

CHAPTER ONE

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DEFINITIONS

- 1.1 "Administrator" shall mean the Administrator of the Guam Environmental Protection Agency or his designee.
- 1.2 "Agency" shall mean the Guam Environmental Protection Agency or designated employee thereof.
- 1.3 "Air Contaminant" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
- 1.4 "Air Pollution" shall mean the presence in the ambient air of one or more contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, property, or interferes with the enjoyment of life or property.
- 1.5 "Ambient Air" means the outdoor air or atmosphere, external to buildings, stacks, or exterior ducts, which surrounds the earth.
- 1.6 "Applicant" shall mean owner or designated representative.
- 1.7 "Board" shall mean the Board of the Guam Environmental Protection Agency.
- 1.8 "Buffer Zone" shall mean the area surrounding a stationary source, access to which is effectively prohibited to persons other than employees of the stationary source, on the date of adoption of these regulations. The boundaries and areas outside the buffer zone shall be used for ambient air quality sampling.
- 1.9 "Complex Sources" shall mean any stationary source, including buildings, structures, or installations, which affect air quality by indirect means, primarily by means of mobile source activity associated with them. For the purpose of these regulations "Complex Sources" shall be defined as, but not restricted to, the following:

(a) Projects requiring Environmental Impact Statements or Assessments such as highways and airports;

(b) Parking facilities with a capacity of five hundred (500) vehicles or over two (2) acres of surface area;

(c) Drive-in facilities;

(d) Commercial buildings with over one-hundred thousand (100,000) square feet of gross leas

(e) Sports complexes with a capacity of over three thousand (3,000) persons;

(f) Amusement parks and other recreational facilities with a capacity of over three thousand (3,000) persons;

(g) Commercial, industrial, institutional or public buildings employing and accommodating a total of more than five hundred (500) persons in any eight (8) hour period;

(h) Hotels, motels and multi-family dwellings with accommodations for more than one hundred (100) persons;

(i) Residential subdivisions consisting of over fifty (50) dwelling units;

(j) Planned Development Districts.

1.10 "Existing Source" shall mean those point and complex sources which emit air contaminants from equipment, machines, devices, articles, contrivances or installations which are in existence on the effective date of these regulations; except, any point and complex source or their existing equipment, machines, devices, articles, contrivances or installations which are modified after the effective date of these regulations.

1.11 "Fuel-Burning Equipment" shall mean 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.

1.12 "Fugitive Dust" shall mean solid air-borne particulate matter emitted from any source other than a flue or stack.

1.13 "Garbage" shall mean animal and vegetable matter such as that originating in homes, restaurants, and food service and processing establishments.

1.14 "Mobile Source" shall mean any vehicular air contaminant source, including but not limited to automobiles, trucks, buses, other motor vehicles, aircraft, ships, boats and other waterborne craft, but not including any source mounted on a vehicle whether such mounting is permanent or temporary, which source is not used to supply power to the vehicle.

1.15 "Modify" shall mean any physical change in, or change in method or hours of operation of an existing facility which changes the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted, including the installation, alteration, or deletion of air pollution control devices, except that routine maintenance, repair and replacement shall not be considered physical changes.

1.16 "Multiple-Chamber Incinerator" shall mean any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning and consisting of three or more refractory lined combustion furnaces in series which are physically separated by refractory walls and inter-connected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

1.17 "New Source" shall mean those point and complex sources including their equipment, machines, devices, articles, contrivances, or installations built or installed or for which a binding agreement to construct or modify is entered into after the date

1.17 (continued)

on which these amended regulations are proposed, and any point or complex source moved to another premise involving a change of address, or which is purchased and is to be operated by a new owner, or which is to be operated by a new lessee after the effective date of these regulations.

1.20 "Opacity" shall mean a state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

1.21 "Owner or Operator" shall mean any person who owns, leases, operates, controls, or supervises an effected facility, article, machine, equipment, or other source of air contaminant. With sources where a binding agreement to construct or modify is entered into, the contractor is also liable for violation of these regulations during construction of the facility.

1.22 "Open Burning" shall mean the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct, or chimney determined to be adequate by the Administrator.

1.23 "Particulate Matter" shall mean any material, except water in uncombined form, that is or has become airborne and exists as a liquid or a solid at standard conditions.

1.24 "Person" shall mean any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this Territory or political subdivision or agency thereof or any legal successor, representative, agent, or agency of the foregoing.

1.25 "Point Source" shall mean any source which emits air contaminants through a stack or chimney or from processing, handling, or storage of materials.

1.26 "Refuse" shall mean any combustible waste material, trade waste, or garbage containing carbon in a free or combined state.

1.27 "Ringelmann Chart" shall mean the chart, published and described in the U.S. Bureau of Mines Information Circular 8333.

1.28 "Road" shall mean any public or private access or easement used for motor vehicle travel.

1.29 "Seal" shall mean to protect a surface so that it is secure from erosion.

1.30 "Soiling Index" shall mean a measure of the soiling properties of suspended particles in air determined by drawing a measured volume of air through a known area of Whatman No. 4 filter paper for a measured period of time, expressed as COH's/1,000 linear feet. "COH" shall mean coefficient of haze, a unit of measurement of visibility interference.

1.31 "Source" shall mean any property, public or private, real or personal, or person contributing to air pollution.

1.32 "Stack or Chimney" shall mean any flue, conduit, or duct arranged to conduct emissions.

1.33 "Standard and Regulations" shall mean the Guam Air Pollution Control Standards and Regulations or applicable Federal Standards and Regulations.

1.34 "Stationary Source" shall mean all air contaminant sources, except mobile sources, and shall include both complex and point sources.

1.35 "Excess Emission" shall mean an emission rate which exceeds any applicable emission limitation prescribed by Chapters 7, 9, 10, 11, and 13 of the Standards and Regulations.

1.36 "Malfunction" shall mean any sudden and unavoidable failure of air pollution control equipment or process equipment, or a process, or a unit operation - to operate in a normal and usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

1.37 "Start-Up" shall mean the setting into operation of any stationary source, air pollution control equipment or process equipment for any purpose, except routine phasing in of process equipment.

1.38 "Shutdown" shall mean the cessation of operation of any stationary source, air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

1.39 "Annual Average Capacity Factor" shall mean the ratio of the average load on a machine or equipment for the period of one (1) year (8760 hrs) to the capacity rating of the machine or equipment.

1.40 "CFR" shall mean the Code of Federal Regulations.

1.41 "Process Industries" shall mean industries which involve physical and chemical changes of the material as it passes through the different process units or operation stages, as a result of which, air contaminants may be emitted to the atmosphere. Process

industries include but are not limited to rock processing industries, feed mills, petroleum refining, portland cement plants, concrete batching plant, asphaltic concrete batching plants, and concrete block

1.42 "New Motor Vehicle" shall mean any self-propelled vehicle manufactured on the current calendar or model year to be used on public roads and highways for the purpose of transportation or conveyance of material.

1.43 "New Motor Vehicle Engines" shall mean engines manufactured on the current calendar or model year to be used for providing power to motor vehicles.

CHAPTER TWO

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" AMBIENT AIR QUALITY STANDARDS

2.1 The following air quality standards are the desirable levels of ambient air quality for the Territory of Guam. Based on present knowledge, these levels are not expected to produce health hazards or impairment, injury to agricultural crops and livestock, damage to or deterioration of property, and hazards to air and ground transportation, or in any manner, interfere with the protection of the public welfare.

2.2 AMBIENT AIR QUALITY STANDARDS*

Pollutant	Level not to exceed	****Remarks
Sulfur oxides	60 micrograms/m ³ (0.02 ppm)	a
	**365 micrograms/m ³ (0.12 ppm)	b
	1,300 micrograms/m ³ (0.5 ppm)	e
	650 micrograms/m ³ (0.25 ppm)	g
Particulate matter	60 micrograms/m ³	c
	150 micrograms/m ³	b
	**360 micrograms/m ³	d
Carbon monoxide	10 milligrams/m ³ (9 ppm)	d
	40 milligrams/m ³ (35 ppm)	e
Photochemical oxidants	160 micrograms/m ³ (0.08 ppm)	e
Hydrocarbons	160 micrograms/m ³ (0.24 ppm)	f
Nitrogen oxides	100 micrograms/m ³ (0.05 ppm)	a

*These standards are the same as the existing National Secondary Ambient Air Quality Standards except as otherwise noted.

**National Primary Standard

***Extrapolated Standard from 150 ug/m³ (b)

****REMARKS

- a Annual arithmetic mean
- b Maximum 24-hour concentration not to be exceeded more than once a year
- c Annual geometric mean
- d Maximum 8-hour concentration not to be exceeded more than once a year
- e Maximum 1-hour concentration not to be exceeded more than once a year
- f Maximum 3-hour concentration not to be exceeded more than once a year
- g Maximum 4-hour concentration not to be exceeded more than once a year

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2.3 All measurements of air quality are corrected to a reference temperature of 25°C and to a reference pressure of 760 millimeters of mercury (1,013.2 millibar).

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2.4 The promulgation of these ambient air quality standards shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of the Territory of Guam.

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CHAPTER THREE

PERMITS

3.1

Permits Required:

(a) PERMIT TO CONSTRUCT

(1) No person shall cause or allow the construction or modification of any stationary source without first obtaining a Permit to Construct from the Administrator as to the location and design of such stationary source to comply with applicable regulations and ambient air quality standards. This permit is for construction or modification only and shall be terminated upon start up of operation of the source.

(b) PERMIT TO OPERATE

(1) No person shall cause or allow the operation of a new stationary source without obtaining a permit to operate from the Administrator. Application shall be made to the Administrator at least thirty (30) days prior to the anticipated date of operation.

(2) No person shall cause or allow the use or operation of any existing stationary source without obtaining a permit to operate from the Administrator.

(3) No owner or operator shall cause or allow the operation of a new or existing stationary source if the Administrator denies or revokes a permit to operate.

