

## 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 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.

"Airplane Refueling Area" means a place capable of receiving, storing and dispensing one or more types of gasoline or petroleum distillate for consumption by airplanes.

"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 Quality Area" means the airshed regions within Clark County, Nevada, designated as a serious Nonattainment Area, moderate Nonattainment Area, or Prevention of Significant Deterioration (PSD) Area. The following table lists the air quality areas for each criteria air pollutant by air quality planning region:

Air Quality Areas for each Criteria Air Pollutant by Air Quality Planning Region					
	PM <sub>10</sub>	CO	VOC	NO <sub>x</sub>	SO <sub>2</sub> and Pb
Serious Nonattainment Area	LV	LV			
Moderate Nonattainment Area					
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 <sup>1</sup>	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

<sup>1</sup>See “Airshed Regions within Clark County, Nevada” table on p. 3 for region abbreviations.

“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.”

"Application Area" means the area where surface coating is applied by spraying, dipping or flow-coating techniques.

“Authority to Construct Permit” or “Part 70 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.

"Building Vent" means an opening of a building through which there is mechanically induced air flow for the purpose of exhausting emissions.

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

"Clearing and Grubbing" means the removal of tree stumps, shrubs, trash, and dirt piles before excavation of a site.

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

"Combustible Refuse" means any waste material that can be consumed by combustion.

"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 structures intended to be utilized solely as personal dwellings, including but not limited to single family homes, duplexes, fourplexes, apartments, condominiums, and town houses; construction of institutional structures, schools, libraries, churches, hospitals, parks, office structures; shopping malls; residential streets within a subdivision; improvements to existing curbed paved roads; parking lots, parking lot structures; and construction of 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 Air Pollution Control Officer appointed by the County Manager, the Control Officer's designee or individual staff members who have been delegated the authority by the Control Officer or his /her designee to perform specific Control Officer functions.

"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.

"Designated Trail" means any trail designated by a public agency for use by equestrians, hikers, bicycles, or other nonmotorized forms of travel.

"Dispatchable Peak Shaving" means a program by which peak shaving operations will be scheduled and controlled by the serving public utility to those times essential to maintain a reliable, area-wide, supply source of electrical energy.

"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 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:

The permit conditions are permanent and quantifiable;  
The permit includes a legally enforceable obligation to comply;  
The limits impose an objective and quantifiable operational or production limit, or require the use of in-place air pollution control equipment;  
The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;  
The permit conditions are enforceable and independent of any other applicable limitations; and  
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 CH<sub>3</sub>CH<sub>2</sub>OH.

"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 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.

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

"Gasoline Dispensing Operation" means a facility, except bulk distribution terminal, that is capable of receiving, storing, and dispensing to a motor vehicle one or more grades of gasoline.

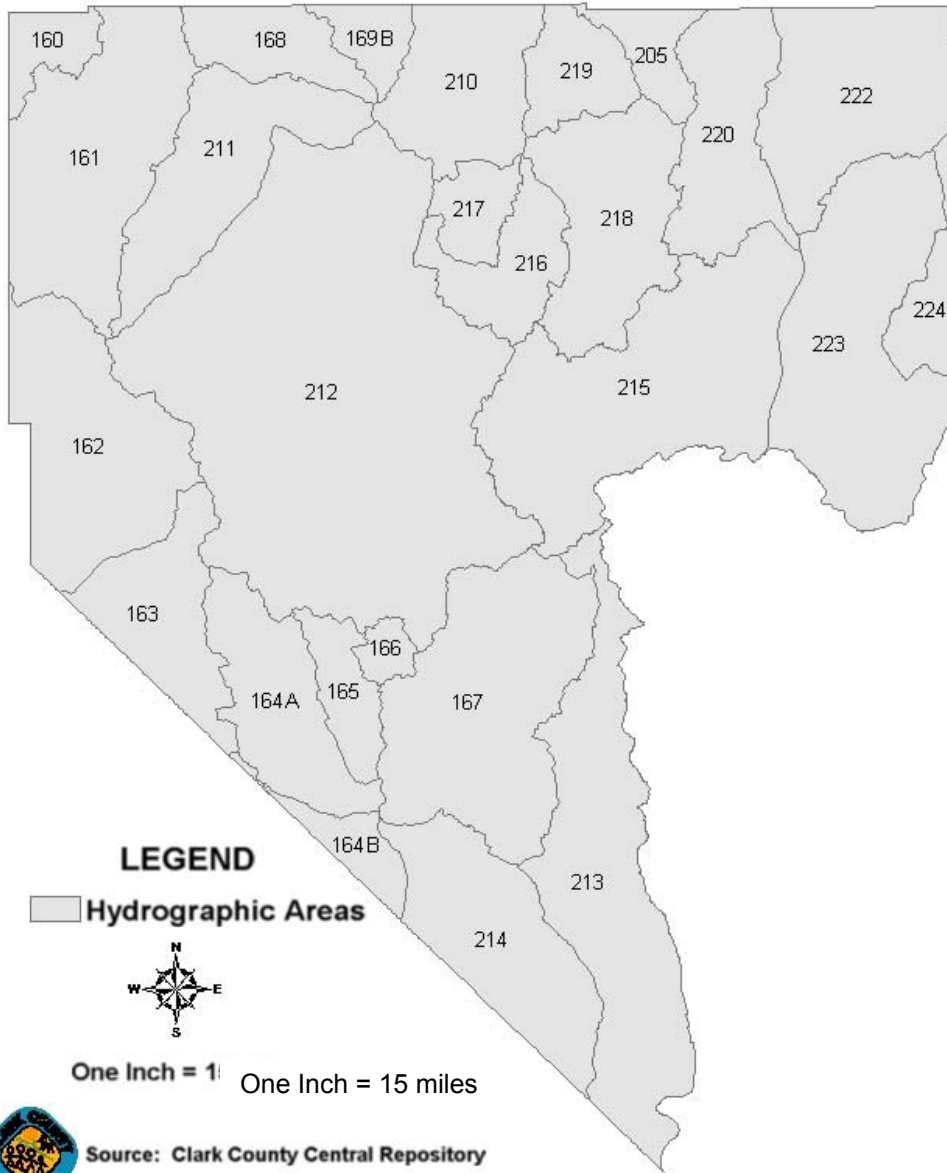
"Good Engineering Practice (GEP) Stack Height" means a stack height meeting the requirements described in Subsection 12.2.7.3 of the AQRs.

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

"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 Basin Areas" or "Hydrographic Areas" means the areas within Clark County, Nevada as defined in the *State of Nevada Hydrographic Areas Map*, prepared by the Division of Water Resources, Rev. 9/71. 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



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.

"Leak Free" means a liquid leak of less than three (3) drops per minute.

"Methyl Tertiary Butyl Ether (MTBE)" means an ether with the chemical formula  $(CH_3)_3C(-OCH_3)$ .

"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.

"Natural Cover" means any vegetation that exists on the property.

"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-Metallic Mineral Processing Plant" means any combination of equipment that is used to crush or grind any nonmetallic mineral wherever located, including lime plants, power plants, steel mills, asphalt concrete plants, portland cement plants, or any other facility processing nonmetallic minerals, except as provided in 40 CFR § 60.670(b) and (c).

"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° C and 760 mm mercury.

"Pave" or "Paved" means the application and maintenance of asphalt, concrete, or other similar material on a roadway 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.

"PM<sub>2.5</sub>" 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. PM<sub>2.5</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures.

"PM<sub>10</sub>" means particulate matter, both filterable and condensable, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers. PM<sub>10</sub> 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:

- (a) 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 decisionmaking 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:
  - (1) The operating facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million in second quarter 1980 dollars; or
  - (2) The delegation of authority to such representative is approved in advance by the Control Officer.
- (b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- (c) 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

(d) For Title IV affected sources:

- (1) 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
- (2) The responsible official as defined above for any other purposes under Section 12.5.

"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.

"Single Coat" means a single film of coating applied directly to the material being coated omitting the prime coat application.

"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.

"Stage I" means gasoline vapor recovery during transfer of gasoline from gasoline delivery vehicles to stationary tanks used for refueling motor vehicles.

"Stage II" means gasoline vapor recovery during motor vehicle refueling operations from stationary tanks.

"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.

"Top Coat" means the final film of coating applied to a two-coat operation.

"Top Off" means to attempt to dispense gasoline to a motor vehicle fuel tank after a vapor recovery dispensing nozzle has shut off automatically. The filling of those vehicle tanks in which the nature and configuration of the fill pipe causes premature shutoff of the dispensing nozzle, and which are filled only after the seal between the fill pipe and the nozzle is broken, shall not be considered topping off.

"Topsoil" means the layer of the soil that, by its humus content, supports vegetation. It is usually the top six inches of soil but may extend deeper.

"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 ( $C_4F_9OCH_3$  or HFE-7100);
- (41) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ( $(CF_3)_2CFCF_2OCH_3$ );
- (42) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ( $C_4F_9OC_2H_5$  or HFE-7200);
- (43) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ( $(CF_3)_2CFCF_2OC_2H_5$ );
- (44) Methyl acetate;
- (45) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane ( $n-C_3F_7OCH_3$ , 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)  $HCF_2OCF_2H$  (HFE-134);
- (54)  $HCF_2OCF_2OCF_2H$  (HFE-236cal2);
- (55)  $HCF_2OCF_2CF_2OCF_2H$  (HFE-338pcc13);
- (56)  $HCF_2OCF_2OCF_2CF_2OCF_2H$  (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.

SECTION 1 - DEFINITIONS

9/18/79

- 1.1 "Affected Facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.
- ~~1.3 "Air Contaminant" means, any substance discharged into the atmosphere except water vapor or water droplets.~~
- ~~1.6 "Air Pollution Control Committee" means, three (3) members selected from the District Board of Health of Clark County to perform the functions set forth in these Regulations.~~
- ~~1.11 "Area Source" means, a collection of minor sources each emitting less than 22.7 metric tons (25 tons) per year of any pollutant for which there is a standard.~~
- ~~1.12 "Atmosphere" means, the portion of air which envelops the earth that is not contained in any enclosed building or structure.~~
- ~~1.16 "Board" means, the District Board of Health of Clark County.~~
- ~~1.23 "Commercial Off-Road Vehicle Racing" means, an off-road racing event in which the participants pay entry fees of \$50.00 or more, or winners receive cash awards of \$50.00 or more.~~
- 1.26 "Dust" means, minute solid particles released into the atmosphere by natural forces or by mechanical or chemical processes.
- ~~1.28 "Existing Facility" means, any single source of contaminant on which construction or modification was begun prior to August 25, 1971.~~
- 1.29 "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.
- ~~1.30 "Fixed Capital Cost" means, the capital needed to provide all the depreciable components.~~



9/18/79

1.36 "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.

~~1.40 "Health District" means, the Clark County Health District.~~

~~1.41 "Hearing Board" means, seven (7) members appointed by the Board of Health to perform the function set forth in the Nevada Revised Statutes and these Regulations.~~

~~1.44 "Integrated sampling" means sampling for an average concentration during an arbitrary time period. It generally involves collection of the sample in the field followed by analysis of the sample in the laboratory.~~

11/17/81

~~1.50 "Minor Source" means a source of air contaminants in which the "Potential To Emit" for each and every contaminant is less than the "significant" emission rate.~~

9/18/79

1.51 "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.

11/17/81

1.57 "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, 1977~~. November 1, 1977.

9/18/79

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

9/18/79

1.60 "NIC" means, Nevada Industrial Commission.

1.70 "Point Source" means, any source that emits in excess of 22.7 metric tons (25 tons) per year of any air contaminant.

✓ 1.78 "Shutdown" means, the cessation of operation of any affected facility for any purpose.

11/17/81

✓ "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:

9/18/79

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

1.83 "Smoke" means, the product of incomplete combustion consisting chiefly of particles of unburned carbon.

1.84 "Source of Air Contaminant" means, anything which emits any air contaminant.

✓ 1.85 "Special Mobile Equipment" means, every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved upon a paved roadway. Special mobile equipment may include but is not limited to graders, scrapers, bulldozers, and other construction equipment.

1.87 "Standard Commercial Equipment" means, equipment manufactured in quantity for the purpose intended and completely specified as to the size, type, and ratings in catalogs, and other printed literature readily available locally to officials within Clark County.

1.88 "Standard Conditions" means, a temperature of 20° Celcius (68°F) and a pressure of 760 mm of mercury (29.92 inches of mercury).

✓ 1.89 "Start Up" means, the setting in operation of an affected facility for any purpose.

9/18/79

~~1.91 "Stop Order" means, a written notice by the Control Officer served on a person or persons engaged in the doing or causing the construction, installation or alteration, or work involving an air contaminant source or sources ordering such work to be stopped.~~

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

~~1.97 "Vapor Disposal System" means, a device or combination of devices into which vapors are passed before being vented into the atmosphere.~~

7/24/79

SECTION 2 - AIR POLLUTION CONTROL BOARD

- 2.1 The Board of Health will function as the Air Pollution Control Board of Clark County and the incorporated cities in Clark County.
- 2.2 The Board shall:
  - 2.2.1 Select an Air Pollution Control Committee of five (5) from among its members. One member shall be a member from the County, and the other members shall consist of one member from each of the incorporated areas.
  - 2.2.2 Designate a "Control Officer" to enforce the Air Pollution Control Regulations hereinafter contained.
  - 2.2.3 Appoint an Air Pollution Control Hearing Board consisting of seven (7) members who are not employees of the State, nor any political subdivision of the State. One member of the Hearing Board shall be an attorney admitted to practice law in Nevada, one member shall be a professional engineer registered in Nevada, and one member shall be licensed in Nevada as a general engineering contractor or a general building contractor as defined by NRS 624.215.
  - 2.2.4 Powers and responsibilities provided for in Chapters 445.461, 445.476 to 445.526, inclusive, 445.571 to 445.581, inclusive, and 445.601, of Nevada Revised Statutes, shall be binding upon and shall inure to the benefit of the Board of Health.
- 2.3 The Board may:
  - 2.3.1 Subject to the provision of Chapter 445.466 of the Nevada Revised Statutes, adopt, amend, or modify rules and regulations consistent with the general intent and purposes of Chapters 445.401 to 445.601, inclusive, and in accordance with Chapter 2338 of Nevada Revised Statutes to prevent, abate and control air pollution.
  - 2.3.2 Make such determinations and issue such orders as may be necessary to implement the purposes of these Regulations.
  - 2.3.3 Establish air quality standards.

7/24/79

- 2.3.4 Institute legal proceedings in a court of competent jurisdiction to prevent continued violation of any order issued by the Board of Health, Hearing Board or Control Officer and to enforce the provisions of these Regulations.
- 2.3.5 Require access to records relating to emissions which cause or contribute to air pollution.
- 2.3.6 Apply for and receive grants or other funds or gifts from public or private agencies.
- 2.3.7 Cooperate and contract with other governmental agencies, including states and the Federal Government.
- 2.3.8 Conduct investigations, research, and technical studies consistent with the general purposes of these Regulations.
- 2.3.9 Establish such emission control requirements as may be necessary to prevent, abate, or control air pollution.
- 2.3.10 Require the registration of air pollution sources together with a description of the processes employed, fuels used, nature of emissions, and other information considered necessary to evaluate the pollution potential of a source.
- 2.3.11 Prohibit as specifically provided in Section 15 of these Regulations the installation, alteration, or establishment of any equipment, device, or other article capable of causing air pollution.
- 2.3.12 Require the submission of preliminary plans and specifications, and other information as the Board of Health deems necessary to process permits.
- 2.3.13 Enter into and inspect at any reasonable time any premises containing an air contaminant source or a source under construction for purposes of ascertaining the state of compliance with these Regulations.
- 2.3.14 Hold hearings for purposes of implementing these Regulations except as otherwise provided herein.

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- 2.3.15 Review recommendations of the Hearing Board and take such additional evidence as the Board of Health deems necessary or remand to the Hearing Board for such evidence as the Board of Health may direct.

7/24/79

- 2.3.16 Establish fuel standards for both stationary and mobile sources of air contaminants.
- 2.3.17 Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.
- 2.3.18 Specify the manner in which incinerators may be constructed and operated.
- 2.3.19 Delegate all powers, except subsections 2.3.1, 2.3.3, 2.3.14, 2.3.16, 2.3.18 to the Control Officer or his representatives as may be necessary to implement these Regulations.
- 2.3.20 Require installation or alteration of an air contaminant detector, air contaminant recorder, combustion controller, or combustion shutoff on any source of air contaminant.

7/24/79

SECTION 4 - CONTROL OFFICER

- 4.1 The administrative enforcement of the Regulations shall be performed by the Control Officer.
- 4.2 The Control Officer, or his designated agent, shall carry out the policies of the Air Pollution Control Board, and each of the Control Officer's acts shall be subject to review by the Air Pollution Control Board.
- 4.3 The Control Officer, or his representative may enter into and inspect any property, premises or place on or at which an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with these Regulations.
- 4.3.1 No person shall:
- 4.3.2 Refuse entry or access to any authorized representative of the Board of Health who requests entry for purposes of inspection, as provided in this Section, and who presents appropriate credentials;
- 4.3.3 Obstruct, hamper or interfere with any such inspection.
- 4.3.4 If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.
- 4.4. The Control Officer at any time may require from any person, such information or analyses as will disclose the nature, extent, quantity or degree of air contaminants which are or may be discharged by such source, and type or nature of control equipment in use, and may require that such disclosures be certified by a professional engineer registered in the State. In addition to such report, the Control Officer may designate an authorized agent to make an independent study and report as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from the source. An authorized agent so designated is authorized to inspect any article, machine, equipment, or other contrivance necessary to make the inspection and report.

7/24/79

4.5 The Control Officer may require any person responsible for emission of air contaminants to make or have made tests to determine the emission of air contaminants from any source, whenever the Control Officer has reason to believe that an emission in excess of that allowed by the Air Pollution Control Regulations is occurring. The Control Officer may specify testing methods to be used in accordance with good professional practice. The Control Officer may observe the testing. All tests shall be conducted by reputable, qualified personnel. The Control Officer shall be given a copy of the test results in writing and signed by the person responsible for the tests.

4.6 The Control Officer may conduct tests of emissions of air contaminants from any source. Upon request of the Control Officer, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants.

4.7 Whenever the Control Officer believes that a statute or regulation for the prevention, abatement or control of air pollution has been violated, he shall cause written notice to be served in person or by certified mail upon the person or persons responsible for the alleged violation.

4.7.1 The notice shall specify:

4.7.1.1 The statute or regulation alleged to be violated;

4.7.1.2 The facts alleged to constitute the violation.

4.7.2 The notice may include an order to take corrective action within a reasonable time, which shall be specified. Such an order becomes final unless within 10 days after service of the notice, a person named in the order requests a hearing before the Hearing Board.

11/17/81

4.7. Section 4 - Control Officer

Section 4.7.3, regarding the issuance of an enforcement order by the Control Officer, is revised.



7/24/79

- 4.7.3.1 The Control Officer may notify the person or persons responsible for the alleged violation to appear before the Hearing Board at a specified time and place; or
- 4.7.3.2 The Control Officer may initiate proceedings before the Hearing Board for the levying of the appropriate fine.
- 4.7.4 Nothing in this Section prevents the Board of Health or the Control Officer from making efforts to obtain voluntary compliance through warning, conference or other appropriate means.
- 4.8 Upon a finding by the Hearing Board that a person has not complied with the terms of an order, or upon the levying of a fine by the Hearing Board, the Control Officer, in the name of the Board of Health, may initiate action in the District Court or other court of competent jurisdiction for injunctive relief, to collect the fine levied, or for other appropriate remedy.
- 4.9 It is a condition of the issuance of an operating permit or any registration required by these Regulations that the registrant or holder agrees to permit inspection of the premises to which the permit or registration relates by the Control Officer at any time during the registrant's or holder's hours of operation without prior notice. This condition shall be stated on each registration or application form, and operating permit.
- 4.10 If a source of air contaminant exists or is constructed without registration or is operated without an operating permit, the Control Officer may inspect it at any reasonable time, and may enter any premises to search for such a source. If entry is refused, or prior to attempting to enter, the Control Officer may apply to any magistrate for a search warrant.
- 4.11 The Control Officer shall maintain all procedural forms and instructions pertaining to procedures set forth in these Regulations, and shall make such forms and instructions available upon request of any interested party.

11/5/80

**4.12 Public Notification**

**4.12.1** The Control Officer shall notify the public on a regular basis of instances or areas in which any ambient air quality standard was exceeded during any portion of the preceding calendar year.

**4.12.2** The Control Officer shall advise the public of the health hazards associated with such an exceedance of an ambient air quality standard.

**4.12.3** The Control Officer shall increase the public awareness of:

- 1)** Measures which can be taken to prevent an ambient air quality standard from being exceeded; and
- 2)** ways in which the public can participate in regulatory and other efforts to improve air quality.

7/24/79

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.

7/24/79

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.

7/24/79

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 of 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.

7/24/79

SECTION 10 - COMPLIANCE SCHEDULES

- 10.1 Any existing source not in compliance with emission limitations hereinafter adopted, or which is not operating under a compliance schedule approved by the Hearing Board, shall submit a compliance schedule to the Control Officer for review no later than 90 days after adoption of such emission limitations.
- 10.2 The Hearing Board shall hold a public hearing on each compliance schedule within 60 days after submission of such schedule to the Control Officer.
- 10.3 The Hearing Board may approve, disapprove, alter, or change all or any part of a compliance schedule, or may impose its own schedule upon the source involved.
- 10.4 Compliance schedules shall contain as a minimum:
  - 10.4.1 Appropriate increments of progress.
  - 10.4.2 Final date of compliance with the appropriate emission limitations.

