

**CODE OF LAWS
OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,
TENNESSEE**

**CHAPTER 10.56
“AIR POLLUTION CONTROL”**

SECTION 10.56.010: Definitions

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

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

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit as determined below:

1. Actual emissions shall equal the average rate, in tons per year, at which the facility actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal operation. The Director may use a different time period upon determining that it is more representative of normal operation. Actual emissions shall be calculated using the facility's actual operating hours, production rates, and type of materials processed, stored or combusted during the selected time period;
2. The Director may presume that the source-specific allowable emissions for the facility are equivalent to the actual emissions of the facility; or
3. For any facility which has not begun normal operations on the particular date, actual emission shall equal the potential to emit.

"Administrator" means the Administrator of the United States Environmental Protection Agency or his designee.

"Air Pollutant" means any particulate matter or any gas or vapor or any combination thereof including any physical, chemical, biological, radioactive (including source material, special nuclear material and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air.

"Air Pollution" means the presence in the outdoor atmosphere of one or more air pollutants in such quantities, characteristics or duration as is or tends to be injurious to human health or welfare, or animal or plant life or health, or property, or would interfere with the enjoyment of life or property.

"ASME" means the American society of Mechanical Engineers.

"ASTM" means the American Society of Testing and Materials.

"Board" means the Metropolitan Board of Health.

"Breaching" means any conduit for the transport of products of combustion or processes to the atmosphere or to any intermediate device before being discharged into the atmosphere. Such term does not include the chimney or stack.

"Cleaning Fires" means the act of removing ashes from the fuel bed or furnace.

"Continuous Monitoring" means the sampling and analysis of air pollutants in a continuous or timed sequence, using techniques which will adequately measure actual emission levels or ambient concentrations on a continuous basis.

"Department" means the Department of Health of the Metropolitan Government, including the Board, agents, employees and Divisions.

"Director" means the chief administrative officer of the Metropolitan Board of Health or his designated representative.

"Emissions" means the act of releasing or discharging air pollutants into the ambient air from source.

"Existing Source" means any equipment, machine, device, article, contrivance or installation which was in existence on the effective date of this Chapter, except that any existing equipment, machine, device, article, contrivance or installation which is altered, replaced or rebuilt that increases the amount of air pollutants emitted by such source or which results in the emission of any air pollutant not previously emitted shall be reclassified as a new source.

"Fuel-Burning Equipment" means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.

"Fugitive Dust" means any solid, airborne particulate matter emitted from any source other than through a stack.

"Hand-Fired Fuel-Burning Equipment" means fuel-burning equipment in which fresh fuel is manually introduced directly into the combustion chamber but not including fireplaces.

"Hazardous Material" means any pollutant which may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness and has been so defined in the Federal Register.

"Incinerator" means any equipment, device or contrivance used for the destruction of refuse by burning, and all appurtenances thereto.

"Internal Combustion Engine" means any engine in which the combustion of gaseous, liquid or pulverized solid fuel takes place within one or more cylinders.

"Legally Enforceable" means all limitations and conditions which are enforceable by the Director and the Administrator, which includes all provisions of this Chapter, any provisions of the State Implementation Plan, and any permit requirements.

"Major Modification" means any physical alteration of or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulations under the Clean Air Act. Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone. A physical alteration of 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 an 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 Clean Air Act;
4. An increase in the hours of operation or in the production rate, unless such change is prohibited by an enforceable permit condition; or
5. Any changes in ownership at a stationary source.

"Major Source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in Paragraph (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e, all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

1. A major source under Section 112 of the Act, which is defined as:
 - a. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule.
 - b. For radionuclides, major sources shall have the meaning specified by the Administrator by rule.
2. A major stationary source of air pollutants that directly emits or has the potential to emit, 100 tpy or more of any air pollutant under the Clean Air Act (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to one of the following categories of stationary sources:
 - a. Coal cleaning plants (with thermal dryers);
 - b. Kraft pulp mills;
 - c. Portland cement plants;
 - d. Primary zinc smelters;
 - e. Iron and steel mills;
 - f. Primary aluminum ore reduction plants;
 - g. Primary copper smelters;

- h. Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - i. Hydrofluoric, sulfuric, or nitric acid plants;
 - j. Petroleum refineries;
 - k. Lime plants;
 - l. Phosphate rock processing plants;
 - m. Coke oven batteries;
 - n. Sulfur recovery plants;
 - o. Carbon black plants (furnace process);
 - p. Primary lead smelters;
 - q. Fuel conversion plants;
 - r. Sintering plants;
 - s. Secondary metal production plants;
 - t. Chemical process plants;
 - u. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - v. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - w. Taconite ore processing plants;
 - x. Glass fiber processing plants;
 - y. Charcoal production plants;
 - z. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - aa. All other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.
3. Any stationary source with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen.

"Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment, or the failure of a process to operate in a normal or usual manner; however, such failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable improper function or preventable equipment breakdown shall not be considered a malfunction.

"Mechanical Fuel-Burning Equipment" means fuel-burning equipment incorporating means by which fuel is mechanically introduced into the combustion chamber.

"Minor Stationary Source" means any stationary source that is not a major stationary source and is required to obtain a construction permit, in accordance with the provisions of Sections 10.56.020. through 10.56.070.

"Mist" means a suspension of any finely divided liquid in any gas or atmosphere.

"Modification" means any physical change in, or change in the method of operation, of a stationary source which increases the amount of any air pollutant emitted by such source or which results in emissions of any air pollution previously not emitted.

