PART II - APPROVAL AND PERMIT

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RULE 201 LOCATION APPROVAL

(A) Approval Required

After January 1, 1973, no person shall cause, or permit the location or construction of a new major stationary source, or major modification or significant source, without first obtaining a location approval from the Board.

(B) Standards for Granting a Location Approval

Location Approval shall only be granted upon the satisfaction of all the following requirements with regard to the pollutant for which the source or modification is major or significant:

(1) The proposed location shall be propitious from the standpoint of the projected air quality impact, based upon the following considerations:

(a) the existing air quality at the proposed site,
(b) the climate, topography and meteorology,
(c) land use and planning
(d) effects on nearby ecological sensitive areas.

(2) The emissions from the new major source, or major modification or significant source shall not cause a violation of any applicable NAAQS or exacerbate an existing NAAQS violation. A major source or major modification or significant source will be considered to exacerbate a NAAQS violation when such source or modification exceeds the significant air quality impact levels (as defined in Rule 102) at any locality that does not or would not meet the applicable NAAQS.

(3) An emission offset shall be provided for, as required in Section C of this Rule, whenever the increase in allowable emissions from major source, major modification or significant source would otherwise cause or exacerbate a violation of any applicable NAAQS or in case of non-attainment area such increase may exacerbate an existing violation of any NAAQS.

(4) Notice must be published as prescribed in Rule 111(B) and an opportunity for a public hearing must be offered.

(5) The proposed source complies with all applicable rules and regulations and other applicable standards.

(6) Air pollutant emissions from the new major source, major modification, or significant source, will be limited by means of:

(a) In cases of sources located in attainment areas, the Best Available Control Technology (BACT).

(b) In cases of sources locating in or significantly impacting a non-attainment area, the Lowest Achievable Emission Rate (LAER) for the relevant criteria pollutant.

(7) If an emission offset is part of the location approval, all other sources owned or controlled by the applicant in the Air Quality Control Region of the Commonwealth of Puerto Rico shall be in compliance with applicable rules and regulations, or with an approved compliance plan.

(8) Any proposed major source, major modification, or significant source located in or significantly impacting a non-attainment area shall conduct an analysis of alternative sites (within Puerto Rico) sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social cost imposed as a result of its location, construction, or modification.

(C) Emission Offset Required

(1) The Board shall require from a new major source, or major modification or significant source an emission reduction beyond that of LAER, in terms of an "emissions offset", for any pollutant whenever:

(a) the new major source or major modification is located in a non-attainment area for that pollutant;

(b) the source or modification is located in an attainment or unclassifiable area and would cause an exceedance of the significant air quality impact levels in any non-attainment area for that pollutant.

(c) Sources that are not subject to emission offset requirements include source or modifications that would be major sources or major modifications only if fugitive emissions are considered in calculating the potential to emit and the sources do not belong to any of the 28 categories specified in the definition of major stationary source.

(2) Pre-application Conference

A conference between the owner or operator of a source or facility affected by the emission offset requirement and a representative of the Board shall demonstrate to the Board the feasibility and availability of emission offset, as required.

(3) Emission Offset Quantified

(a) The emission offset required by this section shall be that necessary to compensate for the increase in allowed emissions from a new major source, major modification so as to represent reasonable further progress.

(b) Any emission offset ratio must be greater than 1;1.

(c) The baseline for determining credit for emission offsets shall be the SIP emission limitations in effect at the time the application to construct or modify a source is filed. Where the SIP does not contain an emission limitation for a source, the emission offset baseline involving such source of facility shall be the actual emissions, determined in accordance with sub-section (d) regarding operating conditions.

(d) Emission offsets should be made on a "pound per hour" basis, when the sources involved in the emission offsets calculations are operating at their maximum expected or allowed production rate, or according to any other averaging period (e.g., tons per year) deemed necessary by the Board to carry out the intent of this Rule. If offsets are calculated on a tons per year basis, the baseline emissions for existing sources producing the offsets should be calculated using the actual annual operating hours for the previous one or two year period (or other appropriate period, if warranted by cyclical business conditions). Where the SIP requires certain hardware controls in lieu of an emission limitation (e.g., floating roof tanks for petroleum storage), baseline emission should be based on actual operating conditions for the previous one or two year period (e.g., actual throughput and vapor pressures) in conjunction with the required hardware control.

(e) To be considered as emission offsets, emission reductions must meet the following conditions:

(i) emission reductions must be of the same contaminant for

which the area is classified as non-attainment;

(ii) emission reductions must be obtained from the same source or other existing sources located in the same non-attainment area;

(iii) emission reductions must based in actual emissions and federally enforceable, through a permit condition made to the existing source, by the time the new or modified source commences operation;

(iv) emission reductions must result in a real reduction in actual emissions;

(v) emission reductions must have approximately the same qualitative significance for public health and welfare as that of the emissions that are increased;

(vi) emission reductions must not have been used for demonstrating attainment of the NAAQS or reasonable further progress or any other reductions otherwise required by the Act.