**SECTION 12.0: APPLICABILITY, GENERAL REQUIREMENTS AND TRANSITION PROCEDURES**

12.0 Applicability, General Requirements and Transition Procedures..... 1  
12.0.1 Applicability ..... 1  
12.0.2 General Requirements ..... 2  
12.0.3 Transition Procedures ..... 2  
12.0.4 Permittee Responsibility To Comply With Control Strategy ..... 3  
12.0.5 Stack Height..... 3  
12.0.6 General Requirements for Records and Reports ..... 3

## 12.0 Applicability, General Requirements and Transition Procedures

### 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 Transition Procedures**

- (a) Unless otherwise provided in the permit, the conditions in an Authority to Construct Permit, Permit to Operate or Part 70 Operating Permit issued by the Control Officer before the effective date of these regulations continues in effect until one of the following occurs:
  - (1) The Authority to Construct Permit, Permit to Operate or Part 70 Operating Permit is terminated.
  - (2) The Control Officer issues or denies a permit to the source pursuant to Section 12.1, 12.4, 12.5, or 12.11 after the effective date of these regulations.
- (b) After the effective date of these regulations, all minor sources shall be subject to Section 12.1 as follows:
  - (1) A minor source that has submitted an application for a permit authorizing its construction and has not been issued a permit before the effective date of these regulations shall have that application processed pursuant to Section 12.1 as amended on this date, unless its application was deemed complete before the effective date of these regulations. If the application was deemed complete before the effective date of these regulations, then the application shall be processed pursuant to the requirements of Section 12 as they existed at that time.
  - (2) An existing minor source operating under a permit issued by the Control Officer prior to the effective date of these regulations must submit an application within five years of this date or earlier if requested in writing by the Control Officer.
  - (3) An existing minor source that does not have an initial minor source permit may submit a permit application at any time after the effective date of these regulations, but shall submit a permit application within one hundred eighty (180) days of receipt of written notice from the Control Officer that an application is required.

- (4) An existing minor source making a change that is subject to the notice, logging or permit revision provisions under Section 12.1.5, as amended on the effective date of these regulations, shall comply with the provisions of that section.
- (c) After the effective date of these regulations, all Part 70 sources required to obtain a Part 70 Operating Permit shall be subject to Sections 12.2, 12.3, 12.4, and/or 12.5 in accordance with the provisions in those sections.

#### **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 of Air Quality Office, 4701 West Russell Road, Las Vegas, Nevada 89118.

History: Adopted November 3, 2009

## SECTION 12.1: PERMIT REQUIREMENTS FOR MINOR SOURCES

12.1	Permits for Minor Sources .....	1
12.1.0	Applicability .....	1
12.1.1	Definitions .....	1
12.1.2	Emission Units and Activities Exempt from Permit Requirements.....	2
12.1.3	Permit Application .....	6
12.1.3.1	Duty to Apply For and Obtain a Permit For New or Modified Existing Minor Sources .....	6
12.1.3.2	Timely Application .....	6
12.1.3.3	Complete Application .....	6
12.1.3.4	Permit Application Shield .....	6
12.1.3.5	Duty to Supplement or Correct Application .....	7
12.1.3.6	Application Contents .....	7
12.1.4	Permit Content .....	9
12.1.4.1	Terms and Conditions .....	9
12.1.4.2	Acknowledgment of Responsibility for Compliance.....	15
12.1.5	Permit Application Processing Procedures .....	16
12.1.5.1	Action on Application.....	16
12.1.5.2	Permit Processing Deadlines .....	16
12.1.5.3	Public Participation.....	17
12.1.5.4	Permit Transfers.....	19
12.1.6	Revisions to an Existing Minor Source Permit.....	19
12.1.7	Permits Containing Voluntarily Accepted Emission Limitations and Standards.....	24

## 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(c), but less than the major source thresholds listed in 12.2.2.(ff) or 12.3.2(y). This includes 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(c) or that takes a Voluntarily Accepted Emission Limit pursuant to Section 12.1.7.

### 12.1.1 Definitions

Unless the context requires otherwise, the following terms shall have the meanings set forth below for purposes of Section 12.0, 12.1, 12.4, 12.5, 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 that is less than the levels listed in paragraph (c) below or that is listed in Section 12.1.2.
- (b) “Existing minor source” means any minor source that has been issued an “Authority to Construct” or “Permit to Operate” and that has not been issued an initial minor source permit but is required to have one, or that is determined by the Control Officer to be an exempt stationary source prior to the effective date of this rule.
- (c) “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:

Type of Air Pollutant	Potential to Emit (tpy)
PM <sub>2.5</sub>	5
PM <sub>10</sub>	5
CO	25
VOC	5
NO <sub>x</sub>	5
SO <sub>2</sub>	25
Lead (Pb)	0.3
H <sub>2</sub> S	1

- (d) “Minor Source Permit” means a single permit that authorizes the construction and operation of a new minor source or the modification and operation of an existing minor source.
- (e) "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.
- (f) “New minor source” means any stationary source that has had its application for an initial minor source permit authorizing its construction and operation declared complete pursuant to Section 12.1.3.3 after [the effective date of this rule].
- (g) “Significant” means an increase at a minor source in the potential to emit of any of the following pollutants at a rate that would equal or exceed any of the following:

Type of Air Pollutant	Potential to Emit (tpy)
PM <sub>2.5</sub>	7.5
PM <sub>10</sub>	7.5
CO	35
VOC	20
NO <sub>x</sub>	20
SO <sub>2</sub>	40
Lead (Pb)	0.6
H <sub>2</sub> S	5
Total Reduced Sulfur (including H <sub>2</sub> S)	5

### 12.1.2 Emission Units and Activities Exempt from Permit Requirements

- (a) Construction and operation of any emission units or performance of any of the activities listed in Sections 12.1.2(c) or Appendix A of Section 12.1 shall be exempt from the requirement to obtain a permit under Section 12 subject to the following requirements:
  - (1) The exempt emission units and activities shall be listed in the source’s application and permit;
  - (2) The exempt emission units and activities shall remain subject to any other applicable requirements; and
  - (3) The potential to emit of all exempt units and activities shall be considered in determining if a stationary source is required to

obtain a permit pursuant to Sections 12.1, 12.2, 12.3, 12.4, or 12.5.

- (b) If a stationary source, based on information submitted by its owner or operator, is determined by the Control Officer to be an exempt stationary source, or is categorically exempt under paragraph (c), the owner or operator may request a letter of exemption confirming that status. The letter shall list all exempt emission units and activities.
- (c) 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) Production of hot water for use by on-site personnel not related to any industrial or production process;
  - (3) 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 these regulations;
  - (4) Temporary “padding” machines used on an underground utility project, including the engine that powers them, provided there is no crusher and the project is being performed under the conditions of a Dust Control Permit issued pursuant to Section 94;
  - (5) Temporary on-site demolition debris “grinders,” including the engine that powers them, provided the project is being performed under the conditions of a Dust Control Permit issued pursuant to Section 94;
  - (6) Temporary trenching machines, including the engine that powers them, provided the project is being performed under the

conditions of a Dust Control Permit issued pursuant to Section 94;

- (7) Temporary operations and experimental trials that involve construction, reconstruction, or modification of a source or emission unit and that meet 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) days of total operating time;
  - (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 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 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 and the estimated actual emissions increase resulting from the construction or reconstruction; and
  - (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 Department 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 the following information:
- (i) The actual start date of the construction, reconstruction, or modification;
  - (ii) The duration of the temporary operation or experimental trial; and
  - (iii) The actual emissions during the temporary operation or experimental trial.
- (G) The exemption provided by Section 12.1.2(c)(7) 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.
- (d) The Control Officer shall review, on a case-by-case basis, insignificant activities for an individual minor 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 or five (5) tpy of any combination of criteria pollutants shall be eligible to be determined an insignificant activity under this Section.

### **12.1.3 Permit Application**

#### **12.1.3.1 Duty to Apply For and Obtain a Permit For New or Modified Existing Minor Sources**

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.

#### **12.1.3.2 Timely Application**

- (a) An existing minor source that does not have an initial minor source permit issued pursuant to Section 12.1 prior to the effective date of this regulation may submit a permit application at any time after the effective date of this section, but shall submit a permit application within one hundred eighty (180) days of receipt of written notice from the Control Officer that an application is required.
- (b) For purposes of permit renewal, a timely application is one that is submitted to the Control Officer at least one hundred twenty (120) days, but no more than two hundred seventy (270) days, before the date of permit expiration.

#### **12.1.3.3 Complete Application**

To be deemed complete, an application must contain all information required under Section 12.1.3.6. It must also be accompanied by payment of the applicable fee(s) established in Section 18. Unless the Control Officer determines that an application is not complete within sixty (60) days of receipt, the application shall be deemed complete. 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. Failure to provide the additional information 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 continued operation under an initial minor source permit or renewal of a minor source permit, the source's failure to have the permit or renewal is not a violation of these regulations until the Control Officer takes final action on the application. This 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.

### **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 release of a draft permit.

### **12.1.3.6 Application Contents**

- (a) A permit application for (1) a new minor source, (2) an existing minor source that has not been issued an initial permit, (3) the renewal of an existing minor source permit, (4) a voluntarily accepted emission limitation or standard, (5) a significant permit revision to a minor source permit, or (6) a minor permit revision to a minor source permit shall contain the following information:
- (1) Identifying information, including but not limited to company name and address (and plant name and address, if different from the company name), owner or operator's name and agent, email address, telephone number and name(s) of plant site manager/contact with associated email addresses and telephone numbers.
  - (2) A description of the source's processes and products using the North American Industrial Classification System (NAICS);
  - (3) The following emissions-related information:
    - (A) The potential to emit of all regulated air pollutants emitted from each emission unit.
    - (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 paragraphs (A) through (F) is based; and
- (4) A justification for any exemption sought from any otherwise applicable requirement;
  - (5) A certification signed by the responsible official stating that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete. Signature of the certification statement shall subject the applicant to liability under Nevada state laws forbidding false or misleading statements;
  - (6) For a new or modified source, a schedule of construction, if applicable;
  - (7) A list of emission limitations and other requirements applicable to the source; and
  - (8) A list of emission units or activities claimed as exempt under 12.1.2(c).
- (b) In addition to the information required by paragraph (a), if the application is for a new minor source that will have a potential to emit that is significant for any regulated air pollutant, 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.
  - (c) In addition to the information required by paragraph (a), if the application is for a modification to an existing minor source and requires a minor source significant permit revision pursuant to Section 12.1.6(a)(7), the application shall contain the following:
    - (1) A description and quantification of the increase in the potential to emit resulting from the modification;
    - (2) A description and quantification of actual emissions of all regulated air pollutants before and after the modification;
    - (3) 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; and

- (4) A schedule of compliance, if applicable.
- (d) In addition to the information required by paragraph (a), if the application is for a voluntarily accepted emission limitation, the applicant shall demonstrate that the emission limitation to be imposed to avoid an applicable requirement is more stringent than any emission limitation that would otherwise be applicable to that source, including those in the Nevada SIP.
- (e) 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 or units and operating information consistent with the application information;
- (c) Emission limitations for any source or emission unit that ensure:
  - (1) The National Ambient Air Quality Standards will be attained or maintained;
  - (2) The public health will be protected; and
  - (3) Compliance with the requirements of these AQRs and the Act
- (d) Monitoring, testing, reporting, and recordkeeping requirements that ensure reasonable information is provided to evaluate compliance consistent with permit terms and conditions, the underlying requirements of these regulations, and the Act. At a minimum, the following shall be contained in each minor source permit:
  - (1) The permit shall incorporate all applicable monitoring requirements, including, where applicable, the following:
    - (A) All emissions monitoring and analysis procedures or test methods required by any applicable requirement;

- (B) Where an applicable requirement does not require periodic testing or instrumental or non-instrumental 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 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 listed in the permit, and time of sampling or measurements;
    - (ii) The date(s) 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 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, but is not limited to, all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, data from the data acquisition system and copies of all reports required by the permit.
- (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(m)(3).
  - (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.
- (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 limitations and standards, including those operational requirements and limitations necessary to: (1) ensure compliance with any RACT determination, if one has been required; (2) ensure the source does not require a major source Authority to Construct or Part 70 Operating Permit; (3) ensure compliance with all applicable requirements at the time of permit issuance; and (4) ensure that any ambient air increment as prescribed by Section 12.2.3 is not exceeded.
  - (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 these regulations allow a determination of an alternative emission limit for a source (equivalent to that contained in these regulations) 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 exempt 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; and
  - (2) For each such alternative operating scenario, to comply with all applicable requirements and the requirements of this rule.
- (m) Compliance testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit, including the following:
  - (1) The Control Officer may require stack testing, monitoring, or reporting 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) As a condition of the issuance of the permit, that the owner or operator agrees to permit inspection of the premises to which the permit relates, including the location where records must be kept under the conditions of the permit, by any authorized representative of the Control Officer at any time during the permittee's hours of operation without prior notice to perform the following:
    - (A) Have access to and copy any records that must be kept under 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 for the purpose of assuring compliance with the permit or applicable requirements; and
  - (D) Document alleged violations using devices such as cameras or video equipment.
- (3) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification 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.
- (4) A permit renewal for an existing source shall include a schedule for compliance with any requirement with which the source is not in compliance at the time of permit issuance. This shall include a schedule of remedial measures, including an enforceable sequence of actions (with milestones) leading to compliance with any requirements with which the source was not in compliance at the time of permit issuance. This compliance schedule shall resemble, and be at least as stringent as, that contained in any judicial consent decree or administrative order the source is subject to. Any such schedule shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
- (5) The permit shall include any other compliance provisions the Control Officer may require.
- (n) If 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 no later than thirty (30) days prior to commencing operation that:
- (1) The source as constructed or modified is the same as the source or modification authorized by the permit or revision; or
  - (2) The source as constructed or modified differs from the source or modification authorized by the permit or revision issued, and the differences are listed and described. A source may be subject to

enforcement action as a result of differences between the permitted and constructed source.

- (3) If the permit is for a new source or modification to an existing source that requires no additional construction, then the owner or operator shall, as part of the application, provide the notice specified in paragraph (1) or (2) at the time the application is deemed complete. In a situation involving a transfer in ownership of the air quality permit, the requirements of Section 12.12 shall apply.
- (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 modified, revoked, reopened and reissued, or terminated for cause by the Control Officer. The filing of a request by the permittee for a permit modification, termination, or of a notification of planned changes or anticipated non-compliance, does not stay any permit condition.
  - (q) Each issued permit shall include 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 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.

- (r) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of these regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
- (s) The permit does not convey any property rights of any sort, or any exclusive privilege.
- (t) 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 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.
- (u) Include a condition 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
- (v) Include a condition that the permit shall 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.
- (w) Include a condition that the permit shall not affect the responsibilities of the permittee to comply with the applicable portions of a control strategy in the SIP.
- (x) 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, significant permit revision, or permit renewal may be issued only if all of the following conditions have been met:
  - (1) The Control Officer has received a complete application as prescribed by Section 12.1.3.3,
  - (2) The Control Officer has complied with the requirements for public participation under Section 12.1.5.3 as applicable;
  - (3) The Control Officer has determined that the conditions of the permit provide for compliance with all applicable requirements; and
  - (4) The Control Officer has 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).
- (b) Following the close of the public participation process prescribed by Section 12.1.5.3, the Control Officer shall issue or deny the permit or significant permit revision. The Control Officer shall deny a permit or significant permit revision if the applicant fails to demonstrate that the source will be designed, controlled, and operated in a manner that meets all applicable requirements.
- (c) If the Control Officer denies the permit or significant permit revision, a notice of denial shall be served on the applicant by certified mail. The notice shall detail the grounds for denial and describe the applicant's right to appeal the denial under Section 7.
- (d) If the Control Officer issues the permit or significant 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 actions listed in the table below within the following deadlines, commencing after the date on which the application is determined to be complete. These time frames are exclusive of the days required for public participation, as specified in Section 12.1.5.3.

Action	Deadline
(1) Permit for a new minor source	150 days
(2) Initial permit for an existing minor source issued under Section 12.1	75 days
(3) Permit renewal	75 days
(4) Significant permit revision	120 days

### 12.1.5.3 Public Participation

(a) Notice of Proposed Action.

- (1) After receipt of a complete application for (1) a new minor source with a potential to emit any pollutant that exceeds 50 tpy for CO; 40 tpy for VOCs, SO<sub>2</sub>, or NO<sub>x</sub>; 10 tpy for PM<sub>2.5</sub>; 15 tpy for PM<sub>10</sub>; 10 tpy for H<sub>2</sub>S; or 0.6 tpy for lead; (2) a new minor source that will be located within 1,000 feet of the outer boundary of a school, hospital, or residential area; or (3) a significant permit revision that is required because of a significant increase in an existing minor source's potential to emit, 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 Proposed Action on the application containing 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 completed 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 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; and
  - (J) An opportunity for any person to request a public hearing, consistent with the requirements of subsection (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.
- (2) All written comments must be received by the Control Officer within thirty (30) days from the publication date of the Notice of Proposed Action.
  - (3) 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.
  - (4) 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 ; and
    - (B) Any other person who requests such notice.
- (b) During the Notice of Proposed Action public comment period specified in paragraph (a)(2), 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) The petitioner and the applicant shall receive at least seven (7) days' prior written notice of the date and location of the public hearing. If the petition for hearing is denied, the Control Officer shall notify the petitioner within 30 days of receipt of the petition.
- (c) An existing minor source that has applied for its initial minor source permit pursuant to Section 12.1 shall only be subject to the public participation requirements of Section 12.1.5.3, paragraphs (a) and (b), if the source's PTE exceeds one or more of the following: 50 tpy for CO; 40 tpy for VOCs, SO<sub>2</sub>, and NO<sub>x</sub>; 15 tpy for PM<sub>2.5</sub> and PM<sub>10</sub>; and 0.6 tpy for lead.
- (d) An existing minor source that has applied for an initial minor source permit pursuant to Section 12.1 and has a PTE below all the air pollutant thresholds listed in paragraph (c) shall have the proposed permit or permit revision posted on the Department's website for a period of thirty (30) days, during which any person may submit comments to the Control Officer on those provisions in the proposed permit that differ from conditions in the source's existing permit. The Control Officer shall consider such comments in determining the final language of the permit.

#### **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:

- (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 the change results from:
  - (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 paragraph (e) below and if the relaxed requirements in the permit apply solely to the equipment that was removed; or
  - (B) A change in an applicable requirement.
- (4) A change that will cause the source to violate an existing applicable 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; or
  - (C) A case-by-case determination of a monitoring, recordkeeping, 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; and
  - (B) Emissions from an emissions unit subject to a general permit issued under Section 12.11 that establishes RACT.
- (b) **Minor Permit Revision.** Making any of the changes listed in paragraphs (2)(A) through (D) at a minor source requires a minor permit revision.
- (1) Within thirty (30) days of the Control Officer's receipt of an application for a minor permit revision pursuant to paragraph (2), the Control Officer shall:
    - (A) Issue the minor revision as proposed;
    - (B) Deny the minor revision because:
      - (i) It does not qualify as a minor permit revision because it is a significant permit revision;
      - (ii) It does not otherwise qualify as a minor permit revision under the criteria in paragraph (b) above; or
      - (iii) There is insufficient information to determine if it qualifies as a minor permit revision.
    - (C) Amend and issue the revised minor source permit.
  - (2) The changes below 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 and propose language for the permit revision sought. No change listed in this section shall proceed if the Control Officer objects within the 7 day waiting period.
    - (A) 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(g).
    - (B) A change in fuel from fuel oil or coal to natural gas or propane, if not authorized in the permit;

- (C) 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; or
  - (D) 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.
- (c) **Administrative Permit Revision.** The following changes at a minor source require a permit revision, but are considered administrative and occur automatically upon notice to the Control Officer. These changes are not subject to the revision processes in Sections 12.1.6(a) and (b):
- (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 (except transfers of ownership, which are subject to the requirements of Section 12.12);
  - (3) Requires more frequent monitoring or reporting by the permittee;
  - (4) Incorporates newly applicable requirements that become newly applicable because of an amendment to an existing rule or adoption of a new rule;
  - (5) Incorporates alternative testing or compliance monitoring requirements that have received the Administrator's approval under 40 CFR Part 60, Part 61, or Part 63;
  - (6) Incorporates 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; or
  - (7) Incorporates 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) An administrative revision to a permit condition adopted pursuant to Title IV of the Act shall be governed by regulations promulgated by the Administrator under Title IV.
- (d) **Changes That Can Be Made With Prior 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 on a form specified by the Control Officer by the deadlines specified in the applicable paragraph below. No change listed under this section shall proceed if the Control Officer objects within the applicable waiting period.
- (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 Department. 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 increases actual emissions less than ten (10) percent of the applicable major source threshold for the air pollutant(s) emitted, but 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.
  - (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; or
  - (5) A change that will result in the emissions of a new regulated air pollutant above an applicable regulatory threshold and less than a significant amount (as defined in Section 12.1.1(g)) but that does not trigger a new applicable requirement for that source category: thirty (30) days after the date of receipt of the written notice by the Control Officer. For purposes of this requirement, the applicable regulatory threshold for a regulated air pollutant

shall be ten (10) percent of the applicable major source threshold for that pollutant.

- (e) **Changes That Can Be Made With On-Site Logging.** The following changes may be made at a minor source if the source maintains an on-site record or log of the changes on a form obtained from the Control Officer:
  - (1) Implementing an alternative operating scenario provided for in the permit, including raw material changes;
  - (2) Changing process equipment or operating procedures, or making any other physical change, if the permit requires the change to be logged;
  - (3) Adding any emission unit or activity listed in Section 12.1.2; or
  - (4) 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.
- (f) 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 paragraphs (c) and (d) above and information contained in on-site records or logs maintained pursuant to paragraph (e).
- (g) 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.
- (h) In the event that a change to a minor source may correspond to more than one category of revision or change listed in this section, the category of revision or change imposing the more stringent requirements shall apply.

#### **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 a major source New Source Review under Sections 12.2 or 12.3; having to obtain a Part 70 Operating Permit under Section 12.5; becoming a major Hazardous Air Pollutants (HAPs) source; being subject to RACT; or meeting other applicable requirements.

- (b) A source that proposes a voluntarily accepted emission limitation or other standard shall comply with the requirements of Section 12.1.3.6(d).
- (c) Because the addition of a voluntarily accepted emission limitation or standard requires a significant permit revision, the public participation procedures set forth in Section 12.1.5.3 shall be followed for sources requesting a voluntarily accepted emission limitation or standard. A new minor source that meets the criteria or potential to emit thresholds of Section 12.1.5.3(a)(1) and that is requesting a voluntarily accepted emission limitation shall follow the public participation requirements of that section.