"National Emission Standard for Hazardous Air Pollutant Sources (NESHAPS)" means

any stationary source for which a national emission standard for hazardous air pollutants has been published in the Code of Federal Regulations.

"New Source Performance Standards (NSPS) Source" means any stationary source containing a facility for which the construction, modification or reconstruction commenced after the date the standard of performance for new stationary sources was published in the Code of Federal Regulations.

"Nonattainment Area" means a geographical area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Director to be reliable and which are approved by the Federal Environmental Protection Agency) to exceed any national ambient air quality standard for any air pollutant.

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

"Open Burning" means any fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney.

"Particulate Matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than one hundred micrometers.

"Particulate Matter Emissions" means all finely divided solid or liquid materials, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in Title 40, Code of Federal Regulations, Chapter 1, as the same may be amended or recodified.

"Permit Unit" means any article, machine or process equipment or other contrivance of which air pollutants emanate or are emitted. A permit unit is any singular continuous operation.

"Permitted Allowable Emission" means the emission rate of a source calculated at full design capacity while operating 8760 hours per year or an allowable emission rate specified in a legally enforceable construction or operating permit.

"Person" means any individual, natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, municipal corporation, city, county, municipality, district or other political subdivision, department, bureau, agency or instrumentality of federal, state or local government, or other entity recognized by law as the subject of rights and duties, and any officer, agent or employee thereof. The masculine, feminine, singular or plural is included in any circumstances.

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by a reference method based on Appendix J of Title 40, Code of Federal Regulations, Part 50, as the same may be amended or recodified, or by an equivalent method designated in accordance with Part 53 of Title 40, Code of Federal Regulations, as the same may be amended or recodified.

"PM₁₀ Emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers emitted to the ambient air as measured

by an applicable reference method.

"Potential Emissions" 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 pollutant 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 legally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source unless otherwise provided in the Metropolitan Health Department, Pollution Control Division's, Regulation No. 13, "Part 70 - Operating Permit Program."

"Prevention of Significant Deterioration (PSD)" means the duty to preserve air quality in the manner prescribed in Part C, Section 160, et seq., of the Clean Air Act of 1977, as codified in 41 USCA 7470 through 7479, as amended.

"Process Equipment" means any equipment, device or contrivance for changing any materials whatsoever or for storage or handling of any materials, the use or existence of which may cause any discharge of air pollutants into the open air but not including that equipment specifically defined as "fuel-burning equipment" or "incinerator" in this Section.

"Process Weight" means the total weight of all materials introduced into any specific process that may cause any emission of particulate matter, but excluding liquid and gaseous fuels and combustion air.

"Refuse" means and is the inclusive term for solid waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial solid waste or domestic solid waste, trees or shrub leaves, limbs, trunks, roots or droppings or trimmings, grass clippings, brick, plaster or other waste resulting from the demolition, alteration or construction of buildings or structures, accumulated waste material, cans, containers, tires, junk or other such substances which may become a nuisance.

"Regulated Pollutant" means each of the following:

1. Nitrogen oxides or any volatile organic compound;
2. Any pollutant regulated under Section 111 or 112 of the Clean Air Act as amended;
3. Any pollutant for which a national primary ambient air quality standard has been promulgated; and
4. Any Class I or Class II substance listed pursuant to Section 602 of the Clean Air Act as amended.

"Ringlemann Chart" means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

"Smoke" means small gasborne or airborne particulates resulting from combustion operations and consisting of carbon and ash and other matter present in sufficient quantity to be observable.

"Source" means any property, real or personal, which emits or may emit any air pollutant.

"Stack" means any conduit, duct, vent, flue or opening of any kind whatsoever arranged to conduct any products to the atmosphere. Such term does not include breeching.

"Standard Conditions" means a gas temperature of sixty-eight degrees Fahrenheit (twenty degrees Centigrade), and a gas pressure of 29.92 inches mercury absolute.

"Stoker" means any mechanical device that feeds solid fuel uniformly onto a grate or hearth within a furnace.

"Total Suspended Particulate" means particulate matter as measured by the method described in Appendix B of Title 40, Code of Federal Regulations, Part 50, as the same may be amended or recodified.

"Uniform Administration Procedures Act" means Tennessee Code Annotated Title 4, Chapter 5. The term "agency" as used in the Uniform Administrative Procedures Act shall also include the Metropolitan Board of Health and the Metropolitan Health Department.

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

1. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: Methane; ethane; acetone; volatile methyl siloxanes (VMS); Parachlorobenzotrifluoride (PCBTP); methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CF-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CF-22); trifluoromethane (FC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a), and perfluorocarbon compounds which fall into these classes:
 - a. Cyclic, branched, or linear, completely fluorinated alkanes;
 - b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 - c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 - d. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
2. For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in the approved State Implementation Plan (SIP) or 40 CFR Part 60,

Appendix A, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibility-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the enforcement authority.

3. As a precondition to excluding these compounds as VOC or at any time thereafter, the enforcement authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the enforceable authority, the amount of negligibly-reactive compounds in the source's emissions.
4. For purposes of Federal enforcement for a specific source, the EPA shall use the test methods specified in the applicable EPA-approved SIP, in a permit issued pursuant to a program approved or promulgated under Title V of the Act, or under 40 CFR Part 51, Subpart I or Appendix S, or under 40 CFR Parts 52 or 60. The EPA shall not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the above provisions.