(vii) emission reductions from source shutdowns or curtailments must have occurred on or after November 15, 1990;

(viii) PM_{10} precursors may be offset by reductions in PM_{10} precursors of the same type or with PM_{10}. Offsetting between different types of PM_{10} precursors is not allowed. PM_{10} precursor emissions may also be offset with a combination of the same type of PM_{10} precursor and PM_{10}.

(4) Emission reductions required to comply with Federal or Commonwealth of Puerto Rico emission limitations, or with any applicable rules and regulations, shall not be considered decreases in emissions for the purpose of this section.

(5) Emissions offsets must be sufficient to insure a net air quality benefit. A net air quality benefit is achieved when the air quality impact does not exceed the significant air quality levels defined in Rule 102 and the modeling analysis predicts that the Lowest Achievable Emission Rate (LAER) and emission offsets proposed will result in a net concentration change that is less than zero at an agreed upon (by the Board) number of receptors.

(D) Application for Location Approval

(1) An application for location approval shall include information about alternative sites, size, production, processes, and environmental control techniques that demonstrate that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. It shall also include an application for a permit to construct.

(2) The application shall contain a detailed description about:

(a) The nature, design capacity, and typical operational schedule of the proposed new major source, major modification or significant source, including specifications and drawings of the plant layout and emission estimated.

(b) The expected performance of the proposed air pollution control equipment or measure, including sufficient information to demonstrate that the pollution control equipment or measure represents BACT or LAER.

(c) A detailed schedule for the proposed construction or modification of the source.

(d) An ambient air quality impact analysis, according to the requirements established in Rule 202(B).

(e) When required, all pertinent data necessary to identify the manner and date in which any emission offsets will be achieved, including an identification of the emission units that will carry out the offsets.

(f) When required, an identification of the baseline emissions and a description of the procedure used for such identification.

(g) When required, a legally binding document certifying that all other sources owned or operated by the applicant in Puerto Rico are in compliance with applicable rules and regulations.

(3) The application shall be accompanied by:

(a) An application for a permit to construct the proposed source or modification, and

(b) A certification that payment of the permit fees as prescribed in Rule 501, has been deposited.

(4) If an emission offset is required, the application for a location approval shall include:

(a) All pertinent information specifying, in detail, the manner and date by which the emission offset is to be accomplished; and

(b) The originals of any valid permits to construct, or to operate, and of any revised applications or proposed compliance plans of the sources selected to effect the emission offset.

(5) Each application for a location approval shall include a certification by an engineer licensed to practice the profession in Puerto Rico, attesting that the technical information contained therein is true, and complete to the best of the engineer's knowledge. Whenever the application contains chemical analyses results, these must be certified by a chemical engineer or chemist licensed to practice the chemical profession in Puerto Rico.

(6) Applications for a location approval shall be made by the owner or operator of the source or modification or by the government agency or public corporation sponsoring, proposing, endorsing, or permitting the source or modification.

(7) In the application, the owner or operator may include one or more proposed locations for the new major source or major modification provided that:

(a) Whenever an application for location approval for a single site is denied by the Board, additional or alternate sites can only be considered through the filing of a new complete application; and

(b) In case the application includes more than one suitable alternative site, the applicable requirements of this subsection must be complete for every suitable alternate site.

(E) Action on Application

(1) Within 45 days after receipt of an application for location approval, the Board shall notify in writing the applicant about the completeness of the application. In the event of any deficiency in the application or information submitted, the date of receipt of a complete application shall be the date on which the Board received all required information.

(2) Within one year after receipt of a complete application, unless otherwise required due to legal action or other unforeseen delays, the Board shall:

(a) Notify the public, in accordance with Rule 111, of the application.

(b) Consider all written comments submitted within the time specified in the public notice, and all comments received during any public hearing;

(c) Make a final determination whether the application should be approved, conditionally approved, or disapproved; and

(d) Notify the applicant in writing of the final determination, and make such notification and all comments received from the public and interested officials available for public inspection.

(F) Conditions Upon Approval

(1) The Board may impose any reasonable conditions upon granting a location approval.

(2) When the Board grants a location approval, it may issue a permit to construct the new major source or major modification.

(3) Any condition or emission reductions other than those specified in the applicable rules and regulations, such as LAER and emission offset, shall be legally binding before a location approval may be granted.

(4) No location approval or permit to construct will be issued until the applicant presents a certification that payment of the permit fee, as prescribed in Rule 501, has been deposited.

(5) The Board may require air quality monitoring for any pollutant at or near the approved site, to be conducted by the owner or operator of the source, in order to establish the effect the emissions from such source may have or are having on the air quality in any area which such emissions would affect. The Board shall indicate the period during which the data is to be gathered.