(4) The permit to operate shall be valid for 365 days or for such shorter periods as the Agency may specify in the operating permit as is necessary to accomplish the purpose of the Standards and Regulations. Applications for renewal of a permit to operate shall be submitted to the Agency at least sixty (60) days prior to the expiration of the permit..

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3.2^b

Exemptions:

Permits to construct and to operate shall not be required for:

(a) The installation or alteration of an air contaminant detector, air contaminant recorder, combustion controller or combustion shutoff.

(b) Air conditioning or ventilating systems not designed to remove air contaminants generated by or released from equipment.

(c) Fuel burning equipment, other than smokehouse generators, which uses gas as a fuel for space heating, air conditioning or heating water; or is used in a private dwelling or has a Btu input of not more than 350,000 Btu per hour; or is used for space heating, other than boilers and hot air furnaces.

(d) Steam generators, steam superheaters, water boilers, water heaters, and closed heat transfer systems that have a maximum gross heat input rate of less than 25 million Btu per hour, and are fired exclusively with one of the following:

(1) Natural or synthetic gas

(2) Liquified petroleum gas

(3) A combination of natural, synthetic, and/or liquid petroleum gas.

(e) Mobile internal combustion engines.

(f) Laboratory equipment used exclusively for chemical or physical analyses.

(g) Other sources of minor significance specified by Administrator.

3.3

Applications:

(a) Application for Permit to Construct or Permit to Operate shall be made by the source owner, operator, or other responsible person on forms furnished by the Administrator, and shall be accompanied by two copies of complete data, siting information including vicinity maps and plot plans, the dimensions and boundaries of the buffer zone, plan descriptions, specifications, drawings and other detailed information necessary to determine how the new source or existing source is designed and in what manner it will be operated and controlled.

(b) If the applicant is a partnership or group other than a corporation, the application shall be made by one individual who is a member of the group. If the applicant is a corporation, the application shall be made by an officer of the corporation. If the applicant is a political subdivision or governmental agency of this Territory, the application shall be made by its Administrator, Director, or other responsible person.

(c) A separate application is required for each source. To aid in evaluating the source, supplemental applications may be required by the Administrator.

(d) Each application shall be signed by the applicant. The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for the construction, modification and/or use of the source concerned in accordance with the regulations.

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3.4" Standards for Approval, Conditional Approval, or Denial of Permit Applications.

(a) APPROVAL:

The Administrator shall not approve an application for a Permit to Construct or for a Permit to Operate, unless the applicant shows to the satisfaction of the Administrator that:

(1) The source is designated and built and will be maintained and operated so as not to violate any of the applicable regulations.

(2) The source is designed, built, equipped, operated and maintained in accordance with the best available control technology so as to reduce emissions to a level that is within permissible emission and ambient air quality standards.

(3) The source will not endanger the maintenance or attainment of any applicable ambient air quality standard either through direct emissions or due to indirect emissions resulting from activity associated with the source.

(4) Adequate precautions will be taken to prevent the emission of fugitive dust and to prevent the violation of any ambient air quality standard during construction of the source.

(5) The source has been constructed or modified and will be operated and maintained in accordance with the requirements and conditions contained in the Permit to Construct and the Permit to Operate.

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" (b) CONDITIONAL APPROVAL

The Administrator may grant conditional approval to construct, modify, or operate if it appears likely from the information submitted in the permit application, the source will satisfy the requirements of Section 3.4(a), but testing, inspection, inspection or sampling is required to verify that the requirements of Section 3.4(a) are met and/or maintained. To aid in this verification, the Administrator may:

(1) Require the source owner or operator to provide such facilities as are necessary for sampling and testing to determine the air pollutants discharged into the atmosphere. These sampling and testing facilities may consist of the following:

- (a) Sampling ports of a size, number and location as specified by the Administrator.
- (b) Safe access to each port.
- (c) Instrumentation to monitor and record emission data.
- (d) Any other sampling and testing facilities specified by the Administrator.

(2) Require performance testing as outlined in Section 3.6.

(3) Make any necessary inspections, samples or tests.

(4) Specify conditions to be met which will bring the operation of any source within the approval requirements.

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(c) DENIAL

(1) The Administrator shall deny an application for a Permit to Construct or for a Permit to Operate if: The information submitted shows that the source described in the application cannot meet the requirements of Section 3.4 (a) or (b).

(2) The Administrator shall deny an application for a Permit to Operate if the source has not been constructed or modified in accordance with the approved application, plans, or other limiting conditions of the Permit to Construct.

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3.5

Action on Applications:

(a) Before acting on an application for a Permit to

Construct or for a Permit to Operate the Administrator may require the applicant to furnish additional information, plans or specification

(b) All complex sources require official notice of an application for a Permit to Construct to afford opportunity for public comment. In addition, a public hearing may be held on any application for a Permit to Construct a complex or point source if requested by the Administrator. Notices shall be by prominent advertisement and shall specify a location at which the information submitted by the applicant, and the Agency's analysis and proposed approval or disapproval is available for public inspection. The notice shall allow at least a thirty (30) day period for submittal of public comment. The Administrator shall forward a copy of all notices, all public comments, and the transcript of all hearings on complex or point sources to the Region IX Office of the United States Environmental Protection Agency.

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(c) The Administrator shall act within ninety (90) days on an application for a Permit to Construct and within sixty (60) days on an application for a Permit to Operate and shall notify the applicant in writing of his approval, conditional approval or denial of the application. Should additional information, plans or specifications be requested, the ninety (90) or sixty (60) day limitation will begin on the latest date of receipt of requested data.

(d) Incomplete applications shall not be acted upon.

(e) If an application is conditionally approved or denied the Administrator shall set forth his reasons for conditional approval or denial in a written notice to the applicant.

(f) The Administrator shall not further consider the application unless the applicant has complied with the objections or requirements specified by the Administrator as his reasons for conditional approval or denial of the permit application.

(g) The applicant may reapply if the facility is redesigned to attain compliance with the Standards and Regulations.

(h) The applicant may request the Administrator to reconsider the application by submitting written evidence or information (in duplicate), within thirty (30) days of the conditional approval or denial of the application, which shows the source will comply with the Standards and Regulations.

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(i) The applicant may appeal the Administrator's decision to the Board of Directors of the Agency within thirty (30) days after the conditional approval or denial of the permit application.

(j) If the Administrator issues to the applicant a conditional approval of the application, commencing work under a Permit to Construct, or operating under a Permit to Operate shall be deemed acceptance by the applicant of all conditions so specified.

(k) Any permit to construct or to operate shall be subject to revision in response to changes in the applicable law, Regulations or other factors affecting the compliance of the source or control facility with the standards or conditions of the original permit.

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3.6

Performance Testing:

(a) If required by the Administrator, the source owner or operator shall conduct performance tests in order to determine compliance with applicable Standards and Regulations in accordance with test methods approved by the Administrator, the tests being made at the expense of the applicant. The Administrator may monitor performance tests conducted by the applicant and may conduct additional performance tests.

(b) That within sixty (60) days after achieving the maximum production rate at which the affected facility will be operated, but not later than one hundred and eighty (180) days after the initial start-up of such facility the owner or operator of such facility shall conduct performance test(s) and submit to the Administrator a written report of the results of such performance test(s), within thirty (30) days.

Revoking of Permits:

(a) A Permit to Construct is revoked if the construction or modification is not begun within one (1) year of the date of issuance or if the work involved in the construction or modification is suspended for one (1) year or more after the date of issuance, unless the applicant secures an extension of the expiration date by written request to the Administrator stating the reasons for the request. Extensions may be granted in writing for a period of not more than six (6) months.

(b) The Administrator shall revoke a Permit to Construct if the construction or modification is not in compliance with the approved application, plans, or limiting conditions of the permit.

(c) The Administrator shall revoke a Permit to Operate for willful or continued violation of the Standards and Regulations or permit conditions.

(d) Revocation of a Permit to Construct or of a Permit to Operate shall become final ten (10) days after service of Notice on the holder of the Certificate.

(e) A permit to operate which has been revoked pursuant to these regulations shall be surrendered forthwith to the Administrator

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3.8

Transfer of Permits:

A Permit to Construct or a Permit to Operate shall not be transferrable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

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3.9

Reporting Information:

No owner or operator shall cause or permit the operation of any source without furnishing such performance tests results, information, and records as may be required by the Administrator in the applicable Regulations.

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3.10 Responsibility of the Permit Holder:

Possession of a Permit to Construct or a Permit to Operate s
not relieve any person of the responsibility to comply with the applica
emission limitations, permit conditions, air quality standards, or other
regulations.

3.11 Reporting Discontinuance or Dismantlement:

It shall be required of that person to which a Permit to Oper
was issued to report to the Administrator within thirty (30) days of the
discontinuance or dismantlement of that article, machine, equipment, or
other contrivance for which the Permit to Operate had been issued. The
Permit to Operate shall then be surrendered forthwith to the Administra

3.12 Posting of Permits:

Upon granting an approval for a Permit to Construct or for a
Permit to Operate, the Administrator shall issue to the applicant a cer
tificate referred to as a Permit to Construct or as a Permit to Operate
which shall be posted in a conspicuous place at or near the article,
machine, equipment or other contrivance for which the permit was issued

3.13 Falsifying or Altering Permits:

No person shall deface, alter, forge, counterfeit, or falsify
a Permit to Construct or a Permit to Operate.

1 added thereto.

2 (e) If an application for permit renewal is submitted more than
3 thirty (30) days after the due date, the Administrator may delay issuance of
4 the permit renewal beyond the expiration date of the existing permit,
5 thereby suspending permission to the owner or operator of the air
6 pollution emission source of any rights granted in the air pollution control
7 permit to emit air pollution.