History: Adopted November 3, 2009

## Appendix A: 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 the 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 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.

- (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) Handheld 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) Handheld 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<sub>2</sub> lasers used only on metals and other materials that 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.

**SECTION 12.2: PERMIT REQUIREMENTS FOR MAJOR SOURCES IN ATTAINMENT  
AREAS  
(PREVENTION OF SIGNIFICANT DETERIORATION)**

12.2	Prevention of Significant Deterioration in Attainment Areas .....	1
12.2.1	Applicability Procedures .....	1
12.2.1.1	Preconstruction Review Requirements .....	1
12.2.1.2	Construction of Major Stationary Sources or Modifications .....	1
12.2.1.3	Authority to Construct Permit Requirement.....	1
12.2.1.4	Projects .....	1
12.2.1.5	Major Sources with Plantwide Applicability Limitations ...	2
12.2.1.6	Existing Emission Unit Projects.....	2
12.2.1.7	Availability of Information .....	4
12.2.1.8	Secondary Emissions.....	4
12.2.2	Definitions.....	4
12.2.3	Ambient Air Increments .....	26
12.2.4	Ambient Air Ceilings .....	27
12.2.5	Restrictions On Area Classifications.....	27
12.2.5.1	Class I Areas.....	27
12.2.5.2	Redesignation of Class I Areas.....	27
12.2.5.3	Class II Areas.....	28
12.2.5.4	Redesignating Areas.....	28
12.2.5.5	Exclusions from Increment Consumption.....	28
12.2.6	Redesignation .....	29
12.2.6.1	Clark County .....	29
12.2.6.2	Requirements.....	30
12.2.6.3	Reserved.....	31
12.2.6.4	Administrator Approval.....	31
12.2.6.5	Resubmitting Disapproved Proposal.....	31
12.2.7	Stack Heights .....	31
12.2.7.1	Emission Limitation .....	32
12.2.7.2	Time Frame.....	32
12.2.7.3	Stack Height Limitation .....	32
12.2.8	Exemptions.....	35
12.2.8.1	Nonattainment Areas .....	36
12.2.8.2	Class I Areas.....	36
12.2.8.3	Class II Areas.....	37
12.2.8.4	Threshold Limits.....	37
12.2.9	Control Technology Review.....	38
12.2.9.1	Major Stationary Sources.....	38
12.2.9.2	Major Modifications .....	38
12.2.9.3	Phased Construction Projects.....	38
12.2.10	Source Impact Analysis.....	38
12.2.10.1	Demonstration of Impact.....	38

	12.2.10.2	Violation of Standard.....	38
12.2.11		Air Quality Models .....	39
	12.2.11.1	Model Applicability .....	39
	12.2.11.2	Model Modifications and Substitutions .....	39
12.2.12		Air Quality Analysis.....	40
	12.2.12.1	Preapplication Analysis .....	40
	12.2.12.2	Post-Construction Monitoring.....	41
	12.2.12.3	Operations of Monitoring Stations.....	41
12.2.13		Source Information .....	41
	12.2.13.1	Required Information.....	41
	12.2.13.2	Information on Air Quality Impacts .....	41
12.2.14		Additional Impact Analyses .....	42
	12.2.14.1	Visibility, Soils, and Vegetation .....	42
	12.2.14.2	Commercial, Residential, Industrial, and Other Growth .....	42
12.2.15		Additional Requirements for Sources Impacting Class I Areas .....	42
	12.2.15.1	Notice to EPA.....	42
	12.2.15.2	Federal Land Manager.....	42
	12.2.15.3	Impact of Denial on Air Quality-Related Values .....	43
	12.2.15.4	Class I Variances .....	43
	12.2.15.5	Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence.....	44
	12.2.15.6	Variance by the Governor with the President's Concurrence .....	44
	12.2.15.7	Emission Limitations for Presidential or Gubernatorial Variance.....	44
12.2.16		Public Participation .....	45
	12.2.16.1	Notice of Proposed Action.....	45
	12.2.16.2	Distribution of Notice .....	47
	12.2.16.3	Public Hearings .....	47
	12.2.16.4	Time Frame.....	47
	12.2.16.5	Comments and Approvals.....	47
	12.2.16.6	Enhanced Public Participation Procedures .....	48
12.2.17		Source Obligation.....	48
	12.2.17.1	Enforcement.....	48
	12.2.17.2	Termination .....	48
	12.2.17.3	Compliance .....	49
	12.2.17.4	Relaxation in Enforceable Limitations .....	49
12.2.18		Innovative Control Technology .....	49
	12.2.18.1	Request for Approval .....	49
	12.2.18.2	Requirements for Approval .....	49
	12.2.18.3	Withdrawal of Approval .....	50
	12.2.18.4	BACT Extension for Failure or Withdrawal.....	50
12.2.19		Plantwide Applicability Limits (PALs).....	50
	12.2.19.1	Applicability .....	51
	12.2.19.2	Definitions .....	51
	12.2.19.3	Permit Application Requirements.....	53

12.2.19.4	General Requirements for Establishing PALs .....	53
12.2.19.5	Public Participation Requirements for PALs.....	54
12.2.19.6	Setting the 10-year Actuals PAL Level.....	54
12.2.19.7	Contents of a Part 70 Operating Permit Containing a PAL .....	55
12.2.19.8	PAL Effective Period and Reopening of the PAL Conditions in a Part 70 Operating Permit.....	56
12.2.19.9	Expiration of a PAL .....	57
12.2.19.10	Renewal of a PAL .....	58
12.2.19.11	Increasing a PAL during the PAL Effective Period .....	59
12.2.19.12	Monitoring Requirements for PALs .....	61
12.2.19.13	Recordkeeping Requirements.....	63
12.2.19.14	Reporting and Notification Requirements.....	64
12.2.19.15	Transition Requirements .....	65
12.2.20	Invalidation .....	66

### LIST OF TABLES

Table 12.2-1.	Increment Limits .....	26
Table 12.2-2.	Air Quality Impact Limits .....	37
Table 12.2-3.	Significance Levels.....	39
Table 12.2-4.	Maximum Allowable Pollutant Increases .....	43
Table 12.2-5.	Maximum Allowable Increase ( $\mu\text{g}/\text{m}^3$ ) .....	45

## **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 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).
  - (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  $\mu\text{g}/\text{m}^3$  (annual average) for  $\text{SO}_2$ ,  $\text{NO}_2$ , or  $\text{PM}_{10}$ ; or equal to or greater than 0.3  $\mu\text{g}/\text{m}^3$  (annual average) for  $\text{PM}_{2.5}$ .
- (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  $\text{PM}_{10}$  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<sub>x</sub>) 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<sub>10</sub> and sulfur dioxide, January 6, 1975;
  - (2) In the case of nitrogen dioxide, February 8, 1988; and
  - (3) In the case of PM<sub>2.5</sub>, 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<sub>2.5</sub>, 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<sub>10</sub> 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<sub>10</sub> 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<sub>2.5</sub> emissions and PM<sub>10</sub> 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<sub>2.5</sub> and PM<sub>10</sub> in PSD permits. Compliance with emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> 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<sub>2.5</sub> in all attainment and unclassifiable areas.
      - (iii) Nitrogen oxides are presumed to be precursors to PM<sub>2.5</sub> 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<sub>2.5</sub> concentrations.
      - (iv) Volatile organic compounds are presumed not to be precursors to PM<sub>2.5</sub> in any attainment or unclassifiable areas.

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<sub>2.5</sub> 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<sub>x</sub>: 40 tpy;

- Sulfur dioxide: 40 tpy;
  - Particulate matter: 25 tpy;
  - PM<sub>10</sub>: 15 tpy;
  - PM<sub>2.5</sub>: 10 tpy of direct PM<sub>2.5</sub> 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<sub>2</sub>S): 10 tpy;
  - Total reduced sulfur (including H<sub>2</sub>S): 10 tpy;
  - Reduced sulfur compounds (including H<sub>2</sub>S): 10 tpy;
  - Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2 x 10<sup>-6</sup> megagrams per year (3.5 x 10<sup>-6</sup> 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 CO<sub>2</sub>e as defined in 40 CFR § 52.21(b)(49) as of July 19, 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 ( $\mu\text{g}/\text{m}^3$ )
<b>Class I</b>		
Particulate Matter	PM <sub>2.5</sub> , annual arithmetic mean	1
	PM <sub>2.5</sub> , 24-hr maximum	2
	PM <sub>10</sub> , annual arithmetic mean	4
	PM <sub>10</sub> , 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
<b>Class II</b>		
Particulate Matter	PM <sub>2.5</sub> , annual arithmetic mean	4
	PM <sub>2.5</sub> , 24-hr maximum	9
	PM <sub>10</sub> , annual arithmetic mean	17
	PM <sub>10</sub> , 24-hr maximum	30
Sulfur Dioxide	Annual arithmetic mean	20

Pollutant		Maximum allowable increases ( $\mu\text{g}/\text{m}^3$ )
	24-hr maximum	91
	3-hr maximum	512
Nitrogen Dioxide	Annual arithmetic mean	25
<b>Class III</b>		
Particulate Matter	PM <sub>2.5</sub> , annual arithmetic mean	8
	PM <sub>2.5</sub> , 24-hr maximum	18
	PM <sub>10</sub> , annual arithmetic mean	34
	PM <sub>10</sub> , 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,  $H_g = 2.5H$ ;
  - (3) For all other stacks,  $H_g = H + 1.5L$ , 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 non-profit 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 ( $\mu\text{g}/\text{m}^3$ )
Carbon monoxide, 8-hour average	575
Nitrogen dioxide, annual average	14
PM <sub>2.5</sub> ,	0 (in accordance with <i>Sierra Club vs EPA</i> , 706 F.3d 428 D.C. Circuit 2013, no exemption is available with regard to PM <sub>2.5</sub> )
PM <sub>10</sub> , 24-hour average	10
Sulfur dioxide, 24-hour average	13
Ozone	No <i>de minimis</i> air quality level is provided for ozone. However, any net increase of 100 tpy or more of VOCs or NO <sub>x</sub> 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 <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>		25 µg/m <sup>3</sup>	
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>			
NO <sub>2</sub>	1.0 µg/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

## 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<sub>10</sub>, 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<sub>10</sub> 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 following maximum allowable increases over baseline concentration for such pollutants.

**Table 12.2-4. Maximum Allowable Pollutant Increases**

Pollutant	Maximum allowable increase ( $\mu\text{g}/\text{m}^3$ )
Particulate Matter:	
PM <sub>2.5</sub> , annual arithmetic mean	4
PM <sub>2.5</sub> , 24-hr maximum	9
PM <sub>10</sub> , annual arithmetic mean	17
PM <sub>10</sub> , 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 ex-



ceed 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 ( $\mu\text{g}/\text{m}^3$ )**

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 pro-

ject; 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 emis-

sions 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 credible 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 er-

rors 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.

**SECTION 12.3: PERMIT REQUIREMENTS FOR MAJOR SOURCES IN  
NONATTAINMENT AREAS**

12.3	Permit Requirements for Major Sources in Nonattainment Areas .....	1
12.3.1	Applicability Procedures .....	1
12.3.1.1	Preconstruction Review Requirements .....	1
12.3.1.2	Construction of Major Sources or Modifications .....	1
12.3.1.3	Authority to Construct Permit Requirement .....	1
12.3.1.4	Projects .....	1
12.3.1.5	Major Sources with Plantwide Applicability Limitations .....	2
12.3.1.6	Existing Emission Unit Projects .....	2
12.3.1.7	Availability of Information.....	4
12.3.1.8	Secondary Emissions .....	4
12.3.2	Definitions.....	4
12.3.3	Statewide Compliance.....	23
12.3.4	Analysis of Alternatives .....	23
12.3.5	Lowest Achievable Emission Rate .....	23
12.3.5.1	Applicable Requirements.....	23
12.3.5.2	Permit Requirements to Achieve LAER.....	23
12.3.6	Emissions Offset.....	24
12.3.6.1	Sufficiency of Reductions .....	24
12.3.6.2	Offset Methods .....	24
12.3.6.3	Restrictions on Trading Pollutants.....	24
12.3.6.4	Timing.....	26
12.3.6.5	Quantity .....	26
12.3.6.6	Emission Reduction Requirements .....	27
12.3.6.7	Location of Internal Reductions .....	28
12.3.6.8	Emission Reduction Credit Requirements .....	28
12.3.6.9	ERC Registry.....	29
12.3.7	Source Obligation .....	29
12.3.7.1	Enforcement.....	29
12.3.7.2	Termination .....	29
12.3.7.3	Compliance .....	29
12.3.7.4	Relaxation in Enforceable Limitations .....	30
12.3.8	Public Participation .....	30
12.3.9	Plantwide Applicability Limits (PAL).....	30
12.3.9.1	Applicability .....	30
12.3.9.2	Definitions.....	30
12.3.9.3	Permit Application Requirements .....	32
12.3.9.4	General Requirements for Establishing PALs .....	33
12.3.9.5	Public Participation Requirements for PALs .....	34
12.3.9.6	Setting the 10-year Actuals PAL Level .....	34
12.3.9.7	Part 70 Operating Permits with PALs .....	34
12.3.9.8	PAL Effective Period and Reopening of PAL Conditions....	35
12.3.9.9	Expiration of a PAL.....	36

12.3.9.10	Renewal of a PAL.....	37
12.3.9.11	Increasing a PAL during the PAL Effective Period .....	39
12.3.9.12	Monitoring Requirements for PALs.....	40
12.3.9.13	Recordkeeping Requirements .....	43
12.3.9.14	Reporting and Notification Requirements .....	43
12.3.9.15	Transition Requirements .....	45
12.3.10	Potential Visibility Impacts .....	45
12.3.11	Invalidation .....	45

**LIST OF TABLES**

Table 12.3-1.	Federal Offset Ratio Requirements by Area Designation and Pollutant .....	27
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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<sub>10</sub> 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<sub>10</sub>.

- (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 NO<sub>x</sub> 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).

~~(2)~~(3) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

~~(2)~~(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.

~~(3)~~(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<sub>10</sub>: 15 tpy;
- (6) PM<sub>2.5</sub>: 10tpy of direct PM<sub>2.5</sub> 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<sub>x</sub> emissions decreases, or NO<sub>x</sub> 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<sub>2.5</sub>, 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<sub>10</sub> 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<sub>2.5</sub>, offsetting of PM<sub>2.5</sub> emissions increases with sulfur dioxide or nitrogen oxide emissions decreases, or sulfur dioxide or nitrogen oxide emissions increases with PM<sub>2.5</sub> decreases, shall not be prohibited trading. Interpollutant offsets between PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors are not allowed unless modeling has been used to demonstrate that PM<sub>2.5</sub> interpollutant offset ratios are appropriate as approved in a PM<sub>2.5</sub> 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 shutdown 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 <sub>x</sub>	1.1:1
	VOC	1.1:1
Moderate Ozone Nonattainment Area	NO <sub>x</sub>	1.15:1
	VOC	1.15:1
Serious Nonattainment Area		
	PM <sub>10</sub>	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<sub>x</sub> and VOC ERCs between airshed regions for the same nonattainment area within the Clark County boundary to satisfy NO<sub>x</sub> 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 Statutes (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

**SECTION 12.4: AUTHORITY TO CONSTRUCT APPLICATION AND PERMIT  
REQUIREMENTS FOR PART 70 SOURCES**

12.4	AUTHORITY TO CONSTRUCT PERMIT REQUIREMENTS FOR PART 70 SOURCES.....	1
12.4.1	Authority to Construct Permit Required; Duration .....	1
12.4.1.1	Commencement of Construction: Timing Requirements.....	1
12.4.2	Definitions .....	1
12.4.2.1	Use of Terms .....	1
12.4.3	Authority to Construct Permit for Part 70 Sources .....	5
12.4.3.1	Application Submission, Processing and Issuance Requirements for Stationary Sources Subject to Sections 12.2 or 12.3.....	5
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 .....	11
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).....	12
12.4.3.4	Authority to Construct Permit Revisions.....	12
12.4.3.5	Administrative Permit Revisions for Title IV Acid Rain Sources.....	14

## **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 <sub>2.5</sub> , directly emitted	5.0
PM <sub>10</sub>	7.5
CO	50
VOC	20
NO <sub>x</sub>	20
SO <sub>2</sub>	20
Lead (Pb)	0.6
H <sub>2</sub> S	5
Total Reduced Sulfur (including H <sub>2</sub> S)	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

- ~~(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.~~

11/17/81

SECTION 18 - REGISTRATION/PERMIT FEES

18.1	Fuel Burning Equipment	
18.1.1	\$7.00 for each 1 million BTU's or fraction thereof.	
18.1.2	\$70.00 for first 10 million plus \$7.00 for each additional 10 million or fraction thereof.	
18.1.3	\$140.00 for first 100 million plus \$14.00 for each additional 10 million or fraction thereof.	
18.1.4	\$1,400.00 for first 1,000 million plus \$140.00 for each additional 1,000 million or fraction thereof.	
18.2	Operating Permits (Process Equipment, Incinerator, Mining Operation) (each).	\$ 140.00
18.2.1	Operating Permits for Aggregate- Storage Silos and Enclosures.	\$ 70.00
18.3	Stationary tank, reservoir, or other container of more than 151,412 liters (40,000 gallons) capacity containing any petroleum product having a vapor pressure of 78mm Hg (1.5 pounds per square inch absolute or greater).	\$ 105.00
18.4	Gasoline storage tank equipped with Stage I Vapor Recovery or vapor balance equipment at facilities dispensing gasoline including bulk plants but, excluding bulk terminals (each).	\$ 21.00
18.5	Application for Registration - Filing	
18.5.1	Minor Sources	\$ 35.00
18.5.2	All other Sources	\$ 140.00
18.6	<u>Permits to Disturb Topsoil</u>	
18.6.1	Initial Permit - \$5.00 per 0.44 hectares (acre) or fraction thereof.	
18.6.2	Reinstatement of Revoked Permit \$15.00 per acre or fraction thereof.	

7/24/79



7/24/79

18.7	Asphalt Kettles	\$ 25.00
18.8	Stationary internal combustion engines burning diesel or heavier fuel and having a brake horsepower rating of 500 or greater.	\$ 100.00
18.9	Each Operating Permit transferred from one person to another.	\$ 5.00
18.10	Replacement of each lost or destroyed Operating Permit.	\$ 5.00
18.11	Request for Variance Filing Fee (Non-refundable).	\$ 100.00
18.12	Required fees pursuant to this section may be waived for single sources owned and operated by Local, State and Federal government agencies.	

7/24/79

SECTION 23 - CONTINUOUS MONITORING BY FOSSIL FUEL-FIRED  
STEAM GENERATORS

- 23.1 General Provisions:
- 23.1.1 The following definitions apply:
- a) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment;
  - b) "Capacity rating" means net peak electrical generating capability;
  - c) "Excess emissions" means emissions of an air pollutant in excess of an emission standard;
  - d) "Fossil fuel-fired steam generator" means a furnace or boiler which burns fossil fuel to produce steam by heat transfer;
  - e) "Steam Generator" shall refer to definition (d).
- 23.1.2 These Regulations apply to each fossil fuel steam generator except as provided in subsection 23.1.4 of this section.
- 23.1.3 The following provisions of Title 40, Chapter 1, Code of Federal Regulations, Part 60 are adopted herein by reference, except that where reference is made to "Administrator" the term "Control Officer" should be inserted:
- 23.1.3.1 Appendix A - Reference methods;
  - 23.1.3.2 Appendix B - Performance specifications.
- 23.1.4 Exemptions- The following sources shall be exempted from the requirements of Section 23:
- 23.1.4.1 Steam generators, having a capacity factor of less than 30%; or
  - 23.1.4.2 Steam generators having a gross heat input of less than 250 million BTU/hr; or
  - 23.1.4.3 Steam generators burning only gaseous fuel; or

7/24/79

23.1.4.4 Steam generators burning only fuel oil or a mixture of gaseous fuel and fuel oil, and the source is able to comply with the applicable particulate matter, opacity and SO<sub>2</sub> regulations without utilization of particulate matter collection equipment, and where the source has never been found, through any administrative or judicial proceedings, to be in violation of visible emission standards of Section 26 of these Regulations; or

23.1.4.5 Steam generators which are subject to New Source Performance Standards referenced by Section 14 of these Regulations; or

23.1.4.6 The steam generator is scheduled for retirement within five (5) years after January 1, 1977, and if adequate evidence and guarantees are provided that clearly show that the source will cease operations prior to such date.

23.2 Monitoring Requirements:

The owner or operator of a steam generator is required to:

- 1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity, SO<sub>2</sub> and O<sub>2</sub>; and
- 2) Complete the installation and performance tests of such equipment and begin monitoring, recording and reporting within 18 months of January 1, 1977;

11/17/81

23.2.1 A continuous monitoring system for the measurement of opacity which meets the performance specifications referenced in ~~paragraph~~ Subsection 23.1.3.2 of this Section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this section by the owner or operator;

11/17/81

- 23.2.2 A continuous monitoring system for the measurement of sulfur dioxide which meets the performance specifications referenced in ~~paragraph~~ Subsection 23.1.3.2 of this Section shall be installed, calibrated, maintained and operated on any steam generator;
- 23.2.3 Performance Specifications  
A continuous monitoring system for the measurement of the percent oxygen which meets the performance specifications of ~~paragraph~~ Subsection 23.1.3.2 of this Section shall be installed, calibrated, operated, and maintained.
- 23.3.1 The performance specifications referenced in ~~para-~~  
~~graph~~ Subsection of this Section shall be used by the Control Officer to determine acceptability of monitoring equipment installed pursuant to this Section. performance specifications to be used with each type of monitoring system are listed below:
- ~~23.2.1.2~~  
23.3.1.2 Continuous monitoring systems for measuring opacity shall comply with performance specification 1.