(6) In case an emission offset has become part of the application, the Board shall include any emission offset implementation requirements as part of the approval conditions.

(G) Period of Validity

(1) Each location approval shall automatically lapse three years after the date of issuance, unless construction or modification has commenced.

(2) The Board may revoke a location approval if construction work is suspended for one (1) year or more, or is not diligently pursued to completion according to the construction schedule submitted as part of the application.

(H) Transfer of a Location Approval

(1) Any owner or operator of a proposed new major source or major facility holding a valid location approval may not transfer it without prior written authorization from the Board.

(2) When authorizing a transfer of a location approval, the Board shall require a transfer fee as prescribed in Part V of this Regulation.

(I) Exemptions

(1) With regard to a particular pollutant, the requirements of the provisions established in section (D) (2) (d) of this Rule shall not apply whenever an applicant can demonstrate to the satisfaction of the Board that:

(a) The source is of a temporary nature, such as a pilot plant, portable source, temporary power generation units or exploration units, i.e., emissions which will occur for less than two (2) years at any location;

(b) The major source is owned or operated by a nonprofit, health or educational institution;

(c) The proposed source would utilize at least 50 percent refuse derived fuel;

(d) Any major stationary sources defined under Title III of the Clean Air Act and Rule 102 of these regulations demonstrate that their emissions do not have a National Ambient Air Quality Standard (NAAQS). However, the affected major stationary source shall comply with any risk assessments requirements as part of a construction permit approval. The Board shall establish those requirements needed to protect the environment, safety and human health.

(e) Reserved;

(f) Reserved;

(2) Reserved

(3) Reserved

(4) Reserved

(J) Submittal of Information

(a) EQB will submit all information regarding emission control technology from non-attainment permits to EPA's RACT/BACT/LAER Clearinghouse within 60 days of permit issuance to maintain uniformity as well as to ensure that each conclusion is consistent with previous RACT/BACT/LAER determinations.

RULE 202 AIR QUALITY IMPACT ANALYSIS

(A) An ambient air quality impact analysis, whenever required by the Board, shall be prepared according to this Rule.

B) A complete air quality impact analysis shall include:

1) A demonstration that allowable emissions increase from a proposed new source or modification, in conjunction with all other applicable emission increases or reductions, will not significantly cause or contribute to air pollution in violation of any NAAQS and that a net ambient air quality benefit is demonstrated.

2) A description of the procedure used for determining the net emission increase and significance levels, as the case may be, including emission offsets, if applicable.

3) In the case of a modification, a description of the procedure used for determining if the modification is major or not.

4) 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 proposed new source, or modification.

5) In the case of a source located near a non-attainment area, a description of the procedure used to determine if the source will not significantly cause or contribute to air pollution in violation of any NAAQS and that a net ambient air quality benefit is demonstrated.

C) Whenever deemed appropriate by the Board, an air quality impact analysis shall consist of the air quality impact of the projected new source or modification, including the meteorological and topographical data necessary to estimate such an impact, and the nature and extent of any commercial, residential, industrial, and other growth which has occurred since January 1, 1979, in the area to be affected.

D) Air quality estimated concentrations shall be based on the applicable air quality dispersion models, data bases, and other requirements specified in USEPA Publication No. [1,2-080 (OAQPS] EPA-450/2-78-027R. "Guidelines on Air Quality Models (Revised)", or on any other dispersion models approved by EPA. Methods like those outlined in [Workbook for the Comparison of Air Quality Models: (USEPA: April, 1977)] EPA 450/4-85-006. "Interim Procedures for Evaluation Air Quality Models: Experience with Implementation should be used to determine the comparability of non-Guideline air quality models.

RULE 203 PERMIT TO CONSTRUCT A SOURCE

(A) Permit to construct a source or modification.

No person shall construct or modify a source without a permit from the Board.

(B) Standards for granting a permit to construct.

A permit to construct or modify a source shall be granted only if the applicant demonstrates the following to the satisfaction of the Board:

(1) The source shall be able to comply with all applicable rules and regulations.

(2) In the case of a major stationary source, or major modification or significant source, the applicant must hold a valid location approval;

(3) In the event that the source will be affecting an emission offset, the owner or operator has:

(a) surrendered any valid permit to construct or operate the source affecting the offset;

(b) propose a revision to a valid permit to construct, or proposed a compliance plan to achieve the required emission offset; and the Board has approved said revision or accepted such a compliance plan for said purpose, as part of a location approval.

(4) Air pollutant emissions from the source will be limited in accordance with applicable rules and regulations.

(5) Any agreement or certification intended to restrict the maximum capacity, the maximum annual hours of operation, an emission rate, or a percentage of sulfur content in fuels to a value lower than that allowed by applicable rules and regulations is legally binding prior to the issuance of the permit to construct and is included as an enforceable condition therein.