8 **Section 1104.26. Permit Compliance.** A person shall not violate a
9 permit condition or term in an operating permit that has been issued under
10 an EPA approved alternative operating permit program adopted by Guam
11 pursuant to the exemption authorized in 40 CFR Part 69.13.
12

13 **Section 1105. - Special Preconstruction Requirements.**

14 **Section 1105.1. Definitions.** For purposes of this Section, the
15 following definitions apply, unless clearly designated otherwise:

16 (a) "*Actual emissions*" means the actual rate of emissions of a
17 pollutant from an emissions unit. In general, actual emissions as of a
18 particular date shall equal the average rate, in tons per year, at which the
19 unit actually emitted the pollutant during a two-year period which
20 precedes the particular date and which is representative of normal source
21 operation. The Administrator shall allow the use of a different time period
22 upon a determination that it is more representative of normal source
23 operation. Actual emissions shall be calculated using the unit's actual
24 operating hours, production rates, and types of materials processed, stored,
25 or combusted during the selected time period. The Administrator may

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CHAPTER FOUR

MONITORING, RECORDS, AND REPORTING

4.1 The Administrator may require the owner or operator of any air contaminant sources to install, use, and maintain such monitoring equipment, sample such emissions in accordance with methods as the Administrator shall prescribe, establish and maintain such records, and make such periodic emission reports as required in Section 4.2.

(a) The owner or operator of any stationary source shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emissions limitations or other requirements.

(b) The information recorded shall be summarized each month and reported to the Administrator, on forms furnished by the Administrator, and shall be submitted within fifteen (15) days after the end of the month, except that the initial reporting period shall commence on the date the Administrator issues notification of the record-keeping requirements.

(c) Information recorded by the owner or operator and copies of the summarizing reports submitted to the Administrator shall be retained by the owner or operator for two years after the date on which the pertinent report is submitted.

(d) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other requirements and will be made available to the public during normal business hours at the Agency.

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4.3 In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shutdown such equipment shall be reported to the Administrator in writing at least twenty-four (24) hours prior to the planned shutdown. Such prior notice shall include, but is not limited to the following:

(a) Identification of the specific facility to be taken out of service as well as its location and permit number.

(b) The expected length of time that the air pollution control equipment will be out of service.

(c) The nature and quantity of emissions of air contaminant likely to occur during the shutdown period.

(d) Measures such as the use of off-shift labor and equipment that will be taken to minimize the length of the shutdown period.

(e) The reasons that it would be impossible or impractical to shutdown the source operation during the maintenance period.

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4.4 In the event that any emission source, air pollution control equipment, or related facility malfunctions, breaks down or will be shutdown in such a manner as to cause excess emission of air contaminants, it is in violation of these regulations and subject to prosecution. In order to enable the Administrator to carry out his statutory duties, the owner or operator of the stationary source is required to furnish the Agency with the following information within ten (10) days: (1) identification of emission points; (2) the magnitude of the excess emissions; (3) the identity of the process or control equipment causing excess emissions; (4) the cause and nature of excess emissions; and (5) a description of the steps taken by the owner or operator of the subject stationary source to remedy the situation causing the emissions, prevent a recurrence and limit the excess emissions. Nothing in the regulation relieves the source of its obligation to attain and maintain the national ambient air quality standards nor precludes the Administrator from initiating any appropriate actions under Sections 57106, 57107, and 57108 of the Guam Air Pollution Control Act (Public Law 10-74).

CHAPTER FIVE

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SAMPLING AND TESTING METHODS.

5.1 All sampling and testing shall be made and the results calculated in accordance with procedures approved by the Administrator.

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5.2 The Administrator may conduct tests of emissions of air contaminants from any source. Upon request of the Administrator the person responsible for the source to be tested shall provide assistance as necessary, including personnel, 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.

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5.3

Ambient air quality sampling shall be conducted at the boundaries of a buffer zone. The boundaries and dimensions of this buffer zone shall be submitted by the owner or operator on an accurate plot plan of the property and approved by the Administrator. The owner or operator of an existing stationary source must submit this information within forty-five (45) days of the effective date of these Standards and Regulations.

CHAPTER SIX

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CONTROL OF OPEN BURNING

6.1 No person shall dispose of combustible refuse by open burning, or cause, suffer, allow, or permit open burning of refuse including grass weeds, wire, twigs, branches, insulation, vehicle bodies and their contents, paper, garbage, tires, waste materials, tar products, rubber products, oil, and similar smoke producing materials, within the territorial limits of Guam. In areas where no public or commercial refuse collection service is available on the effective date of this regulation open burning of refuse on residential premises, or refuse originating from dwelling units on premises, shall be allowed provided such burning does not violate any existing laws of the Territory of Guam, until such refuse collection becomes available.

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6.2 Exceptions herefrom may be allowed upon application and approval by the Administrator provided the burning is not prohibited by or is conducted in compliance with, other applicable laws, ordinances and regulations. Exception to conduct open burning under the provision of this regulation does not excuse a person from the consequences, damages or injuries which may result therefrom. The following are exceptions for which application may be made:

(a) Fires purposely set for the purpose of prevention of a fire hazard which cannot be abated by any other means.

(b) Fires set for instruction in the method of fighting fires.

(c) Fires for ceremonial and recreational purposes.

(d) The burning of hydrocarbons which must be wasted through the use of atmospheric flares or open burning.

(e) Fires for prevention or control of disease or pests.

(f) Fires for the disposal of dangerous materials, where there is no alternate method of disposal.

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(g) The burning of trees, brush, grass and other vegetable matter in clearing of land, right-of-way maintenance operations and agricultural crop burning is permitted under the following conditions:

(1) The location of burning must not be within 500 feet of an occupied residence other than those located on the property on which the burning is conducted.

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(2) The burning must not be conducted within 500 feet of any highway or road, except those privately owned and used, and in any event must be controlled so that a traffic hazard is not created.

(3) Oils, rubber or other similar material which produce unreasonable amounts of air contaminants may not be burned.

10/12/79 (4) The burning shall be performed between 9:00 AM (standard time) and one hour before sunset. -

(5) Meteorological conditions within the vicinity of the burning will allow good and proper diffusion and dispersion of air pollutants.

(6) The piles of materials to be burned shall be of such size that the burning will be completed within the designated time given in Section 6.2(g)(4).

(7) The moisture content and composition of the materials to be burned shall be favorable to good burning which will minimize air pollution.

(8) The starter fuel and materials to be ignited shall not emit excessive visible emissions when burned.

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6.3 Nothing in this Section shall be construed to prohibit or make unlawful the construction and use of barbecue pits, grills, or outdoor fireplaces for the preparation of food for consumption by individuals, nor shall any permit from the Administrator be required therefor.

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CHAPTER SEVEN

CONTROL OF PARTICULATE EMISSION

A. Process Industries

7.1 No person shall cause, suffer, allow, or permit the emission of particulate matter in any one hour from any process industry in excess of the amount shown in Table I for the process weight rate allocated to such source.

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7.2 Process weight per hour is the total weight of all materials introduced into any specific process that may cause any discharge of particulate matter. Solid fuels charges will be considered as part of the process weight; but liquid and gaseous fuels and combustion air will not. For a cyclical or batch operation, the process weight per hour will be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour will be derived by dividing the process weight for a typical period of time.

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7.3 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 regulation, the interpretation that results in the minimum value for allowable emission shall apply.

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7.4

For purposes of this 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 that passes through a stack or stacks.

10/12/79

TABLE I

PARTICULATE EMISSION ALLOWABLE BASED ON PROCESS WEIGHT

Process Weight Rate (lbs./hr.)	Emission Rate (lbs./hr.)
50	0.36
100	0.55
500	1.53
1,000	2.25
5,000	6.34
10,000	9.73
20,000	14.99
60,000	29.60
80,000	31.19
120,000	33.28
160,000	34.85
200,000	36.11
400,000	40.35
1,000,000	46.72

Interpolation of the data in Table I for the process weight rates up to 60,000 lbs./hr. shall be accomplished by the use of the equation:

$$E = 3.59 p^{0.62} \quad p \leq 30 \text{ tons/hr.}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs./hr. shall be accomplished by use of the equation:

$$E = 17.31 p^{0.16} \quad p > 30 \text{ tons/hr.}$$

Where: E = Emissions in pounds per hour.

P = Process weight rate in tons per hour.

10/12/79

B. Fuel Burning Installations

7.5 No source shall cause, suffer, allow, or permit the emission of particulate matter resulting from the combustion of fuel in excess of the quantity set forth in the following table:

Operating Rate in Million BTU's per hour	Maximum allowable emission of particulate in pounds per million BTU's heat input
5	0.70
10	0.60
100	0.35
250	0.28
500	0.24
1,000	0.21

(a) For heat input greater than 1 million BTU per hour but less than 1000 million BTU's per hour, the allowable emissions shall be calculated using the following equation:

$$Y = 1.02X - 0.231$$

X = Operating rate in million BTU's per hour

Y = Allowable rate of emission in pounds per million BTU's

8/14/73

CONTROL OF FUGITIVE DUST

8.1 No person shall cause, suffer, allow, or permit the emission of fugitive dust from any source, which violates the Standards and Regulations.

8/14/73

8.2 No person shall cause or permit the discharge of visible emissions beyond the lot line of the property, or the boundaries of the buffer zone if applicable, on which the emissions originate.

10/2/79

8.3 (a) The Administrator may approve alternate controls other than those specified within this Chapter taken to control any source of fugitive dust upon the written application by the operator, and upon a determination of the adequacy of any such alternate controls.

(b) Applications shall describe the proposed alternate controls and demonstrate that applicable regulations and standards will not be violated.

10/12/79

8.4

Processing, Handling, Transportation, and Storage:

(a) When dust noxious gas or vapor, odor or any combination thereof escape from the processing, handling or storage of any material in a quantity as to cause a nuisance or to cause or contribute to a violation of any applicable regulation or ambient air quality standard, the Administrator may order that the source of these emissions be tightly enclosed and that the venting of such enclosure be controlled to the extent necessary to meet the Standards and Regulations. Alternate control measures submitted to the Administrator in compliance with such orders, shall comply with Section 8.3.