7/24/79

- 23.3.1.3 Continuous monitoring systems for measuring sulfur dioxide shall comply with performance specification 2;
- 23.3.1.4 Continuous monitoring systems for measuring oxygen shall comply with performance specification 3.
- 23.3.2 Any facility which has purchased an emission monitoring system (s) prior to September 11, 1974, may be exempt from meeting such test procedures prescribed in Subsection 23.1.3.2 of this Section for a period not to exceed five (5) years from January 1, 1977.
- 23.3.3 Cycling times:  
Cycling times include the total time a monitoring system requires to sample, analyze and record an emission measurement;
- 23.3.3.1 Continuous monitoring systems for measuring opacity shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 10-second period;
- 23.3.3.2 Continuous monitoring systems for measuring oxygen or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

11/17/81

4

23.3.4

**Monitor Location:**

All continuous monitoring systems or monitoring devices shall be installed such that representative measurements of emissions or process parameters (as applicable) from the affected facility are obtained. Additional guidance for location of continuous monitoring systems to obtain representative samples are contained in the applicable performance specifications referenced in paragraph-Subsection 23.1.3.2 of this Section and Method 1 referenced by paragraph-Subsection 23.1.3.1 of this Section.

23.3.5

**Zero and Drift:**

Owners or operators of all continuous monitoring systems installed in accordance with the requirements of this section shall record the zero and span drift in accordance with the method prescribed by the manufacturer of such instruments; to subject the instruments to the manufacturer's recommended zero and span check at least once daily unless the manufacturer has recommended adjustments at different intervals, in which case such recommendations shall be followed; to adjust the zero and span whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications referenced in paragraph-Subsection 23.1.3.1 of this Section, are exceeded; and to adjust continuous monitoring systems referenced by Subsection 23.3.2 of this Section whenever the 24-hour zero drift or 24-hour calibration drift exceeds 10 percent of the emission standard;

7/24/79

23.3.5.1

Span and zero gases should be traceable to the National Bureau of Standards reference gases, whenever these reference gases are available. Every six months from the date of manufacture, span and zero gases should be re-analyzed by conducting triplicate analyses using Reference Methods referenced by 23.1.3.1 of this Section - Reference Method 3 for oxygen and Reference Method 6 for sulfur dioxide. These gases may be analyzed at less frequent intervals if longer shelf life is guaranteed by the manufacturer.

7/24/79

- 23.4 Reporting Requirements:
  - 23.4.1 The owners and operators of steam generators are required to submit a written report every month to the Control Officer of excess emissions and the nature and cause of each excess emission, if known;
  - 23.4.2 For opacity measurements the summary shall consist of the aggregate duration and average magnitude of the emissions exceeding the opacity standard of Subsection 26.1 of these Regulations. Average values may be obtained by integration over the averaging period or by arithmetically averaging the minimum of four equally spaced, instantaneous opacity measurements per minute interval;
  - 23.4.3 For SO<sub>2</sub> measurements the summary shall consist of emission averages for each averaging period during which the standard of Subsection 28.2.3 of these Regulations was exceeded;
  - 23.4.4 The date and time identifying each period during which time the continuous monitoring system was inoperative, except for zero and span checks, and the nature of system repairs or adjustments, shall be reported;
  - 23.4.5 When no excess emissions have occurred and the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report;
  - 23.4.6 Owners or operators of steam generators are required to maintain a file of all information reported in the monthly summaries, and all other data collected either by the continuous monitoring system or as necessary convert monitoring data to the units of the applicable standards for a minimum of two years from the date of submission of such summaries.
- 23.5 Data Reduction:
 

Owners or operators of steam generators shall use procedures approved by the Control Officer for converting SO<sub>2</sub> monitoring data to units of the standard.

7/24/79

SECTION 25 - UPSET, BREAKDOWN, OR SCHEDULED MAINTENANCE

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25.2 Reporting:

25.2.1 Upset or breakdowns shall be reported to the Control Officer within one (1) hour of the onset of the upset or breakdown.

**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.

11/17/81

SECTION 27 - PARTICULATE MATTER FROM PROCESS ~~MAFFER~~ WEIGHT RATE

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.

11/17/81

TABLE 27-1

<u>PROCESS WT/HR</u>		<u>MAXIMUM WEIGHT DISCHARGE/HOUR</u>	
<u>KG</u>	<u>(lbs)</u>	<u>KG</u>	<u>(lbs)</u>
25	( 55)	.12	(.26)
50	(110)	.23	(.5)
100	(220)	<del>.50</del> <u>0.43</u>	<del>(1.1)</del> <u>(.94)</u>
150	(330)	<del>.65</del> <u>0.58</u>	<del>(1.44)</del> <u>(1.27)</u>
200	(440)	.73	(1.60)
250	(550)	.86	(1.89)
300	(660)	.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)	<del>7.84</del> <u>8.10</u>	<del>(28.25)</del> <u>(17.81)</u>
20000	(44000)	13.95	(30.70)
27300	(60000) Or More	18.18	(40.00)

7/24/79

SECTION 28 - FUEL BURNING EQUIPMENT

28.1 General Provisions

- 28.1.1 This regulation applies to installations 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.

7/24/79

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:

<u>Heat input, millions of British thermal units per hour</u>	<u>Maximum allowable rate of emission of particulate matter, pounds per million British thermal units of heat input</u>
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.

28.2.3 No person shall cause or permit the emission of sulfur dioxide from any fuel-burning equipment in excess of the quantity set forth in the following table:

7/24/79

<u>Heat input, millions of British thermal units per hour</u>	<u>Maximum allowable rate of emission of sulfur dioxide pounds per hour</u>
1,000	150
5,000	750
10,000	1,500
15,000	2,250
20,000	3,000
25,000	3,750
30,000	4,500
35,000	5,250
40,000	6,000
45,000	6,750
50,000	7,500

28.2.4

Maximum allowable emission rate of sulfur dioxide shall be determined by using the equation  $Z = 0.15 X$  where  $Z$  = allowable rate of sulfur dioxide emission in pounds per hour and  $X$  = maximum heat input in millions of BTU per hour.

7/24/79

SECTION 31 - RESTRICTION OF EMISSION OF SULFUR FROM PRIMARY NON-FERROUS SMELTERS

31.1 Persons shall not cause, suffer, allow, or permit the emission of sulfur from any stack or chimney into the outdoor atmosphere in excess of the allowable emission shown in the table below.

31.2 The maximum allowable weight discharged per hour will be determined by use of the following equations:

31.2.1 Copper smelters  $Y = 0.1 X$

31.2.2 Zinc smelters  $Y = 0.282 X^{0.85}$

31.2.3 Lead smelters  $Y = 0.49 X^{0.77}$

Y = Allowable sulfur emission, lb./hr.

X = Total feed sulfur, lb./hr.

31.3 For the purposes hereof, total feed sulfur shall be calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere. When furnaces, sinter machines, sinter boxes, roasters, converters or other similar devices for converting ores, concentrates, residues or slag to the metal or the oxide of the metal either wholly or in part, are released to the atmosphere the combined sulfur input of all units shall be used to determine the allowable emission to the atmosphere.

TABLE 31-1

<u>Total Feed Sulfur</u> <u>lb/hr</u>	<u>Allowable Sulfur Emissions-Lb/Hr.</u>		
	<u>Cu.</u>	<u>Zn.</u>	<u>Pb.</u>
1,000	100	100	100
5,000	500	394	348
10,000	1,000	704	593
20,000	2,000	1,270	1,000
40,000	4,000	2,310	1,000
60,000	6,000	3,210	1,000
80,000	8,000	4,120	1,000
100,000	10,000	5,000	1,000



7/24/79

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° 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.

1

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 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 Air Pollution Control Division 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 Section 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 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 Pollution Control Regulations of the District Board of Health of Clark County.

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 Section 4.7 or Section 16.8 of these Regulations.

## 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, trenching operations, the operation and use of UNPAVED PARKING facilities, AGRICULTURAL OPERATIONS, use and operation of live stock 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 Department of Air Quality and Environmental Management 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<sub>10</sub> nonattainment area or an area subject to a PM<sub>10</sub> 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<sub>10</sub> nonattainment area or an area subject to a PM<sub>10</sub> maintenance plan defined under 42 U.S. Code § 7505a.
- 41.2.3 Permanent motocross race courses, within a PM<sub>10</sub> nonattainment area or an area subject to a PM<sub>10</sub> 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.



7/24/79

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.
- 42.3 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.

7/24/79

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 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.

7/24/79

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 kiloliters (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 Pollution 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.

7/24/79

SECTION 52 - HANDLING OF GASOLINE AT  
SERVICE STATIONS, AIRPORTS AND STORAGE TANKS

- 52.1 Storage tanks:
- A person shall not load, nor permit the loading of gasoline into any stationary storage tank unless such tank is equipped with a permanent submerged fill pipe, the discharge opening of which is entirely submerged when the liquid level is six (6) inches above the bottom of such tank.
- 52.2 During loading operations, including hook up of delivery and vapor hoses and disconnection of hoses after completion of loading, spillage of gasoline shall be minimized by best available equipment and personnel practices.
- 52.3 The provisions of Subsection 52.1 shall not apply to any stationary tank with a capacity of less than 251 gallons, nor to the loading of gasoline into any stationary tank installed prior to March 25, 1968, where the fill line between fill connection and such tank is offset, nor to the loading of gasoline into any such tank having a capacity of 2,000 gallons or less which was installed prior to March 25, 1968.
- 52.4 New gasoline stations:
- 52.4.1 After January 1, 1978, no person shall operate any new gasoline station in the Las Vegas Air Quality Maintenance Area unless the affected facility is equipped with a vapor control system capable of recovering the vapors displaced during the filling of any of its gasoline storage tanks by a tank truck.
- 52.4.2 The vapor control systems must meet the following specifications:
- 
- 52.4.2.1 The vapor control system shall prevent release to the atmosphere of not less than ninety percent (90%) by weight of organic compounds in the vapor displaced;
- 52.4.2.2 The displaced vapors shall be recovered by a vapor recovery system involving both the storage tank and tank truck as specified in this Subsection or Subsection 52.4.2.3;
- 52.4.2.2.1 The system shall include a vapor-tight gasoline fill connector; and

7/24/79

- 52.4.2.2.2 A vapor-tight return line to the tank truck of at least 76 mm (3 inches) nominal diameter; and
- 
- 52.4.2.2.3 Devices or procedures approved by the Control Officer which will reasonably insure that the vapor line is connected before gasoline can be transferred into the storage tank; and
- 52.4.2.2.4 The tank truck shall be designed and maintained in a vapor-tight condition. The owner of the tank truck shall submit an approved maintenance plan to the Control Officer which describes the inspection and testing procedures and scheduling of same.

11/17/81

- 52.4.2.3 The displaced gasoline vapors shall be recovered by a vapor control system approved by the Control Officer and with a net emission rate conforming to paragraph-  
Subsection 52.4.2.1.

7/24/79

- 52.4.2.4 The vapor laden tank truck shall be refilled with liquid only at facilities equipped with a vapor control system in accordance with Subsection 51.4 of these Regulations;
- 52.4.2.5 The vapor control equipment at the gasoline station shall be maintained as necessary by its operators, so that the vapor control system will continue to meet the specifications of Subsection 52.4.2.
- 52.4.3 All new gasoline stations shall be considered minor sources and are subject to the applicable requirements of Sections 15 and 16 of these Regulations, pertaining to source registration and operating permits.
- 
- 52.4.4 Exemptions:
- 52.4.4.1 The following shall be exempted from the Regulations of Subsection 52.4:
- 52.4.4.2 New gasoline stations with a combined tank capacity of less than 251 gallons;
- 52.4.4.3 Tank trucks, which supply gasoline to only those gasoline stations that are exempted from installing vapor control equipment, will be exempted from the requirements of Subsection 52.4 for said deliveries;
- 52.4.4.4 Facilities which refill said tank trucks, which supply only gasoline stations that are exempted from installing vapor control equipment, will not be required to install a vapor control system as described in Subsection 51.4 of these Regulations.

7/24/79

- 52.5 Existing Gasoline Stations:
- 52.5.1 After January 1, 1979, no person shall operate an existing gasoline station in the Las Vegas Air Quality Maintenance Area unless the affected facility is equipped with a vapor control system capable of recovering the vapors displaced during the filling of any of its gasoline storage tanks;
- 52.5.2 The vapor control system must satisfy the specifications listed in Subsection 52.4.2.
- 52.5.3 Exemptions:
- 52.5.3.1 The following shall be exempt from the Regulations of Subsection 52.5.
- 52.5.3.2 Existing gasoline stations with an annual combined output of less than 363,360 liters (96,000 gallons);
- 52.5.3.3 Tank trucks which supply gasoline to only those gasoline stations that are exempted from installing vapor control equipment, will be exempted from the requirements of Subsection 52.5 for said deliveries;
- 52.5.3.4 Facilities which refill tank trucks, which supply only those gasoline stations that are exempted from installing vapor control equipment, will not be required to install a vapor control system in accordance with Section 51 of these Regulations.
- 52.6 Registration of Gasoline Stations:
- 52.6.1 All existing gasoline stations shall apply for Registration Certificates on forms provided by the Air Pollution Control Officer;
- 52.6.1.1 Existing gasoline stations shall submit the application at least two months prior to installation of equipment but in no case later than November 1, 1978;
- 52.6.1.2 For new gasoline stations, the application shall be submitted to the Control Officer in accordance with Section 15 of these Regulations.
- 52.7 Information required by the Air Pollution Control Officer:
- 52.7.1 All gasoline stations shall submit information pertaining to tank capacities and output for the period specified by the Control Officer on the forms provided by the Control Officer. This information shall be submitted not later than March 1, 1978, or when directed for existing stations and at the time of submission of the application for registration for new gasoline stations;

11/17/81

52.7.2 Information requested in ~~Section~~ Subsection 52.6 and 52.7 which relate to quantities or sales, or if disclosed, would tend to affect adversely the competitive position of the owner or operator shall, upon written request to the Control Officer, be protected as confidential information in accordance with Nevada Revised Statutes Chapter 445.576.

7/24/79

52.8 Filling of gasoline tanks of motor vehicles:

52.8.1 No person shall fill or top-off, or permit the filling or topping-off, of gasoline tanks of motor vehicles to a level which allows spillage of such gasoline.

52.9 Airplane refueling areas:

52.9.1 After January 1, 1978, no person shall operate an airplane refueling area unless the affected facility is equipped with a system capable of recovering the vapors displaced during the filling of the gasoline storage tanks;

52.9.2 The recovery system must satisfy the specifications listed in Subsection 52.4.2;

52.9.3 Exemptions:

52.9.3.1 The airplane refueling areas with an annual combined output of less than 96,000 gallons of gasoline shall be exempt from the regulations of Subsection 52.9.

52.9.4 Registration of airplane refueling areas:

52.9.4.1 Airplane refueling areas in operation as of September 1, 1977, shall apply for Registration Certificates on forms provided by the Air Pollution Control Officer before November 1, 1977;

52.9.4.2 Airplane refueling areas commencing operation after September 1, 1977, shall apply for a Registration Certificate in accordance with Section 15 of these Regulations.

52.10 Test procedures:

52.10.1 Test procedures shall be those approved by the Air Pollution Control Officer.

11/10/03

**CLARK COUNTY**  
**AIR QUALITY REGULATIONS**

**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:

	<u>Specified Oxygen Content</u>	<u>Acceptable Minimum</u>
(a)	2.7% [when (R+M)/2E98]	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



11/10/03

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.

11/10/03

**53.6 The Department of Air Quality Management 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.**

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.

1

I.C. ORDINANCE No. 3809

SEPT. 1 - 2009

~~Strikeout~~ material is that portion being deleted  
Underlined material is that portion being added

BILL NO. 9-1-09-1

SUMMARY - an ordinance to suspend Clark County Air Quality Regulation Section 54, the gasoline wintertime program.

ORDINANCE NO. 3809

(of Clark County, Nevada)

AN ORDINANCE TO SUSPEND THE APPLICABILITY AND ENFORCEABILITY OF ALL PROVISIONS OF CLARK COUNTY AIR QUALITY REGULATION SECTION 54, THE CLEANER BURNING GASOLINE WINTERTIME PROGRAM; AND PROVIDE FOR OTHER MATTERS PROPERLY RELATING THERETO.

Whereas, from the mid-1980's through the 1990's, the Las Vegas Valley exceeded the 8-Hour Carbon Monoxide ("CO") National Ambient Air Quality Standard ("NAAQS") and was classified as a nonattainment area by the United States Environmental Protection Agency ("EPA"); and

Whereas, pursuant to statutory authority, the Board of County Commissioners ("Board") adopted a State Implementation Plan ("SIP") in 1990 to develop criteria and procedures to attain the CO NAAQS which EPA approved in August 2000; and

Whereas, one of the control measures identified in the 2000 CO SIP was the Cleaner Burning Gasoline ("CBG") Wintertime Program rule currently found in Clark County Air Quality Regulation Section 54; and

Whereas, in October 2005 the Board adopted and in August 2006 EPA subsequently approved a revision to the 2000 CO SIP; and

Whereas, EPA determined in June 2005 that the Las Vegas Valley had attained the CO NAAQS by the applicable date of December 31, 2000 which allowed Clark County to request that the area be redesignated as an attainment area for CO; and

Whereas, in September 2008 the Board adopted the Clark County Carbon Monoxide Redesignation Request and Maintenance Plan ("Maintenance Plan") as a formal request to the State of Nevada and EPA for redesignation of the Las Vegas Valley from nonattainment to attainment for the CO NAAQS; and

Whereas, the Maintenance Plan concludes that continued implementation of the CBG Wintertime Program is not necessary to maintain compliance with the CO NAAQS, and in the event that implementation of the CBG Wintertime Program does become necessary, the Maintenance Plan identifies the program as a contingency measure which would be reinstated by ordinance as needed.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Clark County Air Quality Regulation Section 54 – Cleaner Burning Gasoline (CBG): Wintertime Program, attached hereto as Exhibit 1, is suspended.

SECTION 2. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses phrases, or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof 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 Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 1st day of September, 2009.

PROPOSED BY: Commissioner Rory Reid

PASSED on the 15th day of September 2009.

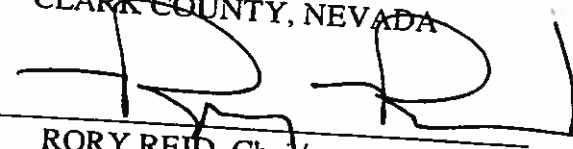
AYES: Susan Brager  
Lawrence L. Brown III  
Tom Collins  
Chris Giunchigliani  
Rory Reid  
Steve Sisolak  
Lawrence Weekly

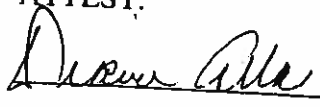
NAYS: None  
 \_\_\_\_\_  
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ABSTAINING: None  
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ABSENT: None  
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BOARD OF COUNTY COMMISSIONERS  
 CLARK COUNTY, NEVADA

By:   
 RORY REID, Chairman

ATTEST:  
  
 \_\_\_\_\_  
 County Clerk

This ordinance shall be in force and effect from and after  
 the 29th day of September 2009.

**CLARK COUNTY**  
**AIR QUALITY REGULATIONS**

**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 BLENDSTOCK 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.

5

**"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 tankcars 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, ashless, 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 blendstock, 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 blendstock 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 blendstocks 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 blendstocks 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 of Air Quality and Environmental Management 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.

"SUPPLY" 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 54.2.1 and 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 15<sup>th</sup>. If a GASOLINE storage tank received its last delivery before October 15<sup>th</sup>, 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 1<sup>st</sup>.
- (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 of Air Quality and Environmental Management by August 1, 1999 or in advance of the 1<sup>st</sup> date that such PERSON will produce or import CBG or CBGBOB. Registration shall be on forms prescribed by the Department of Air Quality and Environmental Management 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 of Air Quality and Environmental Management shall be permitted to collect samples and access documentation and records. The Department of Air Quality and Environmental Management 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 a 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 a 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 Air Quality and Environmental Management 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 Air Quality and Environmental Management 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 of Air Quality and Environmental Management 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 of Air Quality and Environmental Management 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 Air Quality and Environmental Management 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 of Air Quality and Environmental Management 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 of Air Quality and Environmental Management 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 BLEND 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 of Air Quality and Environmental Management when switching from the

averaging compliance option to the flat compliance option. This notification shall be received by the Department of Air Quality and Environmental Management 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 of Air Quality and Environmental Management that the other method produces results equivalent to the results with the specified method.

54.10.5 The Department of Air Quality and Environmental Management 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 tankcars, 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 of Air Quality and Environmental Management 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 of Air Quality and Environmental Management 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 of Air Quality and Environmental Management no later than the 15<sup>th</sup> 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 Blendstock 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 blendstock, other than vapor recovery condensate. A PERSON may combine CBG with other blendstocks 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 of Air Quality and Environmental Management may enter into a written protocol with any PERSON to identify conditions under which the PERSON may lawfully blend transmix or reprocessed transmix 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 blendstock 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 of Air Quality and Environmental Management based on a demonstration that adding the blendstock 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 Department of Air Quality and Environmental Management, 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.

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History: Initial Adoption: April 22, 1999.

Amended: June 25, 2001; June 3, 2003; July 1, 2004.

9/18/79

• SECTION 60 - EVAPORATION AND LEAKAGE

60.1 General:

60.1.1 Materials such as, but not limited to, solvent, or other volatile compounds such as paints, acids, alkalies, pesticides, fertilizer, and manure shall be processed, stored, used and transported in such a manner and by such means that they will not evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution; and where control methods are available to reduce effectively the contribution to air pollution from evaporation, leakage, or discharge as determined by the Control Officer, the installation and use of such control methods, devices or equipment shall be mandatory.