(6) That no adverse air quality impact would occur from the construction or operation of said source or modification, whenever:

(a) The owner or operator of the proposed source or modification has subscribed to a legally binding document which stipulates the type or amount of materials to be burned or processed by such a source, or which limits the annual hours of operation; or

(b) Such demonstration has been requested by the Board as part of the permit application.

(7) The requirements of this rule applicable to each major stationary source of PM_{10} shall also apply to each PM_{10} precursor for which the source is major, except that such requirements shall not apply where the EPA Administrator and the Board determines that such sources of PM_{10} precursors do not significantly contribute to PM_{10} levels which exceed the PM_{10} ambient standards.

(C) Application for a permit to construct

(1) Each application for a permit to construct or modify a source shall include the following:

(a) Detailed plans and specifications of the emissions and of any air pollution control equipment or measures proposed to be installed and constructed to achieve compliance with applicable rules and regulations.

(b) A location map of the source (projected and existing), indicating neighboring fields and prominent points or structures;

(c) A layout plan of the source (projected and existing), indicating all air pollutant discharge, ventilation, exhaust and release points;

(d) Information about any air sampling or monitoring equipment used, intended to be used, or owned by the applicant, including tape, trade mark, and operation schedule;

(e) An air quality impact analysis in accordance with Rule 202 (C), whenever:

(i) A source would be restricted in any manner through a legally binding document or enforceable permit condition; or

(ii) Such an analysis is requested by the Board for a complete and adequate evaluation of the application.

(f) A certification that the permit fee prescribed in Rule 501 has been deposited:

(g) A list of all approvals endorsements or denials granted by Federal and State agencies for any structure or construction.

(h) Detailed plans and specifications of the source including: location, height of the emissions points, fuel used, process details, concentration and duration of emissions.

(i) In case of a major source or modification, a certification by an engineer licensed to practice the profession in Puerto Rico shall be included, attesting to the fact that the technical information contained therein is true and complete to the best of the engineer's knowledge. In case the application contains results of chemical analyses, these results must be certified by a chemical engineer or chemist licensed to practice the profession in Puerto Rico.

(2) Application for a permit to construct or modify a source shall be made by the owner or operator of such source on forms furnished by the Board.

D) Action on Applications

Within thirty days after the receipt of the application, the Board shall notify the applicant in writing about the completeness of such application. Within a period of 90 days after receipt of a completed application for a permit to construct a new or modified source, unless otherwise required due to legal action or other

unforeseen delays, the Board shall grant or deny the application. For sources of hazardous air pollutants the Board will grant or deny the application on a case by case basis but not to exceed a 9 month timeframe.

E) Conditions upon granting a permit to construct

The Board may impose any reasonable conditions upon the issuance of a permit to construct.

F) Revision to a Permit to Construct

1. Any revision to the conditions upon which a permit to construct has been granted must be approved by the Board prior to submission of an application for a permit to operate.

2. A permittee can request a revision to a valid permit to construct in order to provide an emission offset as required in Rule 201.

G) Lapse and revocation of permit to construct

1. Each permit to construct shall automatically lapse three (3) years after the date of its issuance, unless the construction or modification has commenced.

2. The Board may revoke a permit at any time if work is suspended for 3 years or more, or is otherwise not diligently pursued to completion.

H) Transfer of Permit to Construct

1. The holder of a permit to construct may not transfer it without a written approval from the Board.

2. A permit to construct which has lapsed cannot be transferred. However, an application for a permit to construct can be submitted in regard to the same source by the new owner or operator.

3. The Board shall impose a transfer fee, as prescribed in Part V, upon issuance of the transferred permit to construct to the new holder.

RULE 204 PERMIT TO OPERATE A SOURCE

A) Permit required

1. No person shall operate or cause the operation of a source or air pollution control equipment without a permit to operate or a temporary permit to operate from the Board.

2. No person shall operate or cause the operation of a source if the Board denies, suspends, or revokes a permit to operate or a permit to construct.

3. No person shall operate or cause the operation of an existing source without an operation permit or without the required application of renewal provided that the operation conditions previously approved by EQB are the same or are unchanged.

4. Any source that must submit a Title V Operating Permit Application beginning at the date of approval and commencement of the Title V Operating Permit Program will be exempt from all permits requirement established under this Rule.

B) Standards for granting permits

1. No permit to operate shall be granted unless:

a) The applicant shows to the satisfaction of the Board that the source is in compliance with applicable rules and regulations and, that it is also in compliance with the terms and conditions imposed under permit to construct.

b) In case of emission offsets, the Board has granted to the selected source(s) effecting the emission offset, a permit to operate, or a temporary permit to operate as provided in Section (C) of this Rule.

c) Whenever required, the results of any performance tests conducted demonstrate that actual emissions comply with emission limitations specified in applicable rules and regulations.

d) Whenever applicable, the Board has assigned a percentage of sulfur content in the fuel as specified in Rule 209 or 410.

e) In case of renewal of a permit to operate, the applicant has presented a legally binding document certifying that the

characteristics, nature, and emissions of the source are the same as those under which the previous permit was issued.

f) In the case of a temporary permit to operate, the applicant has stated the reasons for such a request.

g) The source is not of a temporary nature.