(b) All crushing, aggregate screening and conveying operations of material likely to become airborne shall be enclosed and the venting of such enclosure shall be controlled to the extent necessary to prevent visible emissions or the violation of any Standard or Regulation.

(c) Stockpiles of materials which are likely to become airborne shall be enclosed or the surface of such stockpiles stabilized through compacting, sprinkling with water, chemical, or asphalt sealing.

(d) All loads carried by motor vehicles shall be adjusted, secured, covered, contained or otherwise treated so as to prevent loss or spillage of such material and/or the generation of airborne dust.

10/12/79
8.5

Construction and Sandblasting Operations:

(a) All construction operations including but not limited to the clearing, grading or leveling of land, earthmoving, excavation, demolition, or the movement of trucks or construction equipment over cleared land or temporary access or haul roads shall water all vehicle travel areas or roads at the site for dust suppression a minimum of the beginning of every two (2) operating hours with a minimum watering rate for each application of .5 gallons per square yard, or by other equivalent methods approved by the Administrator as needed to prevent visible emissions or contribute to the violation of applicable Standards or Regulations.

(b) All sandblasting operations which can be conducted within an enclosed area shall be done so and the venting of such enclosure shall be controlled to the extent necessary to prevent visible emissions prohibited by these Standards and Regulations.

(c) All sandblasting which cannot be done within an enclosure shall be conducted using wet sand.

10/12/79

8.6

Grading and Clearing:

(a) Use of vegetation, including planting, mulch or selective retention of natural vegetation, as ground cover, providing windbreaks, sprinkling with water, and covering or compacting the ground surface shall be used to prevent visible emissions or the violation of any ambient air quality Standard or Regulation where topsoil has been disturbed during the clearing of land.

(b) No owner, operator, or lessee of any real property in the Territory of Guam shall allow disturbed topsoil to remain undeveloped, unplanted, untreated, or otherwise uncovered for a period exceeding two (2) months.

10/12/79

8.7 Roads and Parking Lots: All roads, road easements, and parking lots, which are a source of fugitive dust creating violation of the ambient air quality standards for particulates, shall be treated or improved in a manner that is satisfactory to the Administrator. Where permanent corrections (paving) are not undertaken, the schedule for treatment with water, oil, or emulsified asphalt shall be adjusted as necessary to maintain compliance. The following measures shall be taken for curtailment of

fugitive dust:

(a) All unpaved public and private roads within the Territory of Guam which average a vehicle load of fifty (50) or more vehicles per day, shall be paved.

(b) All unpaved public and private roads within the Territory of Guam which average a vehicle load of twenty five (25) or more vehicles per day, shall be sealed with oil at least every three (3) months.

(c) All paved public and private roads within the Territory of Guam which average a vehicle load of one hundred (100) or more vehicles per day, shall have paved shoulders.

(d) All public and private roads within the Territory of Guam which average a vehicle load of fifty (50) or more vehicles per day, shall have the shoulders oiled at least every three (3) months.

(e) Sprinkling with water, oil, or emulsified asphalt shall be used to control the emission of dust from the construction, maintenance, or use of unpaved roads and road shoulders.

(f) All public and private road easements and storm drainage ditches shall be mulched and seeded.

(g) Earth or other material which has been deposited on a paved road or road shoulder by trucking, earth moving equipment, erosion, or landslide shall be promptly removed.

(h) All parking lots with an area exceeding one-fifth (1/5) of an acre shall be paved.

(i) All other parking lots shall be oiled at least once every three (3) months.

8/14/73

8.8 The following compliance schedule shall apply to those sources not in compliance with Sections 8.4 (a), (b); 8.5 (b), (c) of these amended regulations on the date they become effective:

(a) No later than December 31, 1973, all necessary contracts and/or purchase orders required to attain compliance shall be awarded.

(b) No later than March 31, 1974, construction of facilities necessary for attaining compliance shall be started.

(c) No later than March 31, 1975, construction of all facilities necessary for attaining compliance shall be completed.

(d) No later than June 30, 1975, compliance with the aforementioned Sections of these amended regulations shall be achieved.

8/14/73

8.9 Not later than five (5) working days after the passing of the date for achieving each incremental milestone noted above, each source subject to this schedule shall report to the Administrator regarding the status of compliance with the schedule. Failure to achieve any portion of this schedule or to report on the status of compliance shall make the source liable to enforcement action immediately.

CHAPTER NINE

425/72

"CONTROL OF PARTICULATE EMISSION FROM INCINERATOR; DESIGN AND OPERATION

9.1 This regulation applies to any incinerator used to dispose of refuse by burning or the processing of salvageable material by burning. Notwithstanding definitions in other regulations, as used in this regulation the word "refuse" includes garbage, rubbish, trade wastes, leaves, salvageable material and agricultural wastes. The word "incinerator", as used in this regulation, includes incinerators, and other devices, structures, or contrivances used to burn refuse or to process refuse by burning.

9.2 No person shall cause or permit to be emitted into the open air from any incinerator, particulate matter in the exhaust gasses to exceed 0.20 pounds per 100 pounds of refuse burned.

9.3 Emission tests shall be conducted at maximum burning capacity of the incinerator.

9.4 The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Administrator in accordance with good engineering practices. In case of conflict, the determination made by the Administrator shall govern.

9.5 For the purposes of this regulation, the total of the capacities of all furnaces within one system shall be considered as the incinerator capacity.

9.6 No residential or commercial single-chamber incinerator shall be used for the burning of refuse for a period in excess of eighteen (18) months after the adopted date of this regulation.

4/25/72

9.7 All new incinerators and all existing incinerators within eighteen (18) months after adopted date of this regulation shall be multiple-chamber incinerators, provided that the Administrator may approve any other type of incinerator if it is demonstrated such design provides equivalent performance.

9.8 Incinerators shall be designed and operated in such manner as is necessary to prevent the emission of objectionable odors.

9.9 No person shall burn or cause or permit the burning of refuse in any installation which was designated for the sole purpose of burning fuel.

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CHAPTER TEN

CONTROL OF VISIBLE EMISSION OF PARTICULATES FOR STATIONARY SOURCES

10.1 Visible emission restriction for stationary sources:

(a) No person shall continuously discharge into the atmosphere from any single source of emission whatsoever any air contaminant of a shade of density equal to or darker than that designated as No. 1 on the Ringelmann Chart or 20 percent opacity.

(b) No person may discharge into the atmosphere from any single source of emission, for a period or periods aggregating more than 3 minutes in any 60 minutes, air contaminants of a shade of density darker than No. 3 on the Ringelmann Chart, or 60 percent opacity, except for operations specifically authorized by the Board through a Variance as provided by the Air Pollution Control Act.

10/12/79

10.2 Each fossil fuel-fired steam generator, with an annual average capacity factor of greater than thirty (30%) percent, shall conform with the following monitoring requirements when such facility is subject to an emission standard of an applicable plan for the pollutant in question.

(a) A continuous monitoring system for the measurement of opacity which meets the performance specifications of Appendix B, 40 CFR 60, shall be installed, calibrated, maintained, operated and data reported in accordance with the procedures set forth in Appendix P, 40 CFR 51, by the owner or operator of any such steam generator of greater than 250 million BTU's per hour heat input, except where:

(1) gaseous fuel is the only fuel burned, or

(2) oil or a mixture of gas and oil are the only fuel burned and the source is able to comply with the applicable particulate

matter and opacity 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 any visible emission standard of the applicable plan.

(3) Fossil-fuel fired steam generators which are governed by the New Source Performance Standards (40 CFR 60, Subpart D

CHAPTER ELEVEN

4/25/72

CONTROL OF ODORS IN AMBIENT AIR.

11.1 No person shall discharge into the atmosphere, or cause to be discharged into the atmosphere, from any source whatsoever any quantity of odorous or gaseous emission, material, or air contaminant of any kind or description, which is injurious or detrimental to repose, health and safety, or which in any way unduly interferes with or prevents the comfortable enjoyment of life or property.

11.2 An odor occurrence shall be deemed a violation when a complaint is received and verified by the Administrator. The Administrator shall deem the odor occurrence a violation if he is able to make two odor measurements within one hour period, these measurements being separated by at least 15 minutes. An odor measurement shall consist of a detectable odor after the odorous air has been diluted with eight volumes of odor-free air.

11.3 The odor of growing vegetation, chemical fertilizers and insecticides, shall not be considered objectional within the meaning of this regulation.

CHAPTER TWELVE

10/12/79

AIR POLLUTION EMERGENCIES

12.1 Notwithstanding any other provision of the air pollution control regulations, this episode regulation is designed to prevent the excessive build-up of air contaminants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these contaminants on the health of the public.

12.2 Episode Criteria: Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Administrator determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination the Administrator will be guided by the following criteria:

(a) Appropriate agency forecast predicting or indicating wind direction, speed, or other meteorological conditions which may result in the attainment of episode level concentrations of air contaminants in any human access area.

(b) "Alert" The Alert level is that concentration of pollutants at which first stage control action is to begin. An Alert will be declared when any one of the following levels is reached at any monitoring site:

SO₂---800 ug./m³ (0.3 p.p.m.), 24-hour average.

Particulate---3.0 COHs or 375 ug./m³, 24-hour average.

SO₂ and particulate combined--product of SO₂ p.p.m., 24-hour average, and COHs equal to 0.2 or product of SO₂--ug/m³, 24-hour average, and particulate ug./m³, 24-hour average equal to 65×10^3 .

10/12/79

CO--17 mg/m³ (15 p.p.m.), 8-hour average.

Oxidant (O₃)---200 ug./m³ (0.1 p.p.m.)-- 1-hour average.

NO₂---1130 ug/m³ (0.6 p.p.m.), 1-hour average, 282 ug./m³
(0.15 p.p.m.), 24-hour average.

and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours.

(c) "Warning": The warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. A warning will be declared when any one of the following levels is reached at any monitoring site:

SO₂---1,600 ug./m³ (0.6 p.p.m.), 24-hour average.

