities Dust Control Handbook, or other written record that provides at a minimum the same information, shall be completed.

94.7.8.2 Records of Construction site self-inspections shall be kept for a minimum of one (1) year or for six (6) months beyond the project duration, whichever is longer. Self-inspection records include daily inspections for crusted or damp soil, trackout conditions and cleanup measures, daily water usage, Dust Suppressant application records, etc.

94.7.8.3 For Control Measures involving chemical or organic soil stabilization, records shall indicate the type of product applied, vendor name, label instructions for approved usage, and the method, frequency, concentration, and quantity of application.

94.8 Soil Stabilization Standards.

94.8.1 All permittees, contractors, Owners, operators, or other persons involved in Construction Activities shall employ Control Measures as set forth in the Construction Activities Dust Control Handbook.

94.8.2 One or a combination of the following methods shall be used to maintain dust control on all disturbed soils on Construction sites and staging areas:

(a) The soil shall be maintained in a sufficiently damp condition to prevent loose grains of soil from becoming dislodged when the disturbed soil is tested using the Drop Ball Test outlined in Subsection 94.12.5; or

(b) The soil shall be crusted over by application of water, as demonstrated by the Drop Ball Test outlined in Subsection 94, 12.5; or

(c) The soil shall be completely covered with clean gravel or treated with a Dust Suppressant approved by the Control Officer, to the extent necessary to pass a Drop Ball Test outlined in Subsection 94.12.5.

94.8.3 When a Construction site or part thereof becomes inactive for a period of thirty (30) days or longer, long-term stabilization shall be implemented within ten (10) days following the cessation of active operations.

94.8.4 Stockpiles located within one hundred (100) yards of occupied buildings shall not be constructed over eight (8) feet in height.

94.8.5 Stockpiles over eight (8) feet high shall have a road bladed to the top to allow water truck access or shall have a sprinkler irrigation system installed, used and maintained.

94.9 **Best Available Control Measures (BACM)**

94.9.1 Any person who engages in a Construction activity as defined in this regulation shall employ BACM for the purpose of dust control.

94.9.2 All Control Measures that are necessary to maintain soil stability as well those listed in an approved Dust Mitigation Plan, shall be implemented twenty four (24) hours a day, seven (7) days a week, until the permit is closed in accordance with Subsection 94.6.3(c).

94.9.3 In the event there are wind conditions that cause Fugitive Dust Emissions; in excess of 20% Opacity using the Time Averaged Method or Intermittent Emissions Method, in excess of 50% Opacity using the Instantaneous Method, or one hundred (100) yards in length from the point of origin, in spite of the use of Best Available Control Measures, all Construction Activities that may contribute to these Emissions shall immediately cease. Water trucks and water pulls shall continue to operate under these circumstances, unless wind conditions are such that the continued operation of watering equipment cannot reduce Fugitive Dust Emissions or that continued equipment operation poses a safety hazard.

94.9.4 If a Dust Control Permit is not required, the Owners, operators, or any other person involved in Construction Activities shall employ Best Management Practices, as set forth in the Construction Activities Dust Control Handbook and comply with the soil stabilization standards listed in Subsections 94.8 and Emissions standards listed in Subsection 94.11.

94.10 **Construction Activities Violations.**

94.10.1 Any of the following circumstances constitute a violation of the Clark County Air Quality Regulations:

(a) Failure to obtain an approved Dust Control Permit before engaging in activities that disturb or have the potential to disturb soils and/or cause or have the potential to cause Fugitive Dust to enter the air.

(b) Failure to obtain an approved Dust Control Permit for all areas subject to Construction Activities.

(c) Conducting a Construction Activity as defined by Subsection 94.2 for which no specified control option is indicated in the approved Dust Control Permit or the Dust Mitigation Plan.

(d) Failure to perform any duty to allow or carry out an inspection, entry, or monitoring activity required by the department.

(e) Failure to renew or obtain a new permit, prior to a Dust Control Permit expiring, provided the site does not meet the exemption requirements for a Dust Control Permit as defined in Subsection 94.4.2.