C) Temporary permit to operate

1. The Board may grant a temporary permit to operate whenever:

a) The owner or operator of a source has applied for a modification to a schedule of "increments of progress", as contained in a compliance plan approved by the Board;

b) The Board has requested, from the holder of a valid permit to construct, performance tests prior to the issuance of a permit to operate;

c) There is pending a proposed revision to applicable rules and regulations, which would affect the source;

d) A source is of a temporary nature, such as a pilot plant, portable source or exploration, emergency power generators, i.e., in cases where the emissions would occur for less than two (2) years at any location;

e) A variance application has been preliminarily approved by the Board and is pending approval by the US-EPA Regional Administrator; or

f) It determines that the source will be utilizing innovative technology, which is consistent with the policy of the Board.

g) The owner or operator of a source, prior to satisfying the requirements for a permit to operate, demonstrates to the satisfaction of the Board that said source needs to be operated for a given period in order to reach normal or steady operating conditions;

h) The air pollution control equipment is rendered partially or totally inoperative by "force majeure". In such cases, the permittee shall submit within twenty (20) days a compliance plan which shall

specify the measures to be taken to bring the source into compliance in the shortest reasonable practical time. The permittee shall also specify interim measures to be taken to mitigate emissions, such as, limiting production capacity, allowing emissions only during favorable meteorological conditions, operation of the damaged control equipment at a lower efficiency, installation of additional control equipment, etc.

2. Upon granting a temporary permit to operate, the Board shall state the conditions for the issuance and the date of termination of the temporary permit, which in no case shall extend for more than 180 days, except in case of a temporary source, in which case it could extend to a maximum of two (2) years.

3. A temporary permit to operate cannot be extended beyond its termination date, which shall be final.

D) Applications

1. Application for a permit to operate a new or modified source shall:

a) Be submitted to the Board at least 60 days prior to start-up of operations;

b) Include a copy of the valid permit to construct;

c) Include a request for a temporary permit to operate if any of the conditions described in Section (C) of this Rule is expected or exists; and

d) Be prepared by the owner or operator of such source, on forms furnished by the Board.

2) Applications for renewal of a permit to operate shall be accompanied by a legally binding document wherein the applicant certifies that conditions in the renewal application are the same as those of the existing source for which a renewal is requested.

E) Performance Testing

The Board may order the applicant to conduct performance tests in accordance with methods approved by the Board. Such tests shall be made at the expense of the applicant. Nevertheless, the Board may monitor such tests and may also conduct performance tests of its own.

F) Action on Applications

After receiving an application, the Board shall notify the applicant in writing about the completeness of such application. The Board shall grant or deny an application for a permit to operate a new or modified source within a period of 90 days after receipt of a complete approvable application, including the results of performance tests, if required.

G) Period of Validity

Any permit to operate a source shall be valid for a period not less than two (2) years, but not to exceed five (5) years.

H) Renewal of Permit to Operate

1. At least 60 days before the expiration of a permit to operate, the owner or operator shall file an application for renewal of the permit to operate such source.

2. Applications for renewal of a permit to operate shall be accompanied by:

   a) a legally binding document wherein the applicant certifies that the conditions in the renewal application are the same as those of the existing source for which a renewal is requested; and

   b) a certification that the permit fee prescribed by Rule 501 had been deposited.

I) Conditions upon granting a permit to operate

The Board may impose any reasonable conditions upon a permit to operate. Conditions so imposed shall be legally binding prior to the issuance of the permit to operate, including any conditions imposed with the permit to construct which, due to its nature and extent, must become part of the permit to operate.

J) Suspension or revocation of a permit

1. The Board may suspend or revoke a permit to operate for violations of applicable rules and regulations, or for alteration of the conditions under which such permit to operate was issued, or when, on the basis of information available or source is known to have ceased operations.

2. Suspension or revocation of a permit to operate shall become final 10 days after service of notice to the holder of the permit, subject to the rights of

public hearings and appeal, as provided by law.

3. A permit to operate or temporary permit to operate is not transferable. If the operation is to be continued, an application for renewal of the permit to operate shall be submitted in accordance with this Regulation.

K) Posting a Permit to Operate or a Temporary Permit for Tests

A person granted a permit to operate or temporary permit to operate according to this Rule shall not operate or use any source unless the entire permit to operate or temporary permit or legible facsimile thereof is affixed to the source so that the number, source description, and any specified operating conditions are clearly visible and accessible at all times. In the event that the source is so constructed or operated that the permit to operate or temporary permit cannot be placed, the entire permit or temporary permit shall be mounted so as to be clearly visible in an accessible place within 8 meters (26 feet) of such source, at all times, or as otherwise approved by the Board. However, in cases where the above mentioned measures are impractical, the permit should be posted in the environmental control or management offices in the plant.