Particulate---5.0 COHs or 625 ug./m³, 24-hour average.

SO₂ and particulate combined---product of SO₂ p.p.m.,

24-hour average and COHs equal to 0.8 or product

of SO₂ ug./m³, 24-hour average and particulate

ug./m³, 24-hour average equal to 261x10³.

CO-34 mg/m³ (30 p.p.m.), 8-hour average.

Oxidant (O₃)---800 ug./m³ (0.4 p.p.m.), 1-hour average.

NO₂---2,260 ug./m³ (0.4 p.p.m.)--- 1-hour average;

565 ug./m³ (0.3 p.p.m.), 24-hour average.

and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours.

(d) "Emergency": The emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site:

10/12/79

SO₂---2,100 ug./m³ (0.8 p.p.m.), 24-hour average.

Particulate---7.0 COHs or 875 ug./m³, 24-hour average

SO₂ and particulate combined---product of

SO₂ p.p.m., 24-hour average and COHs equal to 1.2 or product

SO₂ ug./m³, 24-hour average and particulate ug./m³, 24-hour
average equal to 393x10³

CO---46 mg./m³ (40 p.p.m.), 8-hour average.

Oxidant (O₃)---1,200 ug./m³ (0.6 p.p.m.), 1-hour average

NO₂---3,000 ug./m³ (1.6 p.p.m.), 1-hour average; 750 ug./m³
(0.4 p.p.m.), 24-hour average.

and meteorological conditions are such that this condition can be
expected to continue for twelve (12) or more hours.

(e) "Termination": Episodes will be terminated when
meteorological conditions are such that ambient air concentrations of
air contaminants in affected human access areas fall below episode
levels and the appropriate agency forecast predicts these non-episode
conditions will continue for twenty-four (24) or more hours.

10/12/79

12.4 Emission Reduction Plan: After the issuance of an episode forecast or at any episode level, the Administrator shall take any of the actions listed below and any others he deems necessary to reduce air pollution below episode levels and to protect the public and welfare.

(a) Prohibit or limit the emission of any air contaminant contributing to the episode condition.

(b) Notify sources having contingency plans approved by the Agency, to follow the provisions of their plans.

CHAPTER THIRTEEN

CONTROL OF SULFUR DIOXIDE EMISSION

(APPLIES TO ALL SOURCES EXCEPT TANGUISSON POWER PLANT)

12/12/79

13.1 No person shall cause or permit the burning of fuel with a sulfur content greater than 3.14% at any time and in no event shall the average over the immediate past twelve month period, including the latest month reading, exceed 2.84% by weight provided the stacks are of sufficient height, as determined by modelling techniques approved by the Administrator, to prevent aerodynamic downwash and provide for good dispersion of emissions.

4/1/80

Addendum 13.1

GUAM ENVIRONMENTAL PROTECTION AGENCY

POST OFFICE BOX 2999 AGANA, GUAM 96910 TELEPHONE: 646-3352/3

COMPLIANCE ORDER PREAMBLE

WHEREAS, data available to the Guam Environmental Protection Agency indicates that in order to attain and maintain national ambient air quality standards in the vicinity of the Guam Power Authority facility known as the inductance barge, the sulfur content of the fuel burned at the barge should not exceed 1.33 percent by weight, or the stack height should be increased by 21 feet, and

WHEREAS, the Guam Power Authority has informed the Agency that it consents to burn fuel with a sulfur content not exceeding 1.33 percent by weight at the barge, until such time as the stack height is increased by 21 feet;

FINDINGS

NOW THEREFORE, the Guam Environmental Protection Agency finds (1) that it is appropriate to enter an order to ensure compliance with the above standards, and (2) that no public hearing is necessary in the premises.

ORDER

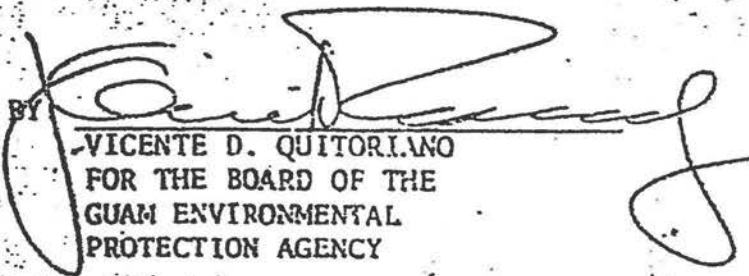
WHEREFORE, pursuant to the Guam Air Pollution Control Act and the Guam Air Quality Implementation Plan, it is by the Guam Environmental Protection Agency ordered:

(1) That at the facility known as the inductance barge, Guam Power Authority shall burn fuel with a sulfur content not to exceed 1.33 percent by weight, until such time as the stack height is increased by 21 feet and

(2) That this compliance order shall be a part of the Guam Air Quality Implementation Plan.

DATE: 3/28/80

BY


VICENTE D. QUITARIANO
FOR THE BOARD OF THE
GUAM ENVIRONMENTAL
PROTECTION AGENCY

(FOR TANGUISSON POWER PLANT ONLY)

10/12/79

13.2 After five (5) years from the effective date of this regulation, no person shall cause or permit the emission of sulfur dioxide from any stationary source in excess of 1.34- pounds of sulfur dioxide per million Btu's of heat input to the installation.

10/12/79

13.3 If compliance with these standards is to be accomplished by means of removal of sulfur dioxide from the flue gases, the owner or operator of the source must provide for the necessary monitoring equipment, and sample such emissions in accordance with methods specified by the Administrator.

13.4 No fossil-fuel fired steam generating unit having commenced construction after August 17, 1971 and of more than 73 megawatts heat input rate (250 million BTU per hour) shall emit gases which contain sulfur dioxide in excess of .80 lb. per million BTU derived from liquid fossil-fuel.

CHAPTER FOURTEEN

10/12/79

MOTOR VEHICLE POLLUTION CONTROL

14.1 No person shall intentionally remove, alter or otherwise render ineffective or inoperative, exhaust emission control, crank case ventilation or any other air pollution control device or system which has been installed on a motor vehicle or stationary internal combustion engine as a requirement of any federal law or regulation.

14.2 No person shall operate a motor vehicle or other internal combustion engine originally equipped with air pollution devices or systems as required by any federal law or regulation unless such devices or systems are in place and in operating condition.

14.3 No person shall cause or permit the emission of visible air contaminants from gasoline-powered motor vehicles for longer than five consecutive seconds.

14.4 No person shall cause or permit the emission of visible air contaminants from diesel-powered motor vehicles of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart, or 20 percent opacity, for longer than five consecutive seconds.

14.5 No person shall cause or permit the use of any motor vehicle which becomes mechanically deficient so as to cause the emission of visible air contaminants.

14.6 Penalties

(a) The owner of any motor vehicle in violation of this Chapter shall be subject to prosecution.

(b) Penalties shall not exceed \$50.00 per day of violation.

10/12/79

(c) Failure to comply with this Chapter shall subject the owner to suspension or cancellation of the registration and inspection sticker for the vehicle.

14.7 Waiver

The violator can apply for waiver of prosecution by the Administrator, not to exceed 45 days in duration. To be considered for a waiver, the violator shall immediately notify the Administrator of the deficiency, and provide a statement giving all pertinent facts, including the reason for the violation, the attempts made to correct the deficiency, any difficulties encountered correcting the situation, and the estimated date of the correction of the deficiency.

1/6/82

CHAPTER SEVENTEEN

APPEAL PROCEDURES, CIRCUMVENTION, SEVERABILITY, AND EFFECTIVE DATE

17.1 APPEAL

Any person aggrieved by a decision of the Administrator, may appeal to the Board of Directors of the Agency within thirty (30) days after notification.

17.2 CIRCUMVENTION

No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air contaminant emitted, conceals or dilutes an emission of air contaminant which would otherwise violate these regulations. This provision does not prohibit recycling, burning as fuel or otherwise further processing a material which would violate an emission regulation if released to the atmosphere, so long as the facility in which that material is used does not violate applicable emission regulations.

17.3 SEVERABILITY

If any provision of these regulations, or the application thereof to any person, or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any part of these regulations which can be given effect, without the invalid provisions or application, and to this end the provisions of these regulations and the various applications thereof are declared to be severable.

4/6/82

17.4 EFFECTIVE DATE

The effective date for new and existing source compliance with each chapter of these Standards and Regulations shall be as listed below:

Chapter One: DEFINITIONS - Adopted, November 18, 1971;
May 27, 1972; Amended, August 8, 1973;
Effective, November 1, 1973; Amended,
November 20, 1974; Effective, March 21,
1975; Amended December 18, 1978,
Effective February 19, 1979; Amended
October 23, 1981, Effective December 11, 1981;
Amended November 7, 1986; effective

Chapter Two AMBIENT AIR QUALITY STANDARDS - Adopted,
November 18, 1971; Effective, May 27, 1972;
Amended, June 29, 1972; Effective, July 31,
1972; Amended, August 8, 1973; Effective,
November 1, 1973; Amended October 23, 1981,
Effective December 11, 1981

Chapter Three PERMITS - Adopted, November 18, 1971; Effective,
May 27, 1972; Amended, June 29, 1972;
Effective, July 31, 1972; Amended, August 8,
1973; Effective, November 1, 1973; Amended,
November 20, 1974; Effective, March 21, 1975;
Amended October 23, 1981 , Effective December 11,
1981

Chapter Four

MONITORING, RECORDS, AND REPORTING - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, November 20, 1974; Effective, March 21, 1975; Amended December 18, 1978; Effective February 19, 1979.

Chapter Five

SAMPLING AND TESTING METHODS - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, August 8, 1973; Effective, November 1, 1973.

Chapter Six

CONTROL OF OPEN BURNING - Adopted November 18, 1971; Effective, May 27, 1972; Amended December 18, 1978; Effective February 19, 1979.