(f) Failure to implement any item that is listed as a “Requirement” in the Best Management Practices section of the Construction Activities Dust Control Handbook for an applicable Construction Activity.

(g) Failure to implement any Best Management Practice listed in an approved Dust Control Permit / Dust Mitigation Plan.

(h) Failure to maintain static (not actively worked) project soils with adequate surface crusting to prevent wind erosion as measured by test method “Soil Crust Determination (The Drop Ball Test)” in Subsection 94.12.5, or alternative Control Measures approved in the Dust Mitigation Plan.

(i) Failure to comply with any record keeping requirements of this section.

(j) Failure to maintain project haul routes or haul roads in a stable condition as measured by the Intermittent Emissions test method outlined in Section 94.12.3.

(k) Failure to have a Dust Control Monitor in place, per Subsection 94.7.5, for a Construction project.

(l) Allowing Fugitive Dust Emissions to exceed the standards set forth in Subsections 94.11.1 through 94.11.4.

(m) Using a dry rotary brush or blower device without sufficient water to limit Emissions per Subsection 94.11.5.

(n) Allowing mud or dirt to be tracked out onto a Paved road that exceed the standards set forth in Subsection 94.11.6.

(o) Failure to comply with any other provision of this section.

94.11 Emission Standards.

94.11.1 No person shall cause or permit the handling, transporting, or storage of any material in a manner that allows visible Emissions of Particulate Matter to exceed: 20% Opacity using the Time Averaged Method or the Intermittent Emissions Method; 50% Opacity using the Instantaneous Method. These test methods are set forth in Subsection 94.12.

94.11.2 No person shall cause or permit the handling, transporting, or storage of any material in a manner that allows a dust plume that extends one hundred (100) yards or more, horizontally or vertically, from the point of origin.

94.11.3 Where a Dust Control Permit is required and has not been issued or in the event Best Available Control Measures have not been fully implemented, no person shall cause or permit the handling, transportation, or storage of any material in a manner that exceeds the limits listed in any one of the following:

(a) The limits set forth in Subsection 94.11.1; or

(b) Allow a dust plume to extend more than one hundred (100) feet, horizontally or vertically, from the point of origin; or

(c) Allow a dust plume to cross a property line.

94.11.4 Visible Emissions from abrasive blasting shall be limited to no more than an average of 40% Opacity for any period aggregating three (3) minutes in any sixty (60) minute period, utilizing the test method set forth in Subsection 94.12.

94.11.5 The use of dry rotary brushes and blower devices for removal of deposited mud/dirt trackout from a Paved road is prohibited, unless sufficient water is applied to limit the visible Emissions to an Opacity of not greater than: 20% Opacity using the Time Averaged Method or Intermittent Emissions Method; 50% Opacity using the Instantaneous Method. These test methods are set forth in Subsection 94.12. The use of rotary brushes without water is prohibited.

94.11.6 Mud or dirt shall not be allowed to be tracked out onto a Paved road where such mud or dirt extends fifty (50) feet or more in cumulative length from the point of origin or allow any trackout to accumulate to a depth greater than 0.25 inch. Notwithstanding the preceding, all accumulations of mud or dirt on curbs, gutters, sidewalks, or Paved roads including trackout less than fifty (50) feet in length and 0.25 inch in depth, shall be cleaned and maintained to eliminate emissions of Fugitive Dust. At a minimum all trackout must be cleaned up by the end of the workday or evening shift, as applicable.

94.12 Test Methods

94.12.1 Visual Determination of Opacity of Emissions from Sources of Visible Emissions.

Applicability: This method is applicable for the determination of the Opacity of Emissions from sources of visible Emissions the Time Averaged Method requires averaging of visible Emission readings over a specific time period to determine the Opacity of visible Emissions. The Time Averaged Method is applicable to continuous Emissions sources. The Intermittent Emissions Method requires averaging a set number of visible Emissions readings to determine the Opacity of visible Emissions. The Intermittent Emissions Method is applicable to intermittent Emissions sources. The Instantaneous Method sets an Opacity limit that shall not be exceeded at any time. The Instantaneous Method is applicable to any Emissions source and is a non-federal requirement.