RULE 205 COMPLIANCE PLAN FOR EXISTING EMISSION SOURCES

No person shall operate or cause the operation of a source in violation of the applicable rules and regulations, unless the owner or operator of such source has an approved compliance plan comprising such activity in violation.

(A) Proposed Compliance Plans

(1) Any owner or operator of an existing source which may not be in compliance with applicable rules and regulations on their effective date should submit a compliance plan for such source. Those existing sources for which new requirements are incorporated will have a ninety (90) day period to submit the Compliance Plan beginning at the effective date of this Rule and/or when such new requirement is applicable.

2. A compliance plan may also be submitted by the owner or operator of an existing source for which an enforcement action has been commenced and compliance is not achievable within the timeframes specified in the enforcement action.

3. The owner or operator of an existing source covered under Rule 204 (C)(1)(h) that cannot achieved compliance within 20 days of the "event" shall submit a compliance plan.

4. The owner or operator of a source required to obtain emission offsets under Rule 201 can propose a compliance plan to obtain those offsets. Such compliance plan shall be submitted together with a permit application for a location approval.

B) Standard for granting approval of compliance plan

1. No compliance plan shall be approved by the Board unless the applicant shows:

   a) That the plan provides for compliance as expeditiously as practicable;

   b) That the existing source will be in compliance with all applicable rules and regulations on or before the clean air date established in the SIP for attainment of the national primary and secondary ambient air quality standards;

   c) If the plan fixed any compliance date more than one-hundred and eighty (180) days after the effective date of the applicable rule or regulation, such plan shall provide for a schedule of increments of progress;

   d) That the plan provides for the submittal of periodic progress reports to the Board to demonstrate continuing compliance with the terms of the plan relative to the increments of progress, to be submitted 15 days after the date of each increments of progress;

2. In case of a compliance plan which is proposed as a SIP revision, this plan shall not be deemed effective until it has been reviewed and approved by USEPA.

C) Application

1. Each application for approval of a proposed compliance plan shall be signed by the owner or operator of the existing source.

2. Each proposed plan shall establish a compliance date, on or before which compliance will be attained. The compliance date cannot be later than the clean air date established in the SIP for attainment of the NAAQS.

3. Each proposed compliance plan shall indicate the air pollution equipment that will be installed, or other measures that will be taken, to attain compliance by that date.

4. Each proposed plan shall establish a schedule for the completion of engineering, procurement, fabrication, installation, and adjustment or testing of any air pollution control equipment required as part of the plan.

5. Each proposed plan shall include provision for the submittal of progress reports, at least quarterly, to demonstrate continuing compliance with the terms of the plan.

D) Action on Compliance Plan

1. The Board shall act on each proposed compliance plan within a reasonable time.

2. No person shall operate or cause the operations of a source if the Board rejects, or revokes a compliance plan submitted for such source.

E) Conditions on Plan Approval

1. The Board may impose any reasonable conditions upon its approval of a compliance plan.

2. Once approved by the Board, a compliance plan, either a short term (90 days or less) or constituting a SIP revision, shall authorize the operation of the source until the compliance date specified therein.

F) Revocation of Approved Compliance Plan

1. The Board may suspend or revoke its approval of a compliance plan for failure to comply with any of the terms of the plan.

2. Suspension or revocation of a compliance plan shall become final 10 days after service of notice to the owner or operator of the source, subject to the rights of public hearings and appeal as provided by law.

3. The suspension or revocation of a compliance plan shall be construed as a suspension or revocation of the permit to operate the source.

G) Modifications

1. Whenever the scheduled increments of progress contained in an approved compliance plan are not expected to be achieved, the owner or operator of the affected source must request a modification of such schedule from the Board. The modification may cover the schedule of increments of progress or other parts of the compliance plan, except that the final

compliance date cannot be subject to modification unless the modification procedure satisfies the provisions of section (B).

2. Any modification of a compliance plan shall be subjected to the modification fee, as provided in Rule 501.

H) In case the time required to achieve compliance is less than ninety (90) days, the Board may accept and approve a compliance plan provided the plan would not constitute a SIP revision.

I) Sanctions for Non-Compliance

Any source that is found in violation of any compliance plan approved by the Board or any requirement within such plan may be subject to sanctions specified under Rule 115.