Chapter Seven

CONTROL OF PARTICULATE EMISSION FROM PROCESS INDUSTRIES - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; November 1, 1973; Amended, December 18, 1978; Effective February 19, 1979.

Chapter Eight

CONTROL OF FUGITIVE DUST - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, November 20, 1974; Effective March 21, 1975.

Chapter Nine

CONTROL OF PARTICULATE EMISSION FROM INCINERATOR:
DESIGN AND OPERATION - Adopted, November 18, 1971;
Effective, May 27, 1972; Amended, August 8, 1973;
Effective, November 1, 1973.

Chapter Ten

CONTROL OF VISIBLE EMISSION OF PARTICULATES FOR
STATIONARY SOURCES - Adopted, November 18, 1971;
Effective, May 27, 1972; Amended, August 8, 1973;
Effective, November 1, 1973; Amended December 18,
1978; Effective February 19, 1979.

Chapter Eleven

CONTROL OF ODORS IN AMBIENT AIR - Adopted,
November 18, 1971; Effective, May 27, 1972.

Chapter Twelve

AIR POLLUTION EMERGENCIES - Adopted, November 18,
1971; Effective, May 27, 1972; Amended, June 29,
1972; Effective, July 31, 1972; Amended, August 8,
1973; Effective, November 1, 1973.

Chapter Thirteen

CONTROL OF SULFUR DIOXIDE EMISSIONS - Adopted,
November 18, 1971; Effective, May 27, 1972;
Amended, June 29, 1972; Effective, July 31, 1972;
Amended, August 8, 1973; Effective, November 1,
1973; Amended December 18, 1978; Effective
February 19, 1979.

Chapter Fourteen

MOTOR VEHICLE POLLUTION CONTROL - Adopted, June
29, 1972; Effective, July 31, 1972; Amended,
August 8, 1973; Effective, November 1, 1973;
Amended December 18, 1978; Effective February
19, 1979; Amended November 7, 1986; effective

Chapter Fifteen

APPEAL PROCEDURES, CIRCUMVENTION, SEVERABILITY,
AND EFFECTIVE DATE - Adopted, August 8, 1973;
Effective, November 1, 1973; Amended December
18, 1978; Effective February 19, 1979.

Chapter Sixteen

Adopted December 18, 1978; Effective February
19, 1979.

Chapter Seventeen

Adopted December 18, 1978; Effective February
19, 1979; Amended October 23, 1981,
Effective December 11, 1981

**GUAM ADMINISTRATIVE
RULES AND REGULATIONS**

TITLE 22

**GUAM ENVIRONMENTAL
PROTECTION AGENCY**

TITLE 22
GUAM ENVIRONMENTAL PROTECTION AGENCY

Division 1. Guam Air Pollution Control.

Chapter 1. Guam Air Pollution Control Standards and
Regulations.

22 GAR – GUAM ENVIRONMENTAL PROTECTION AGENCY
CH. 1 – GUAM AIR POLLUTION CONTROL
STANDARDS AND REGULATIONS

CHAPTER 1
GUAM AIR POLLUTION CONTROL
STANDARDS AND REGULATIONS

NOTE: Rule-making authority cited for the formulation of regulations for Guam Air Pollution Control of Guam Environmental Protection Agency, 10 GCA Chapter 49.

Regulatory power for the control of air pollution was originally vested in the Air Pollution Control Commission pursuant to 10 GCA Chapter 49 of which Rules and Regulations were initially filed with the Legislative Secretary on November 17, 1986. The Original publication was made on February 15, 1975. Subsequently, all powers were transferred to the Guam Environmental Protection Agency through 10 GCA Chapter 45.

2011 COMPILER NOTE: Entire chapter repealed and reenacted by rules submitted to the Legislature on March 4, 2005 and became effective June 4, 2005 pursuant to the affirmative legislative decision to not act upon them pursuant to 5 GCA, Ch. 9, Administrative Adjudication Law.

- Article 1. Definitions.
- Article 2. General Requirements.
- Article 3. General Prohibitions and Standards.
- Article 4. Permit Program and Regulations.
- Article 5. Special Preconstruction Requirements.
- Article 6. Standards of Performance for Air Pollution Emission Sources.
- Article 7. Hazardous Air Pollutant Sources.
- Article 8. Guam Air Pollution Control Standards and Regulations New Source Review Requirements for New and Modified Major Sources in SO₂ Nonattainment Areas Adopted on October 17, 2022.

22 GAR – GUAM ENVIRONMENTAL PROTECTION AGENCY
CH. 1 – GUAM AIR POLLUTION CONTROL
STANDARDS AND REGULATIONS

ARTICLE 8
GUAM AIR POLLUTION CONTROL STANDARDS AND
REGULATIONS NEW SOURCE REVIEW REQUIREMENTS FOR
NEW AND MODIFIED MAJOR SOURCES IN SO₂
NONATTAINMENT AREAS ADOPTED ON OCTOBER 17, 2022

2023 NOTE: Entire Article added by P.L. 36-140:2 (Dec. 28, 2022).

- § 1801. Applicability Procedures
- § 1801.1. Preconstruction Review Requirements.
- § 1801.2. Nonattainment Major New Source Review (NSR)
Permit Requirement.

22 GAR – GUAM ENVIRONMENTAL PROTECTION AGENCY
CH. 1 – GUAM AIR POLLUTION CONTROL
STANDARDS AND REGULATIONS

- § 1801.3. Emission Calculation Requirements to Determine New Source Review (NSR) Applicability.
- § 1801.4. Major Sources with Plant-Wide Applicability Limitations.
- § 1801.5. Projects That Rely on a Projected Actual Emissions Test.
- § 1801.6. Secondary Emissions.
- § 1801.7. Stationary Sources.
- § 1801.8. Environmental Protection Agency Determination.
- § 1802. Definitions.
- § 1803. Application Requirements.
- § 1803.1. Application Submittal.
- § 1803.2. Application Content.
- § 1803.3. Lowest Achievable Emission Rate (LAER).
- § 1803.4. Certification of Compliance.
- § 1803.5. Analysis of Alternatives.
- § 1803.6. Application Fees.
- § 1804. Emissions Offsets.
- § 1804.1. Offset Requirements.
- § 1804.2. Timing.
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- § 1809. Plant-Wide Applicability Limits (PAL).
- § 1810. Invalidation.
- § 1811. Effective Date for Referenced Federal Regulations.

§ 1801. Applicability Procedures.

2023 NOTE: As adopted by P.L. 36-140:2 (Dec. 28, 2022), this provision did not include any text.

§ 1801.1. Preconstruction Review Requirements.

(a) The preconstruction review requirements of this rule apply to the proposed construction of any new major stationary source or major modification in Guam that is major for a nonattainment pollutant, if the stationary source or modification is located anywhere in the designated nonattainment area, except:

(1) as provided in § 1809 of this rule; and

(2) this rule's provisions requiring the application of the lowest achievable emission rate (LAER) and offsets do not apply for purposes of the 1971 sulfur dioxide (SO₂) National Ambient Air Quality Standards (NAAQS) with respect to electric generating units in the Piti nonattainment area for the 1971 SO₂ NAAQS, while this rule's provisions requiring the application of LAER and offsets do apply to such units for purposes of the 2010 SO₂ NAAQS.

(b) Sources subject to this rule may also be subject to other Guam Environmental Protection Agency (GEPA) rules and regulations. For purposes of the implementation and enforcement of this rule, the provisions and requirements of this rule, including, but not limited to, the requirements for obtaining a nonattainment major NSR permit, application submittal and content, conditional approval, public participation, and granting a nonattainment major New Source Review (NSR) permit, shall take precedence over any

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other such provisions and requirements in other GEPA rules and regulations. To the extent that other GEPA rules or regulations may affect the stringency or applicability of this rule, such other rules and regulations shall not apply for purposes of the implementation or enforcement of this rule.

§ 1801.2. Nonattainment Major New Source Review (NSR) Permit Requirement.

No new major stationary source or major modification to which the requirements of this rule apply shall begin actual construction without first obtaining a nonattainment major NSR permit from the reviewing authority, pursuant to this rule.

§ 1801.3. Emission Calculation Requirements to Determine New Source Review (NSR) Applicability.

(a) New Major Stationary Sources. The definition of Major Stationary Source as incorporated by reference in § 1802 shall be used to determine if a new or modified stationary source is a new major stationary source.

(b) Major Modifications. The provisions set out in Subsections (1) through (5) of this Section shall be used to determine if a proposed project will result in a major modification. These provisions shall not be used to determine the quantity of offsets required for a project subject to the requirements of this rule.

(1) Except as otherwise provided in § 1801.4, a project is a major modification for a nonattainment 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.

(2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase will occur depends upon the type of emissions units being

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added or modified as part of the project, according to Subsections (3) through (5) of this Section. 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.

(3) Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emissions Units. A significant emissions increase of a nonattainment 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.

(4) Actual-to-Potential Test for Projects that Only Involve Construction of a New Emissions Unit(s). A significant emissions increase of a nonattainment 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.

(5) Hybrid Test for Projects that Involve Multiple Types of Emissions Units. A significant emissions increase of a nonattainment pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in Subsections (3) or (4) of this Section, as applicable, with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

§ 1801.4. Major Sources with Plant-Wide Applicability Limitations (PAL).

For any major stationary source with a Plant-Wide Applicability Limitation (PAL) permit for a nonattainment

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pollutant, the major stationary source shall comply with the requirements in § 1809 of this rule.

§ 1801.5. Projects That Rely on a Projected Actual Emissions Test.

Except as otherwise provided in Subsection (g)(3) of this Section, the provisions of this Section shall apply with respect to any nonattainment pollutant that is emitted from projects at existing emissions units located at a major stationary source, other than a source with a PAL permit, when there is a reasonable possibility, within the meaning of Subsection (g) of this Section, that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in paragraphs (B)(1) through (B)(3) of the definition of *projected actual emissions* to calculate *Projected Actual Emissions* [40 CFR 51.165(a)(xxviii)(A)].