60.2 Degreasing:

60.2.1 Degreasing operations will only be permitted under the following conditions:

60.2.1.1 Disposal or transfer to another person of waste solvent is not permitted where evaporation into the atmosphere is greater than ten percent (10%) by weight of the solvent;

60.2.1.2 Waste solvent shall only be stored in covered containers;

60.2.1.3 Degreasing containers shall be equipped with a cover that can be operated by one hand and this cover is to be kept closed at all times except when actually adding material to be cleaned or removing material which has been cleaned;

60.2.1.4 Cleaned material shall be allowed to drain for at least fifteen (15) seconds or until dripping of solvent has ceased;

60.2.1.5 When solvent is applied by a hose or other type of pressure system the solvent must be in the solid fluid state. Spraying or atomization for purposes of application is not permitted. Application pressure shall be low enough to prevent excessive splashing of the solvent;

60.2.1.6 Degreasing containers shall be equipped with a permanent conspicuous label, summarizing operating requirements;

60.2.1.7 When a highly volatile solvent is being employed, the degreasing facility must be equipped with internal drainage, so that the parts are enclosed under the cover while draining. The drainage facility may be external if an internal type cannot fit into the system;

9/18/79

- 60.2.1.8 If the degreasing operation employs a highly volatile solvent, or if a solvent is heated above 50 °C (120 °F), then one of the following control devices must be used:
- 1) freeboard that gives a freeboard ratio  $> 0.7$ ,
  - 2) water cover (solvent must be insoluble in and heavier than water), or
  - 3) other systems of equivalent control.
- 60.3 Surface Coating:
- 60.3.1 Large Appliances:
- 60.3.1.1 This section shall apply to application area (s), flashoff area (s), and large appliance coating lines involved in prime, single, or top coat coating operations.
- 60.3.1.2 No person shall cause, allow, or permit the discharge into the atmosphere of any volatile organic compounds in excess of 0.34 kilograms per liter of coating (2.8 pounds per gallon), minus water, and as delivered to the coating applicator.
- 60.3.1.3 The emission limit prescribed in subsection 60.3.1.2 shall be achieved by:
- a) the use of low solvent coatings; or
  - b) other emission controls such as incineration or carbon adsorption capable of achieving emission levels as low as those of low solvent coatings capable of meeting the emission limits set in subsection 60.3.1.2.
- 60.3.1.4 The design, operation, and efficiency of any capture system used in conjunction with subsection 60.3.1.3 shall be certified in writing by the owner or operator and approved in advance of installation and use by the Control Officer.
- 60.3.1.5 Exceptions:
- 60.3.1.5.1 Subsection 60.3.1 does not apply to the use of quick drying lacquers for repair of scratches and nicks which occur during assembly provided the volume does not exceed 1.0 liters in any one 8 hour period.

9/18/79

- 60.4 Cutback Asphalts:
- 60.4.1 Definitions:
- 60.4.1.1 Cutback Asphalt - Cutback asphalts are mixtures of volatile organic compounds and a base asphalt of selected viscosity. Solvent is of low, medium, or high volatility depending upon construction use;
- 60.4.1.2 Medium Curing (MC) - A cutback asphalt generally using kerosene as the solvent;
- 60.4.1.3 Rapid Curing (RC) - A cutback asphalt generally using highly volatile gasoline or naphtha as the solvent;

11/17/81

- 60.4.2 After July 1, 1980, use of slow curing (SC), medium curing (MC), or rapid curing (RC) cutback asphalt for paving purposes is prohibited, within the Las Vegas Valley.
- 60.4.3 Exceptions to subsection 60.4.2 are as follows:
- 60.4.3.1 The use of slow or medium curing cutback asphalt may be allowed as a penetrating prime coat on lightly-travelled gravel surfaces or surfaces for temporary traffic;
- 60.4.3.2 The use of Slow or Medium Curing cutback asphalt may be placed in long period storage or for the stockpiling of patching mixes used for paving maintenance;
- 60.4.3.3 Cutback asphalts may be used when the forecast ambient temperature for the twenty-four (24) hour period following application of such asphalt is not expected to exceed 10°C (50°F).

7/24/79

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 Hearing Board within that period of time.
- 70.3 Enforcement of restrictions on motor vehicle operation may be carried out by Law Enforcement Agencies having jurisdiction within incorporated or unincorporated areas of the Health District.
- 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)

7/24/79

- 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.



7/24/79

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 Section 40.140 of the Nevada Revised Statutes or of Section 40 of these Regulations.

7/24/79

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.

## 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<sub>10</sub> nonattainment area, an area subject to a PM<sub>10</sub> 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 of Air Quality and Environmental Management 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 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 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.



**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<sub>10</sub> nonattainment area, an area subject to a PM<sub>10</sub> 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<sub>10</sub> nonattainment area, an area subject to a PM<sub>10</sub> 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 an 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<sup>2</sup> 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  $\frac{3}{8}$  inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is greater than  $\frac{3}{8}$  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/ft<sup>2</sup>, the surface is stable. If the average silt loading is greater than or equal to 0.33 oz/ft<sup>2</sup>, 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**

92.1 Fugitive Dust from Unpaved Parking Lots and Storage Areas ..... 2  
     92.1.1 Purpose..... 2  
     92.1.2 Applicability ..... 2  
 92.2 Definitions ..... 2  
 92.3 Requirements..... 2  
     92.3.1.1 New Unpaved Parking Lots or Storage Areas..... 3  
     92.3.1.2. Control Measures..... 3  
 92.4 Performance Standards ..... 4  
     92.4.1 Stabilization Standards ..... 4  
     92.4.2 Prohibition of Dust Over Property Line..... 4  
 92.5 Recordkeeping Requirements..... 4  
     92.5.1 Recordkeeping..... 4  
     92.5.2 Records Retention ..... 5  
 92.6 Test Methods ..... 5  
     92.6.1 Stabilization Test Methods for Unpaved Parking Lots and Storage  
         Areas..... 5  
         92.6.1.1 Opacity Test Method ..... 5  
         92.6.1.2. Silt Content Test Method..... 6

## **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<sub>10</sub> nonattainment area, an area subject to a PM<sub>10</sub> 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<sub>10</sub> nonattainment area, an area subject to a PM<sub>10</sub> 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<sub>10</sub>; or in any other hydrographic area upon it being subject to a PM<sub>10</sub> 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<sup>2</sup> 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<sup>2</sup>, the surface is stable. If the average silt loading is greater than or equal to 0.33 oz/ft<sup>2</sup>, 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<sub>10</sub> nonattainment area, an area subject to a PM<sub>10</sub> 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<sup>2</sup> 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<sub>10</sub>-efficient street sweeping equipment.
- 93.2.2.1 **PM<sub>10</sub>-Efficient Street Sweepers:** For the purposes of Subsection 93.2.2 of this Regulation, a PM<sub>10</sub>-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 fourth 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% opacity 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 Clark County Department of Air Quality and Environmental Management 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 ounce 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 DAQM 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<sup>2</sup>, 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.

History: Initial adoption: June 22, 2000  
Amended: November 16, 2000; November 20, 2001; December 17, 2002; March 4, 2003;  
June 3, 2003; July 1, 2004, April 15, 2014.



**CONSTRUCTION ACTIVITIES  
NOTEBOOK**  
**including the**  
**SECTION 94 HANDBOOK**

**Clark County District Board of Health**  
**August 24, 2000**

## INTRODUCTION

The Clark County Health District, Air Quality Division (AQD) regulates construction activities that disturb soil in Clark County, Nevada. A Dust Control Permit for Construction Activities (Dust Control Permit) is required for most soil-disturbing projects.

A valid Dust Control Permit must be obtained before soil is disturbed. Dust Control Permits are valid for one (1) year. If a project continues for more than one year, the permit must be renewed prior to expiration. AQD must be notified within 10 working days after the completion of a project. Each Dust Control Permit application must have a Dust Control Mitigation Plan outlining control measures to prevent fugitive dust. Control measures are based upon soil type and project activities. Soil types are classified based upon particulate emission potential (high, moderate high, moderate low, low, and slight). Guidelines and maps are provided in the Section 94 Handbook located within this Notebook.

Fugitive dust emission violations are strictly enforced. Permittees and contractors are responsible for controlling dust on their projects 24 hours a day, 7 days a week; there are no exceptions. Violators may be required to pay penalties or possibly suspend operations until the fugitive dust is mitigated on the construction sites.

This Construction Activities Notebook provides a guideline for obtaining a Dust Control Permit and developing a Dust Control Mitigation Plan. The Section 94 Handbook portion of the Construction Activities Notebook for dust control measures is included by reference in Section 94 of AQD Regulations. The Construction Activities Notebook has been divided into the following three (3) segments:

- (1) GENERAL INFORMATION:
  - a. Dust Control Permit Requirements (DCP); and
  - b. General Construction Project Activities (GEN).
  
- (2) SECTION 94 HANDBOOK (Board of Health approved):
  - a. Soil Particulate Emission Determination Charts and Maps;
  - b. Best Management Practices (BMPs) for Construction Dust Control (CST); and
  - c. Appendices: A - Dust Control Permit Application, B - Dust Control Permit Mitigation Plans, C - Dust Control Permit Design and Posting of Signage, and D - Dust Control Permit Supplemental Forms.

- (3) ATTACHMENTS:
- a. Attachment 1 - Regulations Pertaining to Construction Activity Dust Control;
  - b. Attachment 2- Dust Suppressant/Palliative/Surfactant Information; and
  - c. Attachment 3 - California Air Resources Board (CARB)-Approved Abrasives Information.

## **BMP: DUST CONTROL PERMIT APPLICATION SUMMARY**

DCP 01

### **Dust Control Permit Application Summary**

#### **REQUIREMENTS**

- Permit required for soil-disturbing projects greater than or equal to 0.25 acres.
- Permit required for demolition of any structure greater than or equal to 1,000 sq. ft.
- Permit required for trenching operations greater than or equal to 100 feet in length.
- Construction BMP *Control Requirements* must be addressed by *Control Measures*
- Construction BMP Control Measures must be followed for every soil disturbing or construction activity.

#### **CONTROL MEASURES**

1. A Dust Control Permit is required for projects with the following dimensions:
  - a. Soil-disturbing or construction projects greater than or equal to 0.25 acres;
  - b. Trenching greater than or equal to 100 feet in length; or
  - c. Mechanical demolition of any structure larger than or equal to 1,000 square feet.
2. Dust Control Permits may be issued to the following persons:
  - a. Property owner or authorized designee; or
  - b. Representative of a municipality that owns the property.
3. Dust Control Permit requirements:
  - a. Submit a complete application that includes project vicinity and assessor's parcel maps (see Appendix A: Dust Control Permit Application). Permit applications should be submitted to the AQD offices at PO Box 3902, 625 Shadow Lane, Las Vegas, NV 89127.

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DCP 01

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**BMP: DUST CONTROL PERMIT APPLICATION  
SUMMARY (continued)**

DCP 01

- b. For soil disturbing or construction projects greater than or equal to 0.25 acres, but less than or equal to 10 acres, a *Dust Mitigation Plan* using the Construction Best Management Practices in the Section 94 Handbook must be submitted. Control Measures must be selected to meet all Control Requirements. Consider project conditions and logistics when identifying and selecting Best Management Practices and Control Measures (see Appendix C: Dust Mitigation Plans).

A *Site-Specific Dust Control Mitigation Plan* must be submitted for any soil disturbing or construction project greater than ten (10) acres in size; trenching activity more than one (1) mile in length or structural demolition using implosive or explosive techniques (see Appendix C: Dust Control Permit Mitigation Plans). This required plan will incorporate enforceable permit conditions, drawn from Construction Activities Best Management Practices (see Section 94 Handbook), into the Dust Control Permit.

- c. Any construction project having more than 50 acres of actively disturbed soil at any given time is required to have a Dust Control Monitor as described in Section 94.4.11.
  - d. The construction site superintendent(s), foremen or other designated on-site representative(s) of the project developer, as well as the water truck/pull driver(s) for each construction site, are required to successfully complete an AQD Dust Control Class and possess a current Dust Control Card.
4. A Dust Control Permit sign must be conspicuously posted on every construction site (see Appendix B: Dust Control Permit Signage).
  5. Copies of the Dust Control Permit, including the Dust Control Mitigation Plan and related maps, must be supplied to all contractors and subcontractors. A complete copy must be kept at the construction site at all times.



**BMP: DUST CONTROL PERMIT APPLICATION  
SUMMARY (continued)**

**DCP 01**

6. Notifications:

- a. Notify AQD of any proposed modifications to the Dust Control Permit, including the Dust Control Mitigation Plan (see Appendix D: Dust Control Permit Supplemental Forms); and,
- b. Inform AQD within 10 working days of project completion and final site stabilization. Submit Application for Dust Control Permit Closure form. (See Appendix D: Dust Control Permit Supplemental Forms).

7. AQD typically issues Dust Control Permits for Construction Activities within 10 working days of receipt of complete application. Adequate time for application processing must be provided. Emergency measures are exempt from permitting requirements, but are not exempt from the application of dust mitigation measures or the use of Best Management Practices.

## **BMP: DUST CONTROL CLASS**

DCP 02

### **AQD Dust Control Class**

#### **REQUIREMENTS**

- The construction site superintendent(s), foremen and other designated on-site representative(s) must attend Dust Control Class.
- The water truck/pull driver(s) for each project must attend Dust Control Class.

#### **CONTROL MEASURES**

1. The construction site superintendent(s), foremen and other designated on-site representative(s) of the project developer, as well as the water truck/pull driver(s) for each construction site, are required to successfully complete a Clark County Health District, Air Quality Division Dust Control Class or possess a current Dust Control Card.
2. Dust Control Card must be renewed every three (3) years.
3. The content of the Dust Control Class includes information on completing Dust Control Mitigation Plans, health effects of particulates, Clark County regulations, enforcement, and pertinent dust mitigation measures.
4. The Dust Control Class, including a written exam, typically lasts three to four hours. Contact AQD at (702) 383-1276 to register for a class time. Evening and Saturday classes may be arranged through AQD to provide instruction for larger groups. This service is provided to any group, including contractors and subcontractors, wishing to certify more than 15 employees at one time.

## **BMP: DUST CONTROL PERMIT SIGNAGE**

**DCP 03**

### **AQD Dust Control Permit Signage**

#### **REQUIREMENTS**

- The Dust Control Permit sign must be placed in a conspicuous place on the project site prior to commencement of construction activities.
- The "Dust Control Matters" and "Subcontractor" phone numbers posted on the Dust Control Permit sign must be for a person who can be reached during evening and weekend hours.

#### **CONTROL MEASURES**

1. The Dust Control Permit sign must be placed on the project site and must be conspicuous to the public. The "Dust Control Matters" and "Subcontractor" phone numbers posted on the Dust Control Permit sign must be for a person who can be reached during evening and weekend hours.
2. Each Dust Control Permit aggregating from 0.25 acres up to and equal to 10 acres must install a sign on the property prior to the commencement of construction. This sign must measure, at minimum, four (4) feet wide by four (4) feet high, conforming to AQD policy on Dust Control Permit Design and Posting of Signage (see Appendix B: Dust Control Permit Signage).
3. For each Dust Control Permit aggregating more than 10 acres, a sign must be installed on the property prior to the commencement of construction. This sign must measure, at minimum, eight (8) feet wide by four (4) feet high, conforming to AQD policy on Dust Control Permit Design and Posting of Signage (see Appendix B: Dust Control Permit Signage).
4. Projects less than two (2) weeks in duration may request a waiver of the requirement of posting a Dust Control Permit sign.

**Dust Control Permit Modifications****REQUIREMENTS**

- Modifications must be made on a Dust Control Permit Modification form and submitted to AQD for approval.
- If the modification is in response to a CAO, this must be noted on the modification form, and the corrective action must take place as directed.

**CONTROL MEASURES**

1. Modifications to the Dust Control Permit can be made with AQD approval (changes are usually made to the Dust Control Mitigation Plan).
2. A Dust Control Permit Modification application form must be submitted to the AQD (see Appendix D: Dust Control Permit Supplemental Forms).
3. If the parcel changes ownership during the lifetime of a Dust Control Permit, proof of ownership must be provided with a new Dust Control Permit Application.
4. The Dust Control Permit Modification application form must be signed by the permittee or written designee (see Appendix D: Dust Control Permit Supplemental Forms). If a modification is requested for revision of project acreage due to long term stabilization of a portion of a project with a dust palliative, a Dust Palliative Information Form must be included with the modification form (see Appendix D: Dust Control Permit Supplemental Forms).
5. If the modification is in response to a Corrective Action Order (CAO) issued by an Enforcement Officer, this should be noted on the modification form. The corrective action must take place as directed. All other permit requirements remain in effect while the modification is being processed.

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5. If the modification is in response to a Corrective Action Order (CAO) issued by an Enforcement Officer, this should be noted on the modification form. The corrective action must take place as directed. All other permit requirements remain in effect while the modification is being processed.

## **BMP: DUST CONTROL PERMIT CLOSURE/ RENEWAL**

DCP 05

### **Dust Control Permit Closure/Renewal**

#### **REQUIREMENTS**

- Within 10 working days of the completion of the project, the site must be stabilized and a Dust Control Permit Closure form submitted to AQD.
- Dust Control Permits are valid for one (1) year. If a project is not completed in that time, the Dust Control Permit must be renewed.

### **CONTROL MEASURES**

#### **Dust Control Permit Closure**

Within 10 working days of the completion of the project, a Dust Control Permit Closure form must be submitted to AQD (see Appendix D: Dust Control Permit Supplemental Forms). A site visit will be conducted to determine if the parcel is properly stabilized. Upon verification of stabilization, the permit will be closed. If the parcel has not been properly stabilized, the permit holder will be notified of the deficiencies with a Corrective Action Order outlining corrective measures and timelines. Another Dust Control Permit Closure form must be submitted and another site visit will be conducted.

#### **Dust Control Permit Renewal**

Dust Control Permits are valid for up to one (1) year. If a project will not be completed before the Dust Control Permit expires, the Dust Control Permit must be renewed prior to expiration of the original permit. The same form is used for renewal as for the original application (see Appendix A: Dust Control Permit Application). The number of acres for the renewal will only include those acres that will be disturbed throughout the rest of the project. Acreage that has been verified by AQD to be stable or areas that no longer contain disturbed soil need not be included in the renewal. Unpaved staging areas must still be included in the project acreage submitted for permitting.

**Dust Control Permit Compliance****REQUIREMENTS**

- Comply with all Control Measures as required by AQD regulations.
- Comply with all Control Measures as directed by an Enforcement Officer in a Corrective Action Order.
- Comply with all Control Measures listed in the Dust Control Mitigation Plan of the Dust Control Permit.
- Employ BACM in all phases of construction activities.

**CONTROL MEASURES****Section 94 Regulation Overview**

1. All permittees, contractors, owners, operators, or other persons involved in construction activities must employ Best Available Control Measures (BACM) as set forth in the Section 94 Handbook to prevent particulate matter from becoming airborne. BACM are defined as follows:
  - a. All Control Measures required by AQD regulations.
  - b. All Control Measures required by the approved Dust Control Mitigation Plan in the Dust Control Permit. If the site is not permitted, the Construction Best Management Practices set forth in the Section 94 Handbook for the subject activities are applicable.
  - c. All Control Measures prescribed by an Enforcement Officer in a Corrective Action Order (CAO).
2. The following circumstances constitute failure to comply with the AQD dust control permit requirements:
  - a. Failure to obtain an approved Dust Control Permit before engaging in activities that disturb or have the potential to disturb soils and cause fugitive dust to enter the air;

**BMP: DUST CONTROL PERMIT COMPLIANCE  
(Continued)**

DCP 06

- b. Failure by a permittee or owner to include in the construction contract with his prime contractor a monetary allowance for any dust control options specified in either the Dust Control Permit or, if applicable, the Dust Control Mitigation Plan.
  - c. Failure by the permit holder to include in his construction contracts with his subcontractors a monetary allowance for any applicable dust control options specified in either the Dust Control Permit or, if applicable, the Dust Control Mitigation Plan.
  - d. Failure to perform any duty to allow or carry out an inspection, or monitoring activity required by AQD.
3. The following circumstances constitute failure to fully employ BACM:
- a. Failure to employ any Best Management Practice described in this Handbook included in an approved Dust Control Mitigation Plan or incorporated as a Dust Control Permit condition.
  - b. Performing any construction activity that creates a visible plume of dust that extends more than 100 yards from its point of origin.
  - c. Failure to clean up mud or dirt that is tracked out onto a paved road and that extends a cumulative distance of 50 or more feet from the point of origin within one hour of discovery, and failure to clean up trackout that extends less than 50 cumulative feet from the point of origin by the end of the work day or evening shift, as applicable.
  - d. Performing any construction activity that creates a visible plume of dust exceeding 20% opacity.
  - e. Failure to maintain project soils with adequate soil moisture content to prevent wind erosion as measured by a test method approved in writing by AQD and EPA.



**BMP: DUST CONTROL PERMIT COMPLIANCE  
(Continued)**

DCP 06

- f. Failure to maintain project soils in a damp, crusted, covered, or stabilized condition.

**Corrective Action Order (CAO)**

When Enforcement Officers observe a potential violation of Section 94 Permitting and Dust Control for Construction Activities, a CAO may be issued to the permittee and/or persons conducting the activity. Corrective action should be taken as directed. If the corrective action is intended to be a permanent change to the methods for dust mitigation on site, a modification to the Dust Control Permit must be filed by the permittee to incorporate the control measures specified by the CAO as a condition of the permit.

**Notice of Violation (NOV)**

If a NOV is received, it will be accompanied by a form entitled "Option Letter." The following choices will be presented:

- a. **Contest neither the "facts alleged" nor the "penalty;"**
- b. **Contest the facts alleged in the NOV and request an appearance before the AQD Hearing Officer.** This option should be selected if the alleged facts of the NOV can be reasonably disputed. Proper and complete documentation of fugitive dust mitigation measures should be submitted with the option letter; or
- c. **Contest the penalty assessed.** In this instance, the alleged facts are not contested. Only the penalty is considered inappropriate. When appearing before the Hearing Officer the testimony should be focused on the factors regarding the penalty.

**BMP: DUST CONTROL PERMIT COMPLIANCE  
(continued)**

DCP 06

**Appealing a Notice of Violation**

If the Hearing Officer rules on the NOV, and you are not satisfied with the results, you may appeal to the Hearing Board. The Hearing Board will hear your appeal *de novo*. Therefore, any information you wish to be considered must be brought to the Hearing Board assuming they have no prior knowledge of the alleged facts or penalty.