RULE 206 EXEMPTIONS

Notwithstanding any provisions of this Regulation, a location approval under Rule 201, a construction permit under Rule 203 or an operation permit under Rule 204 are not required for the sources describe in paragraphs A) through K) of this rule or for any stationary source whose potential emissions (on a facility-wide basis) do not exceed of: 2 tons/year of any criteria pollutant or 5 tons/year of any combination of criteria pollutants, or the threshold or 2 tons/year (the lowest of the two) for HAP emissions listed in Appendix E of the regulation. For any Title V source operation subject to Part VI of these regulations, a unit described in items B through K below shall only be exempted if it is not subject to any applicable requirement and the source does not exceed allowable emissions of 2 tons/year of any criteria pollutant or 5 tons/year of any combination of criteria pollutants or the emission threshold, or 2 tons/year (the lowest of the two) for HAP emissions listed in Appendix E of the regulation.

A) Vehicles, as defined in Law 141 of June 20, 1960 as amended; not for air or maritime transports.

B) The equipment described below:

1. Air conditioning and ventilation systems installed for comfort and not for the removal of general pollutants produced by, or escaping from, specific units, or items of equipment, if they do not use Class I or Class II ozone depleting substances.

2. Refrigeration units, except those used with, or in conjunction with, atmospheric pollution control equipment if they do not use Class I or Class II ozone depleting substances.

3. Internal combustion engines having a capacity of less than 10 horsepower (HP).

4. Laboratory equipment used exclusively for chemical and physical analyses.

5. Comfort cooling towers and Water-cooling towers that do not use chromium-based water treatment chemicals.

6. Equipment utilized exclusively for steam cleaning, except the equipment generating the steam.

7. Automatic feed presses, and other types of presses which use only inks, having a content of less than ten (10) percent of organic solvents, diluents, and thinners.

8. Crucibles or hard coal ovens, or sets or these, used for melting metals, with a maximum cumulative capacity of 450 cubic inches.

9. Equipment utilized exclusively for wax melting or coating, and which does not use organic solvents, diluent, or thinners.

10. Vapor blowdown systems.

11. Pest control fumigation equipment installed in mobile units normally operating through public roads, duly authorized by the Department of Health of the Commonwealth of Puerto Rico, including fumigation equipment installed in aircraft.

12. Tanks, containers, and pumping equipment used exclusively for the storage or supply of:

    a) Sulfuric acid in concentration of 99 percent or less by weight.

    b) Phosphoric acid in a concentration of 99 percent or less by weight.

    c) Nitric acid in a concentration of 70 percent or less by weight.

C) The equipment described below, and the collection systems used exclusively with said equipment.

1. Equipment for cleaning by blasting which uses abrasives in an aqueous suspension.

2. Ovens and mixers of which the products are edible and for human consumption except ovens for yeast leavened products that emits VOC's in excess of 15 pounds per day, and which work on gaseous fuels or electricity.

3. Kilns used for ceramic products, and heated exclusively by gaseous fuels, electricity, or any combination of these.

4. Generators or artificial atmosphere utilized in conjunction with the processes of heat treatment of metals.

5. Photo processing equipment by means of which an image is produced on sensitive material, or radiant energy.

6. Equipment utilized for the surface conditioning, cleaning, or slicing of metals, using aqueous solutions.

7. Equipment utilized for the washing or drying of products made of metal or glass, as long as no solid fuels or oil are burned.

8. Household laundry dryers, extractors, or tumblers utilized for cleaning cloth, using aqueous solutions of bleaches or detergents.

D) Fans, chimneys or ventilations intended to provide natural ventilation.

E) Steam generators, steam oven-heaters, and cauldrons heated only by gaseous fuels with a fuel burning capacity of 10 horsepower.

F) Containers, reservoirs, and tanks utilized exclusively for:

1. Immersion operations for covering objects with oil, meat or fats, and where no organic solvents, diluents, or thinners are used.

2. Immersion operations for covering with natural or synthetic resins which do not contain organic solvents.

3. Storage without heating of organic materials, having a boiling temperature of 300°F or more.

4. Storage of lubricating oil.

5. Etching.

6. Storage of gasoline, diesel fuel, kerosene, acetone, alcohol, and similar organics, but only in underground tanks having a capacity of less than 10,000 gallons each.

7. Gaseous fuel storage of 500 gallons or less.

G) Vacuum cleaning systems used exclusively in the maintenance and cleaning of industrial, commercial or residential establishments.

H) Structural changes which cannot alter the quality, nature or quantity of pollutant emissions.

I) Repairs or maintenance operations which do not involve structural changes in any equipment for which authorization is required.

J) The identical substitution, in whole or in part, of any article, machine, equipment or other device for which authorization is required; provided that NSPS or NESHAPS do not apply.

K) Construction grading of surface areas not exceeding a total of 900 mt^3.

RULE 207 CONTINUING RESPONSIBILITY FOR COMPLIANCE

Possession of a permit to construct or a permit to operate shall not relieve any person of the responsibility of complying with applicable rules and regulations.

RULE 208 AGRICULTURAL BURNING AUTHORIZED

A) The Board may issue permits for the open burning of sugar cane, pineapple prunings, and rice hulls and stubbles on the premises where grown. The permits will be issued only in accordance with a plan approved by the Board.