Principle: The Opacity of Emissions of a source of visible Emissions is determined visually by an observer who has current certification approved

by the Control Officer, as a qualified Visible Emissions Evaluator, using US EPA Method 9.

Procedures: A qualified Visible Emissions Evaluator shall use the procedures set forth in Subsections 94.12.2, 94.12.3, and 94.12.4 for visually determining the Opacity of Emissions.

94.12.2 Time Averaged Method: These procedures is for evaluating continuous Fugitive Dust Emissions and are for the determination of the Opacity of continuous Fugitive Dust Emissions by a qualified observer. Continuous Fugitive Eust Emissions sources include activities that produce Emissions continuously during operations such as earthmoving, grading, and Trenching. Emissions from these types of continuous activities are considered continuous even though speed of the activity may vary and Emissions may be controlled to 100%, producing no visible emissions, during parts of the operation. The qualified observer should do the following:

(a) Position: Stand at a position at least twenty (20) feet from the Fugitive Dust source in order to provide a clear view of the Emissions with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining the above requirements, make Opacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The observer may follow the Fugitive Dust plume generated by mobile earth moving equipment, as long as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the name of the site, Fugitive Dust source type (e.g., earthmoving, grading, trenching), method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the Fugitive Dust source. Also, record the time, estimated distance to the Fugitive Dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the Fugitive Dust source, and color of the plume and type of background on the visible Emission observation when Opacity readings are initiated and completed.

(c) Observations: Make Opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Make Opacity observations at a point just beyond where material is no longer being deposited out of the plume (normally three (3) feet above the surface from which the plume is generated). The initial observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume, but instead observe the plume momentarily at 15-second intervals. For Fugitive Dust from earthmoving equipment, make Opacity observations at a point just beyond where material is not being deposited out of the

plume (normally three (3) feet above the mechanical equipment generating the plume).

(d) Recording Observations: Record the Opacity observations to the nearest 5% every fifteen (15) seconds on an observational record sheet. Each momentary observation recorded represents the average Opacity of Emissions for a fifteen (15) second period. If a multiple plume exists at the time of an observation, do not record an Opacity reading. Mark an "x" for that reading. If the equipment generating the plume travels outside of the field of observation, resulting in the inability to maintain the orientation of the sun within the 140° sector or if the equipment ceases operating, mark an "x" for the fifteen (15) second interval reading. Readings identified as "x" shall be considered interrupted readings.

(e) Data Reduction For Time-Averaged Method: For each set of twelve (12) or twenty four (24) consecutive readings, calculate the appropriate average Opacity. Sets shall consist of consecutive observations, however, readings immediately preceding and following interrupted readings shall be deemed consecutive and in no case shall two sets overlap, resulting in multiple violations.

94.12.3 Intermittent Emissions Method: This procedure is for evaluating intermittent Fugitive Dust Emissions: This procedure is for the determination of the Opacity of intermittent Fugitive Dust Emissions by a qualified observer. Intermittent Fugitive Dust Emissions sources include activities that produce Emissions intermittently such as screening, dumping, and stockpiling where predominant Emissions are produced intermittently. The qualified observer should do the following:

(a) Position: Stand at a position at least twenty (20) feet from the Fugitive Dust source in order to provide a clear view of the Emissions with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining the above requirements, make Opacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. As much as possible, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the name of the site, Fugitive Dust source type (e.g., pile, material handling, transfer, loading, sorting), method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the Fugitive Dust source. Also, record the time, estimated distance to the Fugitive Dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the Fugitive Dust source, and color of the plume and type of background on the visible emission observation when Opacity readings are initiated and completed.

(c) Observations: Make Opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Make Opacity observations at a point just beyond where material is no longer being deposited out of the plume (normally three (3) feet above the surface from which the plume is generated). Make two observations per plume at the same point, beginning with the first reading at zero (0) seconds and the second reading at five (5) seconds. The zero (0) second observation should begin immediately after a plume has been created above the surface involved.

(d) Recording Observations: Record the Opacity observations to the nearest 5% on an observational record sheet. Each momentary observation recorded represents the average Opacity of Emissions for a five (5) second period.