There is a time limit in which to appeal to the Hearing Board and a "Request for Hearing Before the Air Pollution Control Hearing Board" form must be submitted to AQD. You will receive an "Order to Pay" from the Hearing Officer. Enclosed with that Order will be the information for the appeal process.

**Penalty Structure**

1. Penalties for violations of permit conditions begin at \$250. CAOs are generally issued when proper preventive measures have not been made or when the actions required in a CAO have not been implemented.
2. Penalties for failure to maintain soils in a damp, crusted, or stabilized condition, or to clean track-out from paved roads begin at \$1,000.
3. Penalties for fugitive dust emissions begin at \$2,000. Penalties increase with subsequent violations within specified time frames. (see Attachment 1: Regulations Pertaining to Construction Activity Dust Control).

**Project Phasing****CONTROL MEASURES**

1. The Dust Control Permit and Dust Control Mitigation Plan must address all phases and stages of the construction project. For projects with large cut and fill requirements, the land not active after the cut and fill must be stabilized using a palliative or other approved control measure and vehicle access must be prevented. Permittees should also limit the area disturbed at any one time.
2. The construction project may consist of a single *phase* or be divided into as many *phases* as the permittee chooses. Each phase must have distinct physical boundaries to make it easily identifiable. Construction project activities are to be further divided, whenever applicable, into the six following *stages* of project activities: 1) offsite utility and street development, 2) site preparation and earthwork, 3) forms construction and pouring, 4) subgrade preparation and paving, 5) building, and 6) landscaping.
3. When project stages are identified, the following information must be provided for each project stage:
  - a. Stage number and title;
  - b. Amount of acreage included in stage;
  - c. Title of BMP activity;
  - d. Control Requirements for activity; and
  - e. Best Management Practice Control Measures to be implemented to meet Control Requirements.

4. Project phase planning for dust control is a cost-effective method for reducing potential emissions on a construction site. Project planning may include the following procedures:
- a. Reducing the size of the staging area;
  - b. Disturbing only a portion of the overall site at one time;
  - c. Paving roadways as soon as possible;
  - d. Constructing block walls as soon as possible;
  - e. Planting perimeter vegetation with greater than 50 percent silhouette areas at the beginning of the project;
  - f. Limiting the number of ingress and egress points;
  - g. Paving parking lots as soon as possible;
  - h. For large cut and fill projects, stabilizing the portion of the construction site not being actively worked for the period of time it is vacant; or
  - i. Confine import haul traffic to compacted or paved routes where possible to avoid picking up soil and rock in tire treads.

## **BMP: RECORD KEEPING**

GEN 02

### **Recording Dust Control Measures**

#### **REQUIREMENTS**

- Record Use of Dust Palliatives
- Record Track-out Conditions and Cleanup
- Notify AQD when project is complete
- Record all Dust Control Measures
- Notify AQD of compliance with CAOs
- Retain project records

### **CONTROL MEASURES**

1. Document all use of dust palliatives on the Dust Palliative Information Form. (see Appendix D: Dust Control Permit Supplemental Forms)
2. Record Track-out conditions daily and document cleanup measures taken.
3. Record other dust control measures taken, including date, time, and amount of water applied for dust control purposes.
4. Notify AQD of compliance with any CAOs issued.
5. Notify AQD upon completion of project.
6. Retain all project records for one year or six months beyond project completion, whichever is greater.

## **BMP: WEATHER MONITORING**

GEN 03

### **Weather Conditions**

#### **REQUIREMENTS**

- Monitor current weather conditions and weather predictions from National Weather Service
- Cease all construction activities if fugitive dust exceeds 20% opacity or visible plume restrictions and cannot be controlled.

#### **CONTROL MEASURES**

1. When winds occur that cause fugitive dust emissions, despite adhering to all Best Management Practices, all construction activities must cease immediately, except water trucks/pulls which should continue to operate.
2. Water trucks/pulls should continue to operate under these circumstances unless wind conditions are such that continued operation of watering equipment cannot reduce fugitive dust emissions or visibility is limited to an extent that it is hazardous to continue operating equipment.

# TABLE OF CONTENTS

## PAGE

Cover Page.....	i
Table of Contents.....	ii
List of Figures .....	iii
Acronyms/Definitions .....	iv
Construction Activities Notebook .....	vi
DCP 01: Permit Application Instructions.....	viii
DCP 02: Dust Control Class .....	xi
DCP 03: Dust Control Permit Signage.....	xii
DCP 04: Dust Control Permit Modifications .....	xiii
DCP 05: Dust Control Permit Closure/Renewal.....	xiv
DCP 06: Dust Control Permit Compliance .....	xv
GEN 01: Phasing .....	xix
GEN 02: Record Keeping .....	xxi
GEN 03: Weather Monitoring .....	xxii
Section 94 Handbook: Best Management Practices for Dust Control ....	1
CST 01: Backfilling .....	7
CST 02: Blasting (Abrasive) .....	9
CST 03: Blasting (Soil and Rock) .....	11
CST 04: Clearing and Grubbing.....	14
CST 05: Clearing Forms .....	16
CST 06: Crushing.....	17
CST 07: Cut and Fill.....	18
CST 08: Demolition – Implosion .....	20
CST 09: Demolition – Mechanical/Manual.....	22
CST 10: Disturbed Soil .....	23
CST 11: Disturbed Land - Large Tracts.....	25
CST 12: Dust Suppressant, Dust Palliative, and Surfactant Selection and Use .....	26

Construction Activities Notebook - i

August 24, 2000

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

CST 13: Importing Soil, Rock, and Other Bulk Materials .....	27
CST 14: Landscaping.....	28
CST 15: Paving/Subgrade Preparation .....	30
CST 16: Screening.....	31
CST 17: Staging Areas.....	33
CST 18: Stockpiles .....	35
CST 19: Track-out Prevention .....	37
CST 20: Traffic - Construction Related .....	39
CST 21: Trenching.....	40
CST 22: Truck Loading.....	43

## LIST OF FIGURES

FIGURE 1: Decision Flowchart.....	3
FIGURE 2: Silt Content vs. Optimum Moisture Content.....	4
FIGURE 3: Clark County, Nevada - Soil Types.....	5
FIGURE 4: Las Vegas Valley Soil Types .....	6

## APPENDICES

APPENDIX A: Dust Control Permit Application .....	A-1
APPENDIX B: Dust Control Permit Mitigation Plans.....	B-1
APPENDIX C: Dust Control Permit Design and Posting of Signage.....	C-1
APPENDIX D: Dust Control Permit Supplemental Forms .....	D-1

## ATTACHMENTS

ATTACHMENT 1: Regulations Pertaining to Construction Activity Dust Control.....	Attachment 1-1
ATTACHMENT 2: AQD Dust Suppressant, Palliative, and Surfactant Guidelines.....	Attachment 2-1
ATTACHMENT 3: California Air Resources Board (CARB)- Approved Abrasives Information .....	Attachment 3-1

August 24, 2000

Construction Activities Notebook - ii

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127



## ACRONYMS/DEFINITIONS

A complete set of AQD Regulation Definitions (Section 0) is included in Attachment A (Regulations Pertaining to Construction Activity Dust Control) of the Construction Activities Notebook.

**AASHTO** - American Association of State Highway Transportation Officials

**AQD** - Clark County Health District, Air Quality Division

**ASTM** - American Society for Testing and Materials

**Bulk material** – Any material, including but not limited to, earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter, dirt, mud, demolition debris, cotton, trash, cinders, pumice, saw dust, feeds, grains, fertilizers, and dry concrete, which are capable of producing fugitive dust at an industrial, institutional, governmental, construction, and/or demolition site.

**Control Measure** – An action or practice employed to comply with a Control Requirement.

**Control Requirement** – A summary statement of the regulation requirements pertaining to a particular activity or action.

**EPA** – Environmental Protection Agency

**Freeboard** – The distance measured from the top of the side of storage area of a truck to the fill line.

**Opacity** – A visual measurement of the density of a particulate matter such as soil dust when suspended in air. Opacity is evaluated using specified test methods.

**Optimum Soil Moisture Content** – The water content at which soil can be compacted to the maximum dry weight by modified compactive effort using ASTM D 1557 for Optimum Soil Moisture Content/Maximum Density.

**Palliative** – A substance used to lessen the severity of an impact without actually curing or eliminating the impact. The term is used in this document to describe substances other than water that lessen the amount of dust generated.

**PEP** - Particulate Emission Potential

**Silhouette Area** – The area of a shadow produced if a light was shown directly from the opposite side of an object.

**Stable, and Stabilized** – Stationary soils are considered stable or stabilized when they are in compliance with the standard set forth per Regulation Section 90.4. Soils that are being actively handled or disturbed by construction related activity or off-road construction traffic and vehicle parking are considered stable or stabilized when they are in compliance with the opacity and plume limitations set forth per Regulation Section 94.5.3.1. Unpaved haul roads are considered stable or stabilized when they are in compliance with standards set forth per Regulation Section 91.2.1.4. Test methods for

Construction Activities Notebook - iii

August 24, 2000

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

stability are expected to be used when necessary, but are not required to be utilized continuously during active construction activity.

**Staging area** – Any portion of a construction project used for storing materials, parking vehicles, and equipment; may be a separate area from the main construction project area.

**Surfactant** – A compound or element that reduces the surface tension of a liquid. The term is used in this document to describe wetting and spray adjuvants designed to promote the economical application of water to hydrophobic soils. Surfactants prevent drifting, decrease run-off, increase the penetrating and wetting properties, and promote more even, consistent spray patterns.

**Tack coat** – An asphaltic material applied as a binder to Type II Aggregate prior to the placement of asphalt during road construction.

**Tackifier** – A substance mixed with water that binds together mulches, small particles, or other dust palliatives without forming a hard crust. Many dust palliatives, in a more dilute concentration, can be used as tackifiers.

**Track-out** – Soil on paved roadways deposited from vehicles that have passed from a construction site or from an unpaved access route onto the paved roadway.

**Type II Material** – Base Aggregate as defined in Section 704 of the Uniform Standards Specifications for Public Works' Construction Off-Site Improvements, Clark County Area, Nevada.

**Wheel shaker** – A device capable of spreading the tread on tires and shaking the wheels and axles of vehicles for the purpose of releasing mud, soil, and rock from the tires and undercarriage to prevent tracking those materials onto paved surfaces.

**Wheel washer** – A station or device, either temporary or permanent, that utilizes a bath or spray of water for the purpose of cleaning mud, soil, and rock from the tires and undercarriage of vehicles to prevent tracking those materials onto paved surfaces.

**Wobbler** - Type of sprinkler head designed to minimize evaporation of water by enhancing the horizontal spray pattern.

## BEST MANAGEMENT PRACTICES FOR DUST CONTROL

Best Management Practices are site-specific dust control measures that are based on each project soil type, specific construction activities, phases and stages. These practices must be included in each Dust Control Permit Mitigation Plan and are established to meet the goal of reducing particulate emissions from construction sites. Additionally, some practices are designed for the purpose of reducing the amount of water needed for dust control.

### 1. Soil Type Categories

Soil types are classified into five categories (high, moderately high, moderately low, low, and slight) based on their particulate emission potential (PEP). The fifth category, "slight", is created solely to identify areas of bedrock outcrops. PEP is determined by soil silt content (measured by the soil percentage that will pass through a 200-mesh sieve) and optimum moisture content (measured by the percent of moisture necessary to compact soils).

Figure 1 depicts a "decision flowchart" using these parameters. A graph, which plots measured optimum moisture content vs. silt content for Las Vegas Valley soils, is used to classify PEP and is included as Figure 2. If optimum moisture content or silt content is not known for a specific project location, maps of Clark County and Las Vegas Valley delineating the five soil type categories are provided as Figures 3 and 4, respectively.

Soil type category maps are to be used as a guideline. The actual measured silt content and moisture content for maximum compaction shall take precedence over any mapped soil type categories. Permit holders shall immediately modify their Dust Control Permit if construction site soils are found to be different than mapped categories.

### 2. Best Management Practices

The following subsections list the current Best Management Practices (BMPs) developed and approved for use in Clark County for dust mitigation for construction activities. The BMPs are organized alphabetically by construction activity.

The Control Requirements of each construction activity category to be conducted on the construction project must be met through implementation of Control Measures. Within most construction activity categories there are choices of Control Measure(s) to be selected from to meet the Control

## Requirements.

Control Requirements are stated for each construction activity. All Control Measures that will be used to meet the Control Requirements on the construction project must be identified in the Dust Control Mitigation Plan for each construction activity.

Control Measures are presented by soil type category where applicable. Some Control Measures apply to construction activities regardless of soil type. The Control Measures selected to meet Control Requirements must address the soil type for the area in which the construction project is permitted (see Figures 3 and 4).

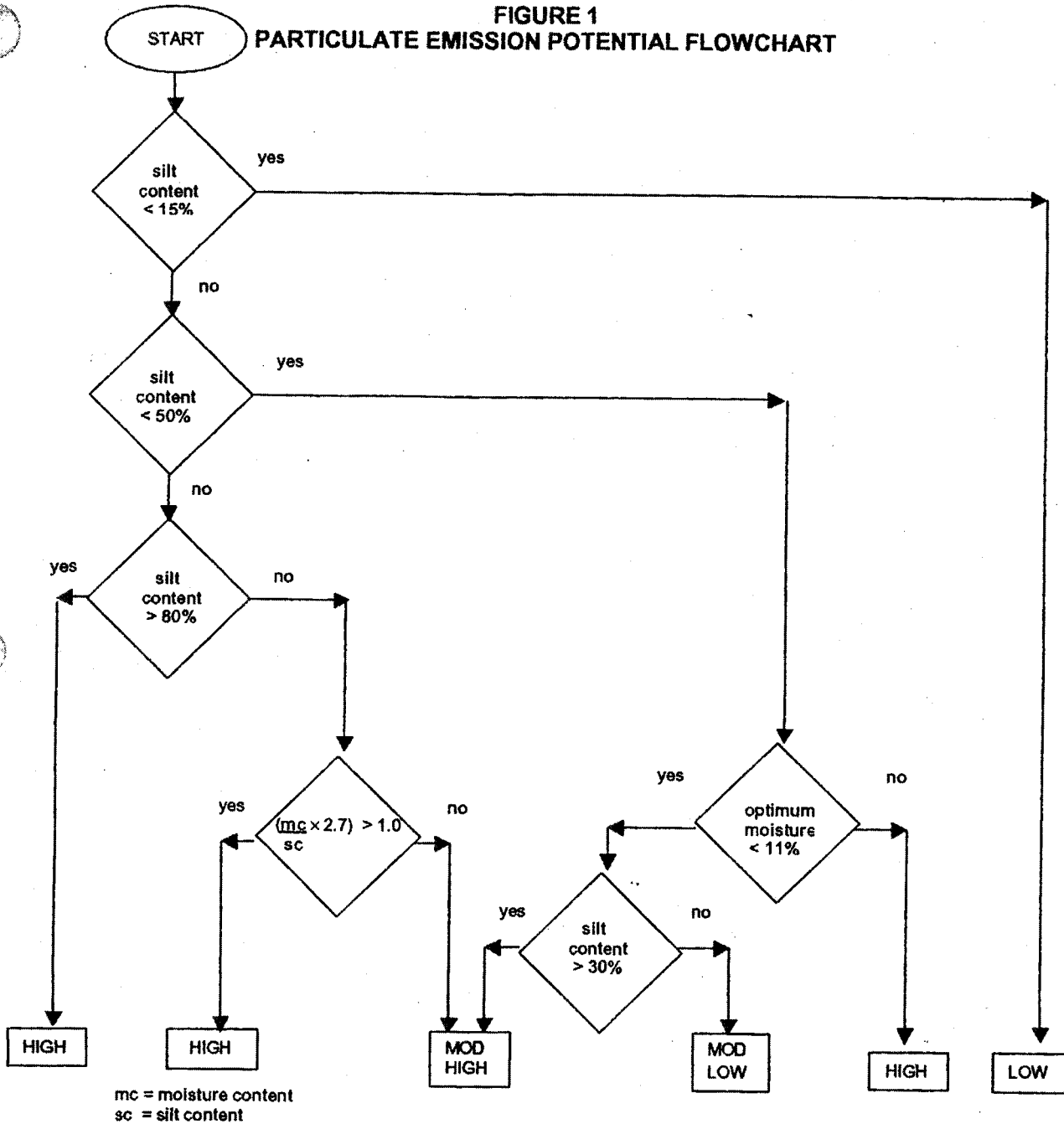
Control Measures not currently listed in the Section 94 Handbook may be proposed in a Dust Mitigation Plan. Such unlisted Control Measures will be reviewed by AQD staff and may require additional information regarding their effectiveness. Any unlisted Control Measure must clearly meet the Control Requirements for an activity category.

The AQD will apply the following minimum criteria when evaluating any unlisted Control Measures that are proposed to meet the Control Requirements for a BMP:

1. The Control Measure technique is a new or alternative technology that is demonstrated to be equally or more effective in meeting the Control Requirement than the existing Control Measures; or
2. Site logistics do not practically allow for implementation of a listed Control Measure as written (e.g. road width or pre-existing barriers limit the size or width of a gravel pad); or
3. The owner/operator demonstrates that a listed Control Measure is technically infeasible due to site-specific or material-specific conditions, such that implementation of the Control Measure will not provide a benefit in reducing fugitive dust (e.g. pre-soaking screened, washed rock when handling).

Permit deviations from specific soil type BMPs in the form of a "downgrade" to the BMPs listed for a soil type with a lower PEP, or applying a Control Measure listed for all soil types in lieu of a specific soil type BMP, are not approvable unless demonstrated to meet at least one of the above criteria.

**FIGURE 1  
PARTICULATE EMISSION POTENTIAL FLOWCHART**



Section 94 Handbook - 3

Adopted 8/24/00  
Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

Figure 4-1  
Silt Content vs. Optimum Moisture Content

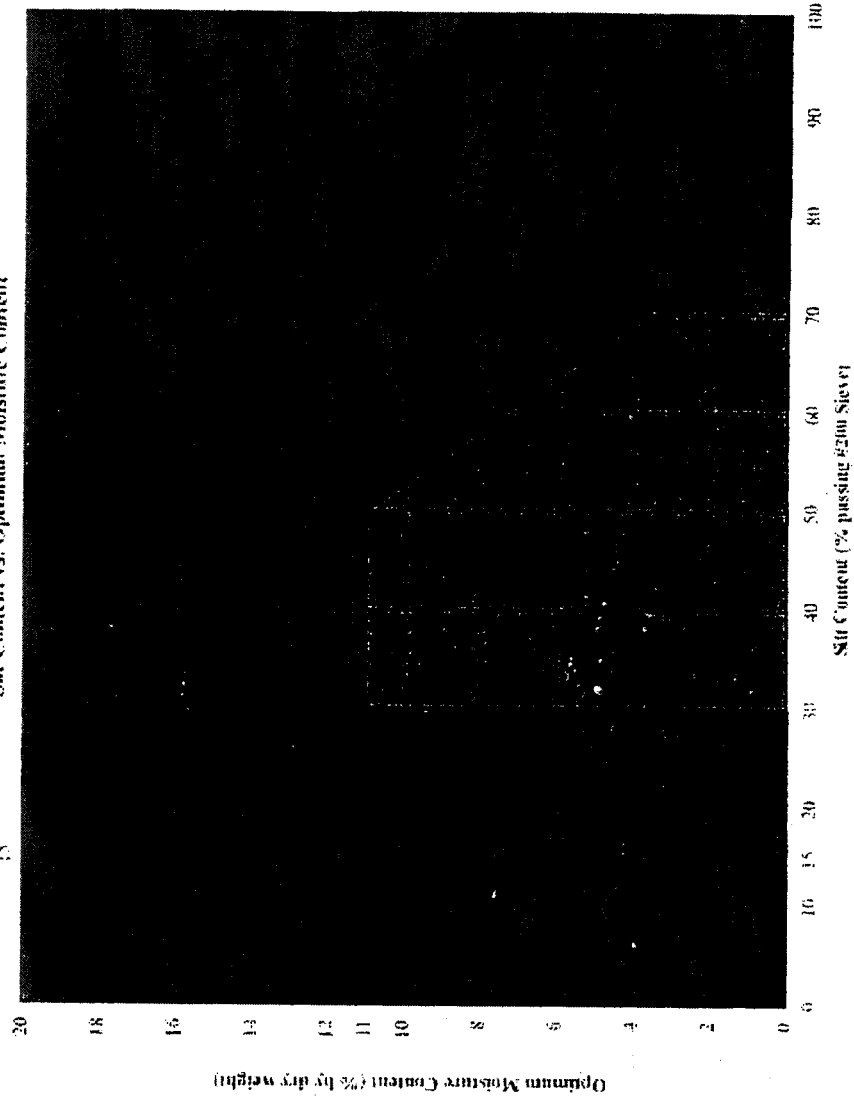


FIGURE 4-2  
CLARK COUNTY, NEVADA

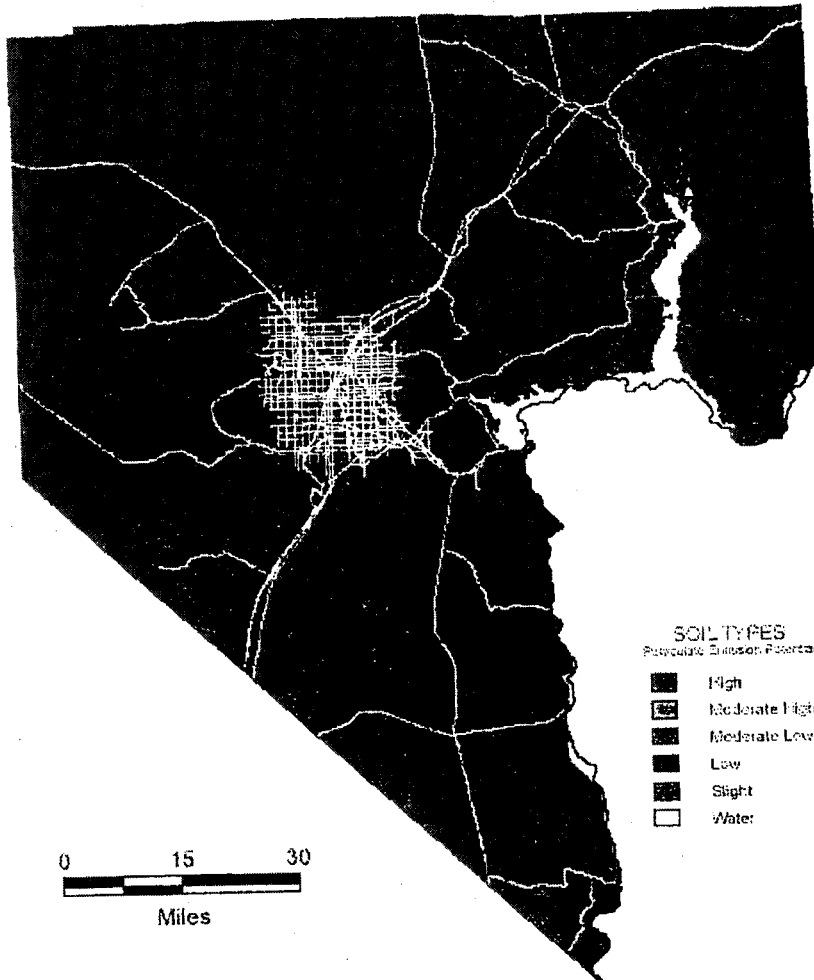


Figure 4-3  
LAS VEGAS VALLEY



SOIL TYPES  
Particulate Emission Potential

■ High	■ Moderate Low	■ Slight
■ Moderate High	■ Low	

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Section 94 Handbook - 6

Adopted 8/24/00  
*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127



## BMP: BACKFILLING

CST 01

### Backfilling – Earthmoving Operations

#### REQUIREMENTS:

- Stabilize backfill material when not actively handling.
- Stabilize backfill material during handling.
- Stabilize soil at completion of activity.