(a) Before beginning actual construction of the project, 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 (B)(3) of the definition of *projected actual emissions* [40 CFR 51.165(a)(xxviii)(A)], 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 Subsection

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(a) of this Section to the GEPA Administrator. The owner or operator shall be subject to the requirements of other GEPA rules and regulations and 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 Subsection (a)(2) of this Section; and calculate and maintain a record of the annual emissions, in tons per year (tpy), on a calendar year basis as long as the emission unit is in operation and has not been decommissioned.

(d) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the GEPA Administrator within sixty (60) days after the end of each calendar year during which records must be generated under Subsection (c) of this Section, 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 GEPA Administrator if the annual emissions, in tpy, from the project identified in Subsection (a)(2) of this Section exceed the baseline actual emissions 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 specified under paragraph (B)(3) of the definition of *Projected Actual Emissions* [40 CFR 51.165(a)(xxviii)(A)], as documented and maintained pursuant to Subsection (a)(3) of this Section. Such report shall be submitted to the GEPA Administrator 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 Subsection (c) of this Section; and

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(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).

(f) The owner or operator of the source shall make the information required to be documented and maintained pursuant to this Section available for review upon a request for inspection by the GEPA Administrator or the general public pursuant to the requirements contained in § 1207 of this Chapter.

(g) A “reasonable possibility” under this Section occurs when the owner or operator calculates the project to result in either:

(1) a projected actual emissions increase of at least fifty percent (50%) of the amount that is a “significant emissions increase,” as defined in this rule (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

(2) a projected actual emissions increase that, added to the amount of emissions excluded under paragraph (B)(3) of the definition of *Projected Actual Emissions* [40 CFR 51.165(a)(xxviii)(A)] sums to at least fifty percent (50%) of the amount that is a “significant emissions increase,” as defined in this rule (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant.

(3) For a project in which a reasonable possibility occurs only within the meaning of Subsection (g)(2), and not also within the meaning of Subsection (g)(1), the provisions of Subsections (b) through (e) of this Section do not apply to the project.

§ 1801.6. 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 this rule on the basis of

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direct emissions from the stationary source, the requirements of § 1804 must also be met for secondary emissions.

§ 1801.7. Stationary Sources.

For purposes of this rule, the term stationary source does not refer to the source of emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in § 216 of the Clean Air Act.

§ 1801.8. Environmental Protection Agency Determination.

Notwithstanding any other requirements of this rule governing the issuance of a nonattainment major NSR permit, the GEPA Administrator shall not issue a nonattainment major NSR permit to a new major stationary source or major modification subject to the requirements of this rule if the federal Environmental Protection Agency has determined that the SIP is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of Title I, Part D of the Clean Air Act.

§ 1802. Definitions.

For the purposes of this rule, the definitions provided in Subsections (a), (b), and (c) of this Section apply to the terms used in this rule. In the event of any discrepancy between the definitions specified in Subsections (a), (b), and (c) of this Section, the definition in the Subsections that is listed first shall control.

(a) The definitions contained in 40 CFR 51.165(a)(1) shall apply, and are hereby incorporated by reference, with the exception of the definitions of “Building, structure, facility, or installation” and of “Reviewing authority”, which has the meaning specified in Subsection (b)(11) of this Section.

(b) The following definitions shall also apply:

(1) Building, structure, facility, or installation means all of the pollutant-emitting activities which

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belong to the same industrial grouping, are located on one (1) 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, unless the vessel is ported for electrical generation for on-shore use or consumption. 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 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 4101-0065 and 003-005-00176-0, respectively).

(2) “Clean Air Act (CAA)” means the federal Clean Air Act, 42 U.S.C. 7401 *et seq.*, as amended.

(3) “Complete” means, in reference to an application, which contains all of the information necessary for processing.

(4) “Emission reduction” means reductions of actual emissions from emissions units.

(5) “GEPA” means the Guam Environmental Protection Agency.

(6) “GEPA Administrator” means the Administrator of the Guam Environmental Protection Agency or such Administrator's designee.

(7) “Internal emission reductions” means emission reductions which have occurred or will occur at the same major stationary source where the proposed emissions increase will occur.

(8) “Nonattainment major NSR permit” means an air pollution control permit, other than a PAL permit, that is issued in accordance with the requirements of this rule.

(9) “Nonattainment pollutant” means any regulated NSR pollutant for which Guam, or a portion

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of Guam, has been designated as nonattainment, as codified in 40 CFR 81.353, as well as any precursor of such regulated NSR pollutant specified in 40 CFR 51.165(a)(1)(xxxvii)(C).

(10) “Permanent” means an emission reduction which is federally enforceable for the life of a corresponding increase in emissions.

(11) “Reviewing authority” means the GEPA Administrator.

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

(13) “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.

(14) “State Implementation Plan (SIP)” means the State Implementation Plan approved or promulgated for Guam under § 110 or 172 of the Clean Air Act.

(15) “Surplus” means the amount of emission reductions that are, at the time of use of an emission reduction, not otherwise required by federal or Guam law, not required by any legal settlement or consent decree, and not relied upon to meet any requirement related to the Guam State Implementation Plan (SIP). Examples of federal and Guam laws, and SIP-related requirements, include, but are not limited to, the following:

(A) the federally-approved Guam SIP;

(B) other adopted Guam air quality laws and regulations not in the SIP, including, but not limited to, any requirement, regulation, or measure that: (1) Guam has included on a legally required and publicly available list of measures that are scheduled for adoption by Guam in the future; or

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(2) is the subject of a public notice distributed by Guam regarding an intent to adopt such revision;

(C) any other source or source-category specific regulatory or permitting requirement, including, but not limited to, Reasonable Available Control Technology (RACT), New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Best Available Control Measures (BACM), Best Available Control Technology (BACT), and Lowest Achievable Emission Rate (LAER); and

(D) any regulation or supporting documentation that is required by the Federal Clean Air Act, but is not contained or referenced in 40 CFR Part 52, including, but not limited to: assumptions used in attainment and maintenance demonstrations (including reasonable further progress demonstrations and milestone demonstrations), including any proposed control measure identified as potentially contributing to an enforceable near-term emission reduction commitment; assumptions used in conformity demonstrations; and assumptions used in emissions inventories.

(16) “Temporary source” means an emission source such as a pilot plant or a portable facility which will be located outside the nonattainment area after less than a cumulative total of ninety (90) days of operation in any twelve (12) continuous months.

(17) “Tons per year (tpy)” means annual emissions in tons.

(c) The definitions contained in 40 CFR 51.100 shall apply, and are hereby incorporated by reference.

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§ 1803. Application Requirements.

2023 NOTE: As adopted by P.L. 36-140:2 (Dec. 28, 2022), this provision did not include any text.

§ 1803.1. Application Submittal.

The owner or operator of any proposed new major stationary source or major modification required to obtain a nonattainment major NSR permit pursuant to this rule shall submit a complete, true, and correct application to obtain a nonattainment major NSR permit to the GEPA Administrator, and include in the application submittal the information listed in § 1803.2, as well as the demonstrations listed in §§ 1803.3-1803.5. Designating an application complete for purposes of permit processing does not preclude the GEPA Administrator from requesting or accepting any additional information.

§ 1803.2. Application Content.

At a minimum, an application for a nonattainment major NSR permit shall contain the following information related to the proposed new major stationary source or major modification:

- (a) identification of the applicant, including contact information;
- (b) identification of address and location of the new or modified source;
- (c) an identification and description of all emission points, including information regarding all regulated NSR pollutants emitted by all emissions units included in the new source or modification;
- (d) a process description of all activities, including design capacity, which may generate emissions of regulated NSR pollutants in sufficient detail to establish the basis for the applicability of standards and fees;
- (e) a projected schedule for commencing construction and operation for all emissions units included in the new source or modification;

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(f) a projected operating schedule for each emissions unit included in the new source or modification;

(g) a determination as to whether the new source or modification will result in any secondary emissions;

(h) the emission rates of all regulated NSR pollutants, including fugitive and secondary emission rates, if applicable. The emission rates must be described in tpy and for such shorter term rates as are necessary to establish compliance using the applicable standard reference test method or other methodology specified (i.e., grams/liter, ppmv or ppmw, lbs/MMBtu);

(i) the calculations on which the emission rate information is based, including fuel specifications, if applicable, and any other assumptions used in determining the emission rates (e.g., HHV, sulfur content of natural gas);

(j) the calculations, pursuant to § 1801.3, used to determine applicability of this rule, including the emission calculations (increases or decreases) for each project that occurred during the contemporaneous period;

(k) the calculations, pursuant to § 1804.3 (offset), used to determine the quantity of offsets required for the new source or modification;

(l) identification of existing emission reduction credits or identification of internal emission reductions, including related emission calculations and proposed permit modifications required to ensure emission reductions meet the offset integrity criteria of being real, surplus, quantifiable, permanent and federally enforceable or enforceable as a practical matter;

(m) if applicable, a description of how performance testing will be conducted, including test methods and a general description of testing protocols.

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§ 1803.3. Lowest Achievable Emission Rate (LAER).

The applicant shall submit an analysis demonstrating that LAER has been proposed for each emissions unit included in the new major stationary source or major modification that emits a nonattainment pollutant for which the new stationary source or modification is classified as major.

§ 1803.4. Certification of Compliance.

The applicant shall submit a certification that each existing major stationary source owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in Guam is in compliance with all applicable emission limitations and standards under the CAA or is in compliance with an expeditious compliance schedule which is federally enforceable.

§ 1803.5. Analysis of Alternatives.

The applicant shall submit an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source that demonstrates the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

§ 1803.6. Application Fees.

The applicant shall pay the applicable fees specified in the applicable GEPA fee rules for air pollution emission sources.

§ 1804. Emissions Offsets.

2023 NOTE: As adopted by P.L. 36-140:2 (Dec. 28, 2022), this provision did not include any text.

§ 1804.1. Offset Requirements.