B) Standards for granting this authorization:

No permit for agricultural burning shall be granted unless the proposed plan:

1. Demonstrates to the satisfaction of the Board that no other effective method of disposal can be used without causing severe environmental or social damage.

2. Provides for:

   a) the implementation of control measures during burning.

   b) a coordinated and systematic burning operation, based on confirmed favorable meteorological conditions.

3. Refers to a single event or a period not exceeding twelve months.

4. Indicates that the open burning event will not extend for more than 2 consecutive hours in anyone location.

5. Shows that open burning shall take place at a location which is not less than 100 meters from the boundary of any private dwelling or public road, except when a written authorization from the owner or operator of such private property is presented to the Board together with the application.

C) Applications

1. All applications for a permit for agricultural burning shall include the following information:

   a) The name and address of the owner or operator of the premises where the agricultural burning is to take place;

   b) the exact location of the premises where the agricultural burning is to take place;

   c) a detailed plan describing:

      i) the nature and quantity of the material to be burned;

      ii) the methods or techniques to be employed for the agricultural burning;

      iii) the date and time schedule when the burning is to take place, or the frequency if the agricultural burning is to be intermittent;

      iv) the exact location within the premises where the burning is to take place if the agricultural burning will not cover the totality of the premises

d) The reasons why no other effective method of disposal can be used without causing severe environmental or social damage.

e) A certification form the Fire Department of Puerto Rico that such open burning will be regulated in accordance with the regulations of that Department.

f) A certification from the Puerto Rico Department of Health that the proposed open burning will be in accordance with health regulations.

RULE 209 MODIFICATION OF THE ALLOWED SULFUR-IN-FUEL PERCENTAGE

(A) The Board may modify a previously assigned sulfur-in-fuel percentage for a source or emission unit, provided that the new percentage does not exceed the maximum sulfur content in fuels set forth in Rule 410, whenever an applicant can demonstrate to the satisfaction of the Board that:

(1) The conditions under which the original percentage of sulfur assigned have changed; or

2. The information provided by the applicant for determining the percentage of sulfur was incomplete or inaccurate;

3. A different percentage of sulfur is needed to provide for an emission offset pursuant to Rule 201;

4. A dispersion model validation information is provided which allows for a different percentage of sulfur in fuel;

5. An industrial process, or air pollution control equipment, burning of multiple fuels, blending of fuels, sulfur removal process, or any other measure or combination of measures control emissions of sulfur compounds in a manner which results in equivalent emission of sulfur dioxide from the source and that the requested modification do not exceed the limits imposed in Rule 410.

6. In the case where different percentages of sulfur have been assigned to different emission units within a source, the Board may substitute a weighted average sulfur-in-fuel percentage for the source as a whole, as a replacement for the assigned sulfur-in-fuel percentages.

B) Standards for Granting a Modification

No duly assigned percentage of sulfur-in-fuels shall be modified, unless:

1. The Board has issued a permit to operate or a temporary permit to operate, according to the procedure set forth in Rule 204.

2. The proposed modified percentage of sulfur, or weighted average percentage, will not cause or contribute to exceed the NAAQS.

3. In case of equivalent emissions of sulfur dioxide, the modified percentage of sulfur shall not exceed the limits set forth in Rule 410, and the effectiveness of whatever measure, or combination thereof, proposed to produce the equivalent emissions may be monitored or checked to assure continuous compliance with the modification, if granted.

4. Compliance with the Prevention of Significant Deterioration of the Air Quality regulations promulgated at 40 C.F.R.Φ52.21 is demonstrated.

C) Application for a modification of the assigned percentage of sulfur

All applications for a modification of the assigned sulfur content in fuel include:

1. The reasons prompting the request for modifications:

2. Identification of the parameters and detailed information which, when considered, could result in modifications of the assigned percentage of sulfur, including an explanation of any change from the original information submitted to the Board.

3. Whenever required, a certification that the modification fees prescribed by the Board have been deposited, and

4. Any other information deemed necessary by the Board to make an evaluation of the modification request.

D) Action on Applications

1. The Board shall act within a reasonable period upon submittal of a completed application.

2. In making the modification, the Board shall follow a procedure similar to the one used to analyze the percentage of sulfur which is subject to modification request; PROVIDED that in making its determination or modification the Board shall consider any pending application for location approval or permit to construct in the same area.

modification the Board shall consider any pending application for location approval or permit to construct in the same area.

3. No modification consisting of an increase of an assigned sulfur content in fuel or any modification under Rule 209 (A)(5), or (6) shall be deemed effective until approved by the EPA.

E) Reporting

Upon modification of the assigned percentage of sulfur in fuels by the Board, the owner or operator of the source shall submit a monthly report indicative of the sulfur content in the fuels by such a source during the reporting period, including all other information required by the Board.