#### CONTROL MEASURES FOR ALL SOIL TYPES

- 01-1. Water backfill material to maintain material moisture or to form crust when not actively handling.
- 01-2. Apply dust palliative to backfill material to form crust when not actively handling.
- 01-3. Cover or enclose backfill material when not actively handling.
- 01-4. Mix backfill soil with water prior to moving.
- 01-5. Dedicate water truck or large hose to backfilling equipment and apply water as needed.
- 01-6. Water to form crust on soil immediately following backfilling.
- 01-7. Empty loader bucket slowly.
- 01-8. Minimize drop height from loader bucket.

#### CONTROL MEASURES FOR SPECIFIC SOIL TYPE

##### High

- 01-6. Apply and mix water and surfactant solution into the backfill material until optimum moisture is reached.

##### Moderate High

- 01-7. Apply and mix water and tackifier solution into the backfill material until optimum moisture is reached.

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Section 94 Handbook - 7

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: BACKFILLING (continued)**

CST 01

**Moderate Low**

01-8. Apply and mix water into the backfill material until optimum moisture is reached.

**Low**

01-9. Mix moist soil with dry soil until the optimum moisture is reached.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Stabilize backfill material when not actively handling	✓	✓	✓	✓
Empty loader bucket slowly and minimize drop height	✓	✓	✓	✓
Water to form crust on soil immediately following backfilling	✓	✓	✓	✓
Dedicate water truck or large hose to backfilling equipment	✓	✓	✓	✓
Mix backfill material with water and surfactant	✓			
Mix backfill material with water and tackifier		✓		
Mix backfill material with water			✓	✓

**BMP: BLASTING - Abrasive**

CST 02

**Abrasive Blasting****REQUIREMENTS:**

- Stabilize surface soils where support equipment will operate.
- Stabilize particulate matter in surrounding area following blasting.
- Limit visible emissions to no more than an average of 40% opacity for any period aggregating 3 minutes in any 60-minute period.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 02-1. Prewet surface soils where support equipment and vehicles will be operated.
- 02-2. Use dust palliative on surfaces where support equipment will be operated.
- 02-3. Clean particulate material from surrounding area following blasting.
- 02-4. Apply dust palliative to surrounding area following blasting.
- 02-5. Abrasive blasting should be conducted within an enclosed structure whenever possible to preclude the release of visible emissions to the atmosphere.
- 02-6. A wet method of abrasive blasting, using air as a propellant, must use a sufficient amount of water to effectively limit the visible emissions to no more than an average of 40% opacity for any period aggregating 3 minutes in any 60-minute period.
- 02-7. Hydroblasting, using water as the propellant, must be conducted in a manner to effectively limit the visible emissions to no more than an average of 40% opacity for any period aggregating 3 minutes in any 60 minute period.

Section 94 Handbook - 9

Adopted 8/24/00  
*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: BLASTING – Abrasive (continued)**

CST 02

02-8. Dry, unconfined blasting with abrasive material must use only those abrasives that are approved and certified by the California Air Resources Board (CARB) for such use (see Attachment 3: CARB-Approved Abrasives Information).

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Prewet surface soils where support equipment will operate	✓	✓	✓	✓
Apply dust palliative on surfaces where surface equipment will be operated	✓	✓	✓	✓
Apply dust palliative to surrounding area following blast	✓	✓	✓	✓
Clean particulates from surrounding area following blasting	✓	✓	✓	✓
Abrasive blasting should be conducted within an enclosed structure whenever possible	✓	✓	✓	✓
Wet method of blasting, using air as a propellant, must use water to limit emission opacity to 40% for any 3 minute period in a 60 minute period	✓	✓	✓	✓
Hydroblasting, using water as a propellant, must limit emission opacity to 40% for any 3 minute period in a 60 minute period	✓	✓	✓	✓
Dry, unconfined blasting must use only CARB approved abrasives and limit emission opacity to 40% for any 3 minute period in a 60 minute period	✓	✓	✓	✓

Section 94 Handbook - 10

Adopted 8/24/00

Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: BLASTING - Soil and Rock**

CST 03

**Explosive Blasting of Soil and Rock****Supplemental Form to Dust Control Permit Is Required****REQUIREMENTS:**

- Submit supplemental form for blasting.
- Stabilize soil prior to and during blast preparation activities.
- No blasting allowed when the National Weather Service issues a high wind advisory.
- Confine blasting to times when wind direction is away from the closest residential areas, occupied buildings, and major roadways.
- Stabilize soil after blasting.
- Confine blasting to between 8:00 a.m. and 4:30 p.m., excluding Saturdays, Sundays, and holidays, unless prior permission is obtained from the Control Officer.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 03-1. Maintain surface rock and vegetation where possible to reduce exposure of disturbed soil to wind.
- 03-2. Prewet surface soils where drills, support equipment, and vehicles will be operated.
- 03-3. Use water to form crust on soil immediately following blast and safety clearance.
- 03-4. Use dust palliative to form crust on soil immediately following blast and safety clearance.
- 03-5. Maintain surface soil watering as needed to prevent dust. At completion of work shift stabilize all disturbed soil surfaces to establish crust and prevent wind erosion of soil.
- 03-6. Prior to setting explosive charges in holes, document current and predicted weather conditions as provided by the National Weather Service. If wind advisory (over 25 miles per hour) is current or forecasted for the next 24 hours, do not charge any blast holes. When setting explosive charges, monitor weather forecast for wind advisory on National Weather Service Radio and Internet sites. If a wind advisory is stated, discontinue charging additional blast holes. Limit

Section 94 Handbook - 11

Adopted 8/24/00

Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

the blast to holes charged at time the wind advisory is issued.

- 03-7. Limit the blast footprint area to no larger than what can be practically stabilized immediately following the blast.

#### **CONTROL MEASURE FOR SPECIFIC SOIL TYPE**

##### **High**

- 03-8. Presoak surface soils to depth of the caliche or bedrock with water and surfactant mixture using water trucks, water pulls, sprinklers or wobblers.

##### **Moderate High**

- 03-9. Presoak surface soils to depth of the caliche or bedrock with water and tackifier mixture using water trucks, water pulls, sprinklers or wobblers.

##### **Moderate Low and Low**

- 03-10. Presoak surface soils to depth of the caliche or bedrock with water using water trucks, water pulls, sprinklers, or wobblers.

**BMP: BLASTING - Soil and Rock (continued)**

CST 03

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Submit supplemental form for blasting	✓	✓	✓	✓
Maintain surface rock and vegetation when possible	✓	✓	✓	✓
Limit blast footprint to manageable size	✓	✓	✓	✓
Prewet surface soils where drill and support equipment will operate	✓	✓	✓	✓
Monitor National Weather Service for advisory	✓	✓	✓	✓
Document weather conditions and predictions	✓	✓	✓	✓
Form crust on soil following blast	✓	✓	✓	✓
Confine blasting to times when wind direction is away from the closest residential areas, occupied buildings, and roadways	✓	✓	✓	✓
Presoak with water and surfactant mixture	✓			
Presoak with water and tackifier mixture		✓		
Presoak with water			✓	✓

**BMP: CLEARING AND GRUBBING**

CST 04

**Clearing and Grubbing for Site  
Preparation and Vacant Land Cleanup****REQUIREMENTS:**

- Maintain stability of soil prior to clearing and grubbing.
- Stabilize soil during clearing and grubbing activities.
- Stabilize soil immediately after clearing and grubbing activities.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 04-1. Prewet surface soils where equipment will be operated.
- 04-2. For areas without continuing construction, maintain live perennial vegetation and desert pavement where possible.
- 04-3. Stabilize soil surface with dust palliative unless immediate construction is to continue.
- 04.4 Use water to form crust on soil immediately following clearing/grubbing activities.
- 04.5 Use dust palliative to form crust on soil immediately following clearing and grubbing activities.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPE****High**

- 04-6. Apply water and surfactant mixture.

**Moderate High**

- 04-7. Apply water and tackifier mixture.

**Moderate Low and Low**

- 04-8. Apply water.

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Section 94 Handbook - 14

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127



**BMP: CLEARING AND GRUBBING (continued)**

CST 04

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Prewet surface soils where equipment will operate	✓	✓	✓	✓
Maintain live perennial vegetation and desert pavement where possible	✓	✓	✓	✓
Stabilize soil surface with dust palliative unless immediate construction is to continue	✓	✓	✓	✓
Form crust on soil immediately following clearing/grubbing operations	✓	✓	✓	✓
Apply water with water and surfactant mixture	✓			
Apply water with water and tackifier mixture		✓		
Apply water			✓	✓

Section 94 Handbook - 15

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: CLEARING FORMS**

CST 05

**Clearing Forms***In North Las Vegas, verify Building Code Restrictions for use of water on forms.***REQUIREMENTS:**

- Control fugitive dust emissions while clearing forms to comply with 20% opacity and plume length restrictions.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 05-1. Use single stage pours, unless prohibited by engineering design or building code, to minimize form clearing.
- 05-2. Use water spray to clear forms.
- 05-3. Use sweeping and water spray to clear forms.
- 05-4. Use industrial shop vacuum to clear forms.
- 05-5. Avoid use of high pressure air to blow soil and debris from the form.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Use single stage pours where possible	✓	✓	✓	✓
Other than North Las Vegas, use water spray or sweeping with water, or shop vacuum	✓	✓	✓	✓
In North Las Vegas, sweep then use industrial shop vacuum	✓	✓	✓	✓
Avoid use of high pressure air to clear forms	✓	✓	✓	✓

**BMP: CRUSHING**

CST 06

<b>Crushing of Rock, Soil, and Demolition Debris</b>	<b>Operating Permit Required for Powered Crushers</b> <i>Follow Permit Standards and Requirements</i>
<b>REQUIREMENTS:</b>	
<ul style="list-style-type: none"> <li>• Stabilize surface soils where support equipment will operate.</li> <li>• Stabilize material before crushing.</li> </ul>	<ul style="list-style-type: none"> <li>• Stabilize material during crushing.</li> <li>• Stabilize material after crushing.</li> </ul>

**CONTROL MEASURES**

- 06-1. Prewet surface soils where support equipment and vehicles will be operated.
- 06-2. Apply dust palliative to surface soils where support equipment and vehicles will be operated.
- 06-3. Prewet material prior to loading into crusher.
- 06-4. Use dust suppressant to stabilize material during crushing.
- 06-5. Monitor emissions opacity.
- 06-6. Establish crust on crushed material to minimize emissions.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Prewet surface soils where support equipment and vehicles will be operated	✓	✓	✓	✓
Maintain moisture content of materials per permit conditions	✓	✓	✓	✓
Monitor emissions opacity	✓	✓	✓	✓
Establish crust on crushed material	✓	✓	✓	✓

Section 94 Handbook - 17

Adopted 8/24/00  
 Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**Cut and Fill of Soils for Site Grade Preparation****REQUIREMENTS:**

- Presoak soils.
- Stabilize soil during cut and fill activities.
- Stabilize soils prior to cut and fill activities.
- Stabilize soil after cut and fill activities.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 07-1. Pre-water with sprinklers or wobblers to allow time for penetration.
- 07-2. Pre-water with water trucks or water pulls to allow time for penetration.
- 07-3. Dig a test hole to depth of cut or equipment penetration to determine if soils are moist at depth. Continue to pre-water if not moist to depth of cut.
- 07-4. Use water truck/pull to water soils to depth of cut prior to subsequent cuts.
- 07-5. Apply water to form crust on soil following fill and compaction.
- 07-6. Apply dust palliative to form crust on soil following fill and compaction.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPES****High**

- 07-7. Pre-water with water and surfactant mixture until soil is moist to a depth of cut or equipment penetration.

**Moderate High**

- 07-8. Pre-water with water and tackifier mixture until soil is moist to a depth of cut or equipment penetration.

**Moderate Low and Low**

- 07-9. Water until soil is moist to a depth of cut or equipment penetration.

**BMP: CUT & FILL (continued)**

CST 07

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Pre-water to allow time for water penetration	✓	✓	✓	✓
Prewet surface soils where trencher and support equipment will operate.	✓	✓	✓	✓
Dig a test hole to depth of cut to determine if soils are moist at depth	✓	✓	✓	✓
Form crust on soil following fill and compaction	✓	✓	✓	✓
Use water truck/pull to water soils to depth of cut prior to subsequent cuts	✓	✓	✓	✓
Pre-water with water and surfactant mixture	✓			
Pre-water with water and tackifier mixture		✓		
Pre-water			✓	✓

Section 94 Handbook - 19

Adopted 8/24/00

Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**Implosive Blasting Demolition****Supplemental Form To Dust Control Permit is Required****REQUIREMENTS:**

- Submit Supplemental Form.
- Monitor and document current weather conditions and weather predictions from National Weather Service.
- Confine blasting to times when wind direction is away from closest residential areas, occupied buildings, and major roadways.
- Confine blasting times to between 8:00 a.m. and 4:30 p.m., excluding holidays, unless prior permission is obtained from the Control Officer.
- Stabilize surface soils where support equipment and vehicles will be operated.
- Stabilize soils prior to blasting.
- Stabilize soils and blast debris immediately following blasting and safety clearance.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 08-1. Prewet surface soils where support equipment and vehicles will be operated.
- 08-2. Apply dust palliative where support equipment and vehicles will be operated.
- 08-3. Restrict support equipment and vehicles to existing paved or stable areas.
- 08-4. Maintain surface soil watering as needed to prevent dust.
- 08-5. At completion of work shift, water all disturbed soil surfaces to establish crust and prevent wind erosion of soil.
- 08-6. Prior to setting explosive charges, obtain and document current and predicted weather conditions as provided by the National Weather Service. If wind advisory (over 25 miles per hour) is current or forecasted for blast period, do not set charges.
- 08-7. Water to form crust on wind erodible materials immediately following blast and safety clearance.
- 08-8. Apply dust palliative to form a crust on wind erodible materials.

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Section 94 Handbook - 20

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: DEMOLITION – Implosion (continued)**

CST 08

08-9. Following blast and safety clearance, thoroughly clean blast debris from paved surfaces.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Prewet surface soils where support equipment will operate	✓	✓	✓	✓
Maintain surface soil watering as needed to prevent dust.	✓	✓	✓	✓
Restrict support equipment and vehicles to existing paved or stable areas	✓	✓	✓	✓
Monitor National Weather Service for advisory	✓	✓	✓	✓
Document weather conditions and predictions	✓	✓	✓	✓
Form crust on debris and soil following blast	✓	✓	✓	✓
Confine blasting to times when wind direction is away from closest residential areas, occupied buildings or roadways	✓	✓	✓	✓
At completion of work shift, water all disturbed soil surfaces	✓	✓	✓	✓

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Section 94 Handbook - 21

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: DEMOLITION – Mechanical/Manual**

**CST 09**

<p><b>Mechanical and Manual Demolition</b></p> <p><b>REQUIREMENTS:</b></p> <ul style="list-style-type: none"> <li>• Stabilize wind erodible surfaces to prevent dust.</li> </ul>	<p><b>Supplemental Form To Dust Control Permit is Required</b></p> <ul style="list-style-type: none"> <li>• Stabilize surface soil where support equipment and vehicles will operate.</li> <li>• Stabilize loose soil and demolition debris.</li> </ul>
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**CONTROL MEASURES FOR ALL SOIL TYPES**

- 09-1. Prewet surface soil where support equipment and vehicles will be operated.
- 09-2. Apply dust palliative where support equipment and vehicles will operate.
- 09-3. Water area and maintain surface soil stability as needed to prevent dust.
- 09-4. Cover wind erodible demolition debris to prevent dust emissions.
- 09-5. Use water on wind erodible demolition debris during handling and after dumping to prevent dust.
- 09-6. Use dust palliative to form crust on demolition debris.
- 09-7. At completion of work shift, water all disturbed soil surfaces to establish crust and prevent wind erosion.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Prewet and maintain surface soil moisture where support equipment will operate.	✓	✓	✓	✓
Stabilize demolition debris during demolition, loading, and dumping to prevent dust.	✓	✓	✓	✓
At completion of work shift, water all disturbed soil surfaces and demolition debris.	✓	✓	✓	✓



**BMP: DISTURBED SOIL**

CST 10

**Disturbed Soil****REQUIREMENTS:**

- Stabilize disturbed soil throughout construction site.
- Stabilize disturbed soil between structures.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 10-1. Apply water to stabilize disturbed soil throughout construction site.
- 10-2. Limit vehicle traffic and disturbance on soils where possible.
- 10-3. If interior block walls are planned, install as early in the construction as possible.
- 10-4. Apply dust palliative based on soil type.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPES****High**

- 10-5. Apply palliative such as gypsum mulch (Note: Gypsum mulch should not inhibit future vegetation).
- 10-6. Install perimeter wind barrier (three (3) to five (5) feet high made of material with a porosity of 50% or less.

**Moderate High, Moderate Low, and Low**

- 10-7. Apply water to stabilize disturbed soils. Soils must be kept in a damp, crusted, or covered condition.

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Section 94 Handbook - 23

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: DISTURBED SOIL (continued)**

CST 10

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Apply water to stabilize disturbed soils throughout construction site	✓	✓	✓	✓
Limit vehicle traffic and disturbance	✓	✓	✓	✓
Install planned block walls as early in construction as possible	✓	✓	✓	✓
Install perimeter wind barriers	✓			
Apply gypsum mulch palliative	✓			
Apply water to stabilize soils		✓	✓	✓

Section 94 Handbook - 24

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: DISTURBED LAND - LARGE TRACTS**

CST 11

**Disturbed Land – Large Tracts****REQUIREMENTS**

- Stabilize soil to meet standards required by Regulation Section 90.
- Prevent access to limit soil disturbance.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 11-1. Prevent access by fencing, ditches, vegetation, berms, or other suitable barrier or means approved by the Control Officer.
- 11-2. Install perimeter wind barriers three (3) to five (5) feet high made of material with a porosity of 50% or less.
- 11-3. Plant perimeter vegetation early. Use of native and drought-tolerant plants with greater than 50% silhouette area is encouraged.
- 11-4. Stabilize disturbed soil with dust palliative for long-term stabilization.
- 11-5. Stabilize disturbed soil with vegetation for long-term stabilization.
- 11-6. Pave or apply surface rock for long-term stabilization.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Temporarily stabilize project soils by maintaining in a damp or crusted condition	✓	✓	✓	✓
Prevent access	✓	✓	✓	✓
Install perimeter wind barriers	✓	✓	✓	✓
Plant perimeter vegetation early	✓	✓	✓	✓
Permanently stabilize with dust palliative, vegetation or paving	✓	✓	✓	✓

Section 94 Handbook - 25

Adopted 8/24/00

Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: DUST SUPPRESSANT, DUST PALLIATIVE,  
AND SURFACTANT SELECTION AND USE**

CST 12

**Dust Suppressants, Dust Palliatives,  
and Surfactants Selection and Use**

**REQUIREMENTS**

- Follow AQD Guidelines for Selection and Appropriate Use of Liquid Dust Palliatives.
- Record use of suppressants and dust palliatives and retain records.
- Consider long-term use of land when selecting dust palliatives.
- Follow applicable federal and state regulations.

**CONTROL MEASURES FOR ALL SOIL TYPES**

Follow selection and use information contained in Attachment 2: AQD Dust Suppressant, Palliative, and Surfactant Guidelines.