(e) Repeat Subsection 94.12.3(c) of this regulation and Subsection 94.12.3(d) of this regulation until you have recorded a total of 12 consecutive Opacity readings. This will occur once six intermit plumes on which you are able to take proper readings have been observed. The 12 consecutive readings must be taken within the same period of observation but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

(f) Average the 12 Opacity readings together. If the average Opacity reading equals 20% or lower, the source is in compliance with the averaged method Opacity standard described in this Section.

94.12.4 Instantaneous Method: This is a non-federal procedure for evaluation of Fugitive Dust Emissions: This procedure is for the instantaneous determination of the Opacity of Fugitive Dust Emissions by a qualified observer. This method is a Clark County local requirement and is not submitted as part of the applicable State Implementation Plan. The qualified observer should do the following:

(a) Position: Stand at a position at least twenty (20) feet from the Fugitive Dust source in order to provide a clear view of the Emissions with the sun oriented in the 140° sector to the back. Consistent as much as possible with maintaining the above requirements, make Opacity observations from a position such that the line of sight is approximately perpendicular to the plume and wind direction. The observer may follow the Fugitive Dust plume generated by mobile earth moving equipment, as long as the sun remains oriented in the 140° sector to the back. As much as possible, do not include more than one plume in the line of sight at one time.

(b) Field Records: Record the name of the site, Fugitive Dust source type (e.g., earthmoving, grading, storage pile, material handling, transfer, loading, sorting), method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position

relative to the Fugitive Dust source. Also, record the time, estimated distance to the Fugitive Dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position relative to the Fugitive Dust source, and color of the plume and type of background on the visible emission observation when Opacity readings are initiated and completed.

(c) Observations: Make Opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of sight. Make Opacity observations at a point just beyond where material is no longer being deposited out of the plume (normally three (3) feet above the surface from which the plume is generated).

(d) Recording Observations: Record the Opacity observations to the nearest 5%.

(e) Data Reduction for Instantaneous Regulations: Evaluate all observations for conformance with the instantaneous regulation.

94.12.5 Soil Crust Determination (The Drop Ball Test):

(a) Drop a steel ball with a diameter of 0.625 (5/8th) inch and a mass ranging from 0.56-0.60 ounce from a distance of one (1) foot directly above the soil surface. If blowsand is present, clear the blowsand from the surfaces on which the soil crust test method is conducted. Blowsand is defined as thin deposits of loose uncombined grains covering less than 50% of a project site that have not originated from the representative surface being tested. If material covers a visible crust, which is not blowsand, apply the test method in Subsection 90.4.1.3 (Determination of Threshold Friction Velocity) of this regulation to the loose material to determine whether the surface is stabilized.

A sufficient crust is defined under the following conditions: once a ball has been dropped according to Subsection 90.4.1.1 of this regulation, the ball does not sink into the surface, so that it is partially or fully surrounded by loose grains and, upon removing the ball, the surface upon which it fell has not been pulverized, so that loose grains are visible.

(b) Randomly select each representative disturbed surface for the drop ball test by using a blind "over the shoulder" toss of a throwable object (e.g., a metal weight with survey tape attached). Using the point of fall as the lower left hand corner, measure a one (1) foot square area. Drop the ball three times within the 1-foot by 1-foot square survey area, using a consistent pattern across the survey area. The survey area shall be considered to have passed the Soil Crust Determination Test if at least two out of the three times that the ball was dropped, the results met the criteria in Subsection

90.4.1.1(a) of this regulation. Select at least two other survey areas that represent a random portion of the overall disturbed conditions of the site, and repeat this procedure. If the results meet the criteria of Subsection 90.4.1.1(a) of this regulation for all of the survey areas tested, then the site shall be considered to have passed the Soil Crust Determination Test and shall be considered sufficiently crusted.

(c) At any given site, the existence of a sufficient crust covering one portion of the site may not represent the existence or protectiveness of a crust on another portion of the site. Repeat the soil crust test as often as necessary on each portion of the overall conditions of the site using the random selection method set forth in Subsection 90.4.1.1(b) of this regulation for an accurate assessment.

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