- 12-1. For traffic area applications use Table 1: Appropriate Use of Liquid Dust Palliatives and Application Rates.
- 12-2. For non-traffic area applications use Table 2: Appropriate Use of Liquid Dust Palliatives and Application Rates.
- 12-3. Follow applicable federal and state regulations.
- 12-4. Record dust suppressant and palliative use and retain records as required by Regulation Section 94.8.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Follow BMP requirements	✓	✓	✓	✓
Follow Selection and Use Criteria	✓	✓	✓	✓
Combine traffic control with palliative use for long-term stabilization	✓	✓	✓	✓
Record dust suppressant and palliative use and retain records	✓	✓	✓	✓

Section 94 Handbook - 26

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: IMPORTING SOIL, ROCK, AND OTHER BULK MATERIALS**

**CST 13**

**Importing Soils**

**REQUIREMENTS:**

- Determine PEP of imported material.
- Implement BMP CST 22 (Truck Loading).
- Stabilize material while loading to prevent fugitive dust emissions.
- Stabilize material while transporting to prevent fugitive dust emissions.
- Stabilize material while unloading to prevent fugitive dust emissions.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 13-1. Use tarps or other suitable enclosures on haul trucks.
- 13-2. Maintain three (3) to six (6) inches of freeboard to minimize spillage.
- 13-3. Check belly-dump truck seals regularly and remove any trapped rocks to prevent spillage.
- 13-4. Clean wheels and undercarriage of haul trucks prior to leaving construction site.
- 13-5. Limit vehicular speeds to 15 mph on the work site.
- 13-6. Keep soils at optimum moisture content while actively handling.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Haul trucks must have tarps or other suitable enclosures	✓	✓	✓	✓
Maintain 3" to 6" freeboard on loads	✓	✓	✓	✓
Check belly dump trucks regularly and remove trapped rocks	✓	✓	✓	✓
Clean wheels and undercarriage of haul trucks prior to leaving site	✓	✓	✓	✓
Limit vehicular speeds to 15 m.p.h. on-site	✓	✓	✓	✓
Keep soils at optimum moisture content while actively moving	✓	✓	✓	✓

Section 94 Handbook - 27

Adopted 8/24/00

Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: LANDSCAPING**

CST 14

**Landscaping****REQUIREMENTS:**

- Stabilize soils, materials, and slopes.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 14-1. Apply water to materials to stabilize.
- 14-2. Maintain materials in a crusted condition.
- 14-3. Maintain effective cover over materials.
- 14-4. Stabilize sloping surfaces using soil binders until vegetation or ground cover can effectively stabilize the slope.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPES****High**

- 14-5. Apply water and surfactant mixture prior to leveling or any other earth moving activity to keep the soil moist throughout the process.

**Moderate High**

- 14-6. Apply water and tackifier mixture prior to leveling or any other earth moving activity to keep the soil moist throughout the process.

**Moderate Low and Low**

- 14-7. Apply water prior to leveling or any other earth moving activity to keep the soil moist throughout the process.

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Section 94 Handbook - 28

**Adopted 8/24/00**

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: LANDSCAPING (continued)**

**CST 14**

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Maintain materials in a damp, crusted, or covered condition	✓	✓	✓	✓
Initially, stabilize sloping surfaces with soil binders	✓	✓	✓	✓
Apply water and surfactant mixture prior to earth moving activity	✓			
Apply water and tackifier mixture prior to earth moving activity		✓		
Apply water prior to earth moving activity			✓	✓

**BMP: PAVING/SUBGRADE PREPARATION**

CST 15

**Paving/Subgrade Preparation****REQUIREMENTS**

- Stabilize soils prior to activities.
- Stabilize soils during activities.
- Stabilize soils following activities.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 15-1. Pre-water subgrade surface until optimum moisture content is reached and maintained.
- 15-2. Maintain at least 70% of optimum moisture content for Type II material while Type II aggregate is being applied.
- 15-3. Place tack coat on Type II aggregate base immediately after Type II is applied.
- 15-4. Stabilize adjacent disturbed soils following paving activity by crusting with water.
- 15-5. Stabilize adjacent disturbed soils following paving activity with dust palliative application.
- 15-6. Stabilize adjacent disturbed soils following paving with immediate landscaping activity or installation of vegetative or rock cover.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Pre-water subgrade surface to maintain optimum moisture content	✓	✓	✓	✓
Maintain 70% optimum moisture content when applying Type II aggregate	✓	✓	✓	✓
Place tack coat after Type II aggregate is applied	✓	✓	✓	✓
Stabilize adjacent disturbed soil	✓	✓	✓	✓

Section 94 Handbook - 30

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127



**BMP: SCREENING**

CST 16

**Screening of Rock, Soil, and  
Construction Debris*****Operating Permit is required for  
motorized screens*****REQUIREMENTS**

- Pre-treat material prior to screening.
- Limit fugitive dust to opacity and plume length standards.
- Stabilize material immediately after screening.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 16-1. Dedicate water truck or large hose to screening operation.
- 16-2. Pre-wet material to be screened to at least 70% of optimum moisture content.
- 16-3. Apply dust suppressant to material prior to screening.
- 16-4. Drop material through the screen slowly and minimize drop height.
- 16-5. Apply water to material as it is being dropped through the screen.
- 16-6. Apply water to stabilize screened material and surrounding area after screening.
- 16-7. Apply dust palliative to stabilize screened material and surrounding area after screening.
- 16-7. Install wind barrier upwind of screen as high as the screen drop point and made of material with a porosity of 50% or less.

Section 94 Handbook - 31

**Adopted 8/24/00**  
*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Pre-treat material prior to screening	✓	✓	✓	✓
Dedicate water truck or large hose to screening operation	✓	✓	✓	✓
Install wind barrier	✓	✓		
Pre-moisten material to be screened to 70% optimum moisture content	✓	✓	✓	✓
Stabilize screened material and surrounding area after screening	✓	✓	✓	✓

**BMP: STAGING AREAS**

CST 17

**Staging Areas, Equipment Storage,  
and Material Storage Areas****REQUIREMENTS**

- Stabilize staging area soils during use.
- Stabilize staging area soils at project completion.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 17-1. Limit size of staging areas.
- 17-2. Apply water to surface soils where support equipment and vehicles will be operated.
- 17-3. Apply dust palliative to surface soils where support equipment and vehicles will operate.
- 17-4. Limit vehicle speeds to 15 mph.
- 17-5. Limit ingress and egress points.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPES****High and Moderate High**

- 17-6. Surround with wind barriers three (3) to five (5) feet in height and made of material with a porosity of 50% or less.
- 17-7. Apply screened or washed Type II aggregate.
- 17-8. Pave with thin paving.

**Moderate Low and Low**

- 17-9. Apply dust palliative.
- 17-10. Apply screened or washed Type II aggregate.
- 17-11. Supplement dust palliative or aggregate with watering, if necessary.

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Section 94 Handbook - 33

Adopted 8/24/00  
*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Prewet surface soils where support equipment will be operated	✓	✓	✓	✓
Minimize size of staging areas	✓	✓	✓	✓
Limit vehicle speeds to 15 mph	✓	✓	✓	✓
Limit ingress and egress points	✓	✓	✓	✓
Surround with wind barriers	✓	✓		
Apply aggregate or pave with thin paving	✓	✓		
Apply dust palliative or aggregate			✓	✓
Stabilize at project completion	✓	✓	✓	✓

**Stockpiles****REQUIREMENTS**

- Stabilize stockpiles.
- Stockpiles located within 100 yards of occupied buildings must not be constructed over eight (8) feet in height.
- Stockpiles over eight (8) feet high and not covered must have a road bladed to the top to allow water truck/pull access or must have a sprinkler irrigation system installed that is capable of complete stockpile coverage.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 18-1. Stockpile at optimum moisture content.
- 18-2. Remove material from the downwind side of the stockpile.
- 18-3. To the extent possible, maintain stockpile to avoid steep sides or faces.
- 18-4. Stabilize material in stockpile and surrounding area following stockpile-related activity.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPES****High**

- 18-5. Apply water and surfactant during stacking, loading and unloading operations.
- 18-6. Apply palliative to all outer surfaces of the stockpile.
- 18-7. Provide and maintain wind barriers on three (3) sides of the pile, whose length is no less than equal to the length of the pile, whose distance from the pile is no more than twice the height of the pile, whose height is equal to the pile height, and made of material with a porosity of 50% or less.
- 18-8. Apply temporary cover or screen in lieu of wind barrier.

**Moderate High**

- 18-9. Apply water and tackifier during stacking, loading and unloading operations.
- 18-10. Apply palliative to all outer surfaces of the stockpile.
- 18-11. Provide and maintain wind barriers on three (3) sides of the pile, whose length is no less than equal to the length of the pile, whose distance from the pile is no more than twice the height of the pile, whose height is equal to the pile height, and made of material with a porosity of 50% or less.
- 18-12. Apply palliative and provide wind barriers on three (3) sides of the pile as high as the pile and made of material with a porosity of 50% or less.

**Moderate Low and Low**

- 18-13. Apply water during stacking, loading and unloading operations.

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Stockpile at optimum moisture content	✓	✓	✓	✓
Remove material from the downwind side of stockpile	✓	✓	✓	✓
Stockpiles over 8' high must have road bladed to the top or an installed sprinkler system	✓	✓	✓	✓
Apply palliative and provide wind barriers on three (3) sides of stockpile	✓	✓		
Apply temporary cover or screen in lieu of wind barrier	✓			
Apply water and surfactant during operations	✓			
Apply water and tackifier during operations		✓		
Apply water during operations			✓	✓
Stabilize stockpile and area following activity	✓	✓	✓	✓

## **BMP: TRACK-OUT PREVENTION**

**CST 19**

### **Prevention of mud, silt, and soil track-out onto paved roads**

#### **REQUIREMENTS**

- Install and maintain track-out control devices in effective condition at all access points where paved and unpaved access or travel routes intersect.
- Track-out conditions, including preventive and corrective measures, must be recorded daily for every day that the construction project access is used by vehicles.
- All exiting traffic must be routed over selected track-out control device(s).
- Immediately clean track-out from paved surfaces when it extends 50 feet or more.
- Track-out must be cleaned daily, at minimum.

#### **CONTROL MEASURES FOR ALL SOIL TYPES**

- 19-1. Pave construction activities roadways as early as possible.
- 19-2. Install gravel pad(s) consisting of 1" to 3" rough diameter, clean, well-graded gravel or crushed rock (location of gravel pads must be identified on project map). Minimum dimensions must be 30 feet wide by 3 inches deep, and, at minimum, 50' or the length of the longest haul truck, whichever is greater. Re-screen, wash, or apply additional rock in gravel pad to maintain effectiveness.
- 19-3. Install wheel shakers in the event that track-out cannot be controlled with gravel pads. Clean wheel shakers on a regular basis to maintain effectiveness.
- 19-4. Install wheel washer in the event that track-out cannot be controlled with gravel pad and wheel shakers. Maintain wheel washers on a regular basis to maintain effectiveness.
- 19-5. Install wheel shakers as primary control measures in addition to or in place of gravel pads.
- 19-6. Install wheel washer as primary control measures in addition to or in place of wheel shakers and gravel pads.
- 19-7. Limit site accessibility to routes with track-out control devices in place by installing effective barriers on unprotected routes.

Section 94 Handbook - 37

**Adopted 8/24/00**

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

19-8. Record track-out conditions and clean-up actions in daily project records:

	Particulate Emission Potential			
	High	Moderate High	Moderate Low	Low
Track-out conditions must be recorded daily	✓	✓	✓	✓
Install track-out control devices at all access points and limit traffic to these points	✓	✓	✓	✓
Gravel pads must consist of 1"-3" clean well graded gravel or crushed rock. Minimum dimensions 30' wide and 3" deep	✓	✓	✓	✓
Track-out control devices must be maintained and functional	✓	✓	✓	✓
Immediately clean track-out from paved surfaces when it extends 50' or more	✓	✓	✓	✓
Track-out must be cleaned daily at a minimum	✓	✓	✓	✓
Wheel shakers and washers must be listed as contingency measures for control of track-out on the Dust Mitigation Plan	✓	✓	✓	✓



**BMP: TRAFFIC – CONSTRUCTION RELATED**

CST 20

**Traffic - Construction Related****REQUIREMENTS**

- Stabilize all off-road traffic and parking areas.
- Stabilize all haul routes.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 20-1. Limit vehicle speeds to 15 mph (Note: Use of bumps or dips for speed control is encouraged).
- 20-2. Apply paving as soon as possible to all future roadway areas.
- 20-3. Apply water to haul routes to stabilize.
- 20-4. Apply dust palliative to haul routes to stabilize.
- 20-5. Apply gravel to off-road traffic and parking areas and maintain in a stabilized condition.
- 20-6. Apply gravel to haul routes and maintain in a stabilized condition.
- 20-7. Apply recycled asphalt (or other suitable material) to off-road traffic and parking areas and maintain in a stabilized condition.
- 20-8. Apply water to off-road traffic and parking areas and maintain in a stabilized condition.
- 20-9. Apply a dust palliative (designed for vehicle traffic) to off-road traffic and parking areas and maintain in a stabilized condition.
- 20-10. Supplement dust palliative or aggregate applications with watering, if necessary.

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Section 94 Handbook - 39

Adopted 8/24/00  
*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: TRAFFIC – CONSTRUCTION RELATED (cont.)**

CST 20

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Limit vehicle speeds to 15 mph	✓	✓	✓	✓
Apply paving to future roadways as soon as possible	✓	✓	✓	✓
Apply and maintain gravel, recycled asphalt or a dust suppressant suitable for vehicle traffic	✓	✓	✓	✓
Supplement dust palliative or aggregate with watering if necessary	✓	✓	✓	✓

**BMP: TRENCHING**

CST 21

Trenching with track or wheel mounted excavator, shovel, backhoe or trencher

**REQUIREMENTS**

- Stabilize surface soils where trencher or excavator and support equipment and vehicles will be operated.
- Limit fugitive dust emissions during trenching operations to opacity and visible plume requirements of Section 94.6.8.
- Stabilize soils at the completion of project.

**CONTROL MEASURES FOR ALL SOIL TYPES**

- 21-1. Presoak subsurface soils.
- 21-2. Prewet surface soils where trenching and support equipment and vehicles will be operated.
- 21-3. Wash mud and soil from equipment at completion of trench to prevent crusting and drying of soil on equipment.
- 21-4. Use water to form crust on excavated soil windrow as it is formed.
- 21-5. Use water and dust palliative to form crust on excavated soil windrow as it is formed.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPES****High- Non-Caliche Areas**

- 21-6. Presoak with water and surfactant mixture using sprinklers or wobblers.
- 21-7. Presoak with water and surfactant mixture using water truck/pull.
- 21-8. Pre-water surface, pre-trench to 18" depth, soak soils via pre-trench prior to deep trenching.
- 21-9. Complete trenching, maintaining water as needed to prevent dust.

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Section 94 Handbook - 41

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**High - Caliche Areas**

- 21-10. Use water truck in conjunction with trenching machine.
- 21-11. Use spray nozzles mounted on trenching machine.
- 21-12. Use water truck with water/surfactant mixture.

**Moderate High - Non-Caliche Areas**

- 21-13. Presoak soil with water and tackifier mixture using sprinklers or wobblers.
- 21-14. Presoak soil with water and tackifier mixture using water truck/pull.
- 21-15. Pre-water surface, pre-trench to 18" depth, soak soils via pre-trench prior to deep trenching.
- 21-16. Complete trenching, maintaining water as needed to prevent dust.

**Moderate High - Caliche Areas**

- 21-17. Use water truck in conjunction with trenching machine.
- 21-18. Use spray nozzles mounted on trenching machine.
- 21-19. Use water truck with water/tackifier mixture.

**Moderate Low and Low - Non-Caliche Areas**

- 21-20. Presoak soil with water using sprinklers or wobblers.
- 21-21. Presoak with water, using water truck/pull.
- 21-22. Pre-water surface, pre-trench to 18" depth, soak soils via pre-trench prior to deep trenching.
- 21-23. Complete trenching, maintaining water as needed to prevent dust.

**Moderate Low and Low - Caliche Areas**

- 21-24. Use water truck in conjunction with trenching machine.
- 21-25. Use spray nozzles mounted on trenching machine.
- 21-26. Use water truck.

**BMP: TRENCHING (continued)**

CST 21

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Stabilize surface soils where trencher or excavator will operate	✓	✓	✓	✓
In caliche areas, use water truck in conjunction with trenching machine or excavator	✓	✓	✓	✓
In caliche areas, use spray nozzles mounted on trenching machine	✓	✓	✓	✓
Presoak with water and surfactant	✓			
Presoak with water and tackifier		✓		
Presoak with water			✓	✓
Form crust on excavated soil windrow	✓	✓	✓	✓

Section 94 Handbook - 43

Adopted 8/24/00

Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**Truck Loading**

**REQUIREMENTS**

- Stabilize material to limit emissions to opacity and visible plume requirements of Section 94.6.8.
- Cover all loads on public roadways.

**CONTROL MEASURES FOR ALL SOIL TYPES**

22-1. Empty loader bucket slowly.

22-2. Keep loader bucket close to the truck to minimize the drop height while dumping.

**CONTROL MEASURES FOR SPECIFIC SOIL TYPES**

**High**

22-3. Mix material with water and surfactant mixture prior to loading.

22-4. Spray material with water and surfactant mixture while loading.

**Moderate High**

22-5. Mix material with water and tackifier mixture prior to loading.

22-6. Spray material with water and tackifier mixture while loading.

**Moderate Low and Low**

22-7. Mix material with water prior to loading.

22-8. Spray material with water while loading.

**BMP: TRUCK LOADING (continued)**

CST 22

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Cover all loads	✓	✓	✓	✓
Empty loader slowly and minimize drop height while dumping	✓	✓	✓	✓
Mix material with water and surfactant mixture prior to loading and spray material while loading	✓			
Mix material with water and tackifier mixture prior to loading and spray material while loading		✓		
Mix material with water prior to loading and spray material with water while loading			✓	✓

Section 94 Handbook - 45

Adopted 8/24/00  
Air Pollution Control Regulations

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127

**BMP: TRUCK LOADING (continued)**

CST 22

**Particulate Emission Potential**

	High	Moderate High	Moderate Low	Low
Cover all loads	✓	✓	✓	✓
Empty loader slowly and minimize drop height while dumping	✓	✓	✓	✓
Mix material with water and surfactant mixture prior to loading and spray material while loading	✓			
Mix material with water and tackifier mixture prior to loading and spray material while loading		✓		
Mix material with water prior to loading and spray material with water while loading			✓	✓

Section 94 Handbook - 45

Adopted 8/24/00

*Air Pollution Control Regulations*

Clark County Health District, P.O. Box 3902, Las Vegas, NV 89127



**CLARK COUNTY**

**AIR QUALITY REGULATIONS**

3/26/03

**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 standards.

**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);

3/26/03

2

- (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 in the office of the Clark County Department of Air Quality Management.

3/26/03

3

94.3.4 Department or DAQM: means the Clark County Nevada, Department of Air Quality Management.

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 owners designee shall apply for and obtain a DUST CONTROL PERMIT from the Clark County Department of Air Quality Management.

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.

3/26/03

4

- 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 An application for a Dust Control Permit for a Construction project of fifty (50) acres or more in area 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)

3/26/03

5

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.
- 94.6 **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.

3/26/03

6

- 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 OF AIR QUALITY MANAGEMENT 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.

3/26/03

7

- 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 DAQM 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 DAQM for: failure to obtain a Dust Control Permit; failure to implement BEST MANAGEMENT PRACTICES; or failure to comply

3/26/03

8

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 DAQM.

- 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.



3/26/03

9

- 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 of Air Quality Management or any PERSON acting for the Department of Air Quality Management 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.

3/26/03

10

- 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 Clark County Department of Air Quality Management 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 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.

3/26/03

11

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.

3/26/03

12

- 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 as 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 of Air Quality Management.
  - (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.

3/26/03

14

- (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 Subsection 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

3/26/03

15

- (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.

3/26/03

16

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 DUST 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.



3/26/03

17

- (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:

3/26/03

18

- (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 intermittent 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.

3/26/03

19

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.

3/26/03

20

94.12.5 Soil Crust Determination (The Drop Ball Test):

- (a) Drop a steel ball with a diameter of 0.625 (5/8<sup>th</sup>) 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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History: Initial adoption: June 22, 2000  
Amended: March 18, 2003

**Amended 03/18/03**

CC Air Quality Regulation  
DAQM, 500 Grand Central Pkwy, LV 89155

94-20

BILL NO. 11-6-90-3

SUMMARY - An Ordinance to Amend Title 22, Chapter 22.04, to amend the Uniform Building Code to restrict construction of wood burning fireplaces.

ORDINANCE NO. 1249  
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 22, CHAPTER 22.04, TO AMEND THE UNIFORM BUILDING CODE TO RESTRICT CONSTRUCTION OF WOOD BURNING FIREPLACES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 22, Chapter 22.04 of the Clark County Code is hereby amended to add a new section which shall read as follows:

22.04.355 Fireplaces in New Construction. Chapter 37 amended. Chapter 37 of The Uniform Building Code is amended by adding a new section designated as Section 3708 which shall read as follows:

Section 3708: Fireplaces in New Construction and New Fireplaces in Existing Construction. Effective July 1, 1991, no fireplace shall be constructed in any residential dwelling unit in the unincorporated area of the Las Vegas Valley Hydrographic Basin at an elevation of less than 4000 feet above sea level unless it is one of the following:

- (a) A fireplace equipped with gas logs with a nationally recognized listing approved by the Building Official;
- (b) A dedicated natural gas burning: factory-built fireplace with a nationally recognized listing approved by the Building Official;
- (c) A dedicated woodburning factory-built fireplace

that conforms to the "Phase II Environmental Protection Agency Standards for Wood Heaters," as proscribed by NSPS, 40 CFR Part 60, Subpart AAA (emitting less than 7.5 grams per hour of particulate matter), as verified by a naturally recognized listing approved by the Building Official;

(d) A masonry fireplace that includes the installation of a woodburning insert which meets the standards described in Paragraph (3) of this Subsection and which is installed in accordance with the insert manufacturer's instructions; or

(e) A decorative electrical appliance with a nationally recognized listing approved by the Building Official.

SECTION 2. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof 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 Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 6th day of November, 1990.

PROPOSED BY Bruce L. Woodbury

PASSED on the 20th day of November, 1990.

VOTE:

AYES: Jay Bingham

Manuel J. Cortez

Thalia M. Dondero

Karen Hayes

William U. Pearson

Bruce L. Woodbury

NAYS: Paul J. Christensen

ABSTAINING: None

ABSENT: None

BOARD OF COUNTY COMMISSIONERS  
CLARK COUNTY, NEVADA

By *R. Wood*  
Chairman

ATTEST:

*Loretta Bowman*  
LORETTA BOWMAN, County Clerk

This ordinance shall be in force and effect from and after  
the 4th day of December, 1990.