(a) The emission increases of a nonattainment pollutant for which the new stationary source or modification is classified as major shall be offset with federally enforceable emission reductions or with internal emission reductions.

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(b) Emission reductions from one (1) or more sources may be used, alone or in combination with internal emission reductions, in order to satisfy offset requirements.

(c) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours may only be credited for offsets if such reductions are surplus, permanent, quantifiable, and federally enforceable; and

(d) The shutdown or curtailment occurred after the last day of the base year for the attainment plan for the specific pollutant; or

(e) The projected emissions inventory used to develop the attainment plan explicitly includes the emissions from such previously shutdown or curtailed emissions units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

§ 1804.2. Timing.

(a) Internal emission reductions used to satisfy an offset requirement must be federally enforceable prior to the issuance of the nonattainment major NSR permit, which relies on the emission reductions.

(b) Except as provided by Subsection (c) of this Section, the decrease in actual emissions used to generate emission reductions or internal emission reductions must occur no later than the commencement of operation of the new or modified major stationary source.

(c) Where the new emissions unit is a replacement for an emissions unit that is being shut down in order to provide the necessary offsets, the GEPA Administrator may allow up to one hundred eighty (180) calendar days for shakedown or commissioning of the new emissions unit before the existing emissions unit is required to cease operation.

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§ 1804.3. Quantity.

The quantity of emission reductions or internal emission reductions required to satisfy offset requirements shall be determined in accordance with the following:

(a) The unit of measure for offsets, emission reductions, 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 emission reductions or internal emission reductions required shall be calculated as the product of the amount of increased emissions, as determined in accordance with Subsection (c) of this Section, and the offset ratio, as determined in accordance with Subsection (d) of this Section.

(c) The amount of increased emissions shall be determined as follows:

(1) 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 potential to emit of all emissions units.

(2) 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.

(3) The amount of increased emissions includes fugitive emissions.

(d) An offset ratio of 1:1 shall be used for each pound of SO₂ permitted to be emitted.

§ 1804.4. Emission Reduction Requirements.

(a) Internal emission reductions or emission reductions used to satisfy an offset requirement shall be:

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(1) real, surplus, permanent, quantifiable, and federally enforceable; and

(2) surplus at the time of issuance of the nonattainment major NSR permit containing the offset requirements.

(b) Permitted sources whose emission reductions are used to satisfy offset requirements must appropriately amend or cancel their nonattainment major NSR permit or other air pollution control permit, where applicable, to reflect their newly reduced potential to emit, including practicably enforceable conditions to limit their potential to emit.

(c) Emission reductions must be obtained from the same nonattainment area.

(d) The use of emission reductions shall not provide:

(1) authority for, or the recognition of, any pre-existing vested right to emit any regulated NSR pollutant;

(2) authority for, or the recognition of, any rights that would be contrary to applicable law; or

(3) an exemption to a stationary source from any emission limitations established in accordance with federal or Guam laws, rules, and regulations.

§ 1804.5. Restrictions on Trading Pollutants.

The emission offsets obtained shall be for the same regulated NSR pollutant.

§ 1805. Administrative Requirements.

2023 NOTE: As adopted by P.L. 36-140:2 (Dec. 28, 2022), this provision did not include any text.

§ 1805.1. Ambient Air Quality Standards.

The GEPA Administrator may require the use of an air quality model to estimate the effects of a new or modified stationary source. The analysis shall estimate the effects of the new or modified stationary source, and verify that the new or modified stationary source will not prevent or interfere with the attainment or maintenance of any ambient air quality standard. In

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making this determination, the GEPA Administrator shall take into account the mitigation of emissions through offsets pursuant to this rule, and the impacts of transported pollutants on downwind pollutant concentrations. The GEPA Administrator may impose, based on an air quality analysis, offset ratios greater than the requirements of Subsection (d) of § 1804.3.

§ 1805.2. Air Quality Models.

(a) All required estimates of ambient concentrations, pursuant to this rule, shall be based on the applicable air quality models, databases, and other requirements specified in 40 CFR Part 51, Appendix W (“Guideline on Air Quality Models”).

(b) Where an air quality model specified in 40 CFR Part 51, Appendix W, is inappropriate, the model may be modified or another model substituted on written request to the Administrator. Methods such as those outlined in the “Workbook for the Comparison of Air Quality Models” (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May 1978) may be used to determine the comparability of air quality models. Written approval from the USEPA and GEPA must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to public notification and the opportunity for public comment pursuant to § 1419 of this Chapter.

§ 1805.3. Stack Height Procedures.

The degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source’s stack height that exceeds good engineering practice (GEP) or by any other dispersion technique, except as provided in 40 CFR 51.118(b). For the purposes of this Section, the definitions in 40 CFR 51.100 shall apply.

(a) Before the GEPA Administrator issues a nonattainment major NSR permit under this rule to a source with a stack height that exceeds GEP stack height, the Control Officer shall notify the public of the availability of

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the demonstration study and provide opportunity for a public hearing.

(b) Any field study or fluid model used to demonstrate GEP stack height and any determination concerning excessive concentration must be approved by the EPA and the GEPA Administrator prior to any emission limit being established.

(c) The provisions of § 1805.3 do not restrict, in any manner, the actual stack height of any stationary source or facility.

§ 1806. Nonattainment Major New Source Review (NSR) Permit – Decision.

2023 NOTE: As adopted by P.L. 36-140:2 (Dec. 28, 2022), this provision did not include any text.

§ 1806.1. Preliminary Decision.

Following acceptance of an application as complete, the GEPA Administrator shall perform the evaluations required to determine if the proposed new major stationary source or major modification will comply with all applicable GEPA, Guam and federal rules, regulations, or statutes, including, but not limited to, the requirements under § 1803 of this rule, and shall make a preliminary written decision as to whether a nonattainment major NSR permit should be approved, conditionally approved, or denied. The decision shall be supported by a succinct written analysis. The decision shall be based on the requirements in force on the date the application is deemed complete, except when a new federal requirement, not yet incorporated into this rule, applies to the new or modified source.

§ 1806.2. Nonattainment Major New Source Review (NSR) Permit – Preliminary Decision Requirements.

(a) Prior to issuance of a preliminary written decision to issue a nonattainment major NSR permit for a new major stationary source or major modification, the GEPA Administrator shall determine:

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(1) that each emissions unit(s) that constitutes the new source or modification will not violate any applicable requirement of the Guam SIP; and

(2) that the emissions from the new or modified stationary source will not interfere with the attainment or maintenance of any applicable national ambient air quality standard; and

(3) that the emission limitation for each emissions unit that constitutes the new source or modification specifies LAER for such units. If the GEPA Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an enforceable numerical emission standard infeasible, the GEPA Administrator may instead prescribe a design, operational, or equipment standard. In such cases, the GEPA Administrator shall make his/her best estimate as to the emission rate that will be achieved and must specify that rate in the application review documents. Any nonattainment major NSR permit issued without an enforceable numerical emission standard must contain enforceable conditions which ensure that the design characteristics or equipment will be properly maintained or that the operational conditions will be properly performed to continuously achieve the assumed degree of control. Such conditions shall be enforceable as emission limitations by private parties under § 304 of the CAA. The term “emission limitation” shall also include such design, operational, or equipment standards; and

(4) the quantity of emission reductions or internal emission reductions required to offset the new source or modification, pursuant to § 1804.3; and

(5) that all emission reductions or internal emission reductions required for the new source or modification have been identified and have been made federally enforceable or legally and practicably enforceable; and

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(6) that the quantity of emission reductions or internal emission reductions determined under Subsection (b) of § 1804.3 will be surrendered prior to commencing operation.

(b) Temporary sources and emissions resulting from the construction phase of a new source are exempt from Subsections (a)(4), (a)(5) and (a)(6) of this Section.

§ 1806.3. Nonattainment Major New Source Review (NSR) Permit Contents.

(a) A nonattainment major NSR permit for a new major stationary source or major modification shall contain terms and conditions:

(1) which ensure compliance with all applicable requirements and which are enforceable as a legal and practical matter; and

(2) sufficient to ensure that the major stationary source or major modification will achieve LAER in accordance with Subsections (b) and (c) of this Section.

(b) A new major stationary source shall achieve LAER for each nonattainment pollutant for which the source is classified as major.

(c) A major modification shall achieve LAER for each nonattainment pollutant for which the modification would result in a significant net emissions increase. This requirement applies to each proposed emissions unit at which a net emissions increase in the nonattainment pollutant would occur as a result of a physical change, or change in the method of operation of the emissions unit.

§ 1806.4. Nonattainment Major New Source Review (NSR) Permit – Final Decision.

(a) Prior to making a final decision to issue a nonattainment major NSR permit for a new major stationary source or major modification, the GEPA Administrator shall consider all written comments that are submitted within thirty (30) days of public notification and all comments received at any public hearing(s) in

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making a final determination on the approvability of the application and the appropriate nonattainment major NSR permit conditions. The GEPA Administrator shall make all comments available, including the GEPA Administrator's response to the comments, for public inspection in the same locations where the GEPA Administrator made preconstruction information relating to the proposed source or modification available as per the requirements of § 1808.

(b) The GEPA Administrator shall deny any application for a nonattainment major NSR permit if the GEPA Administrator finds the new source or modification would not comply with the standards and requirements set forth in GEPA or federal rules or regulations.

(c) The GEPA Administrator shall make a final decision whether to issue or deny the nonattainment major NSR permit after determining that the nonattainment major NSR permit will or will not ensure compliance with all applicable emission standards and requirements.

(d) The GEPA Administrator shall notify the applicant in writing of the final decision and make such notification available for public inspection at the same location where the GEPA Administrator made preconstruction information and public comments relating to the source available.

§ 1806.5. Ongoing Permit Requirements.

The applicable terms and conditions of an issued nonattainment major NSR permit shall remain in effect to govern source operation. Such terms and conditions shall be included in any renewal or extension of the permit and any successive air pollution control permit or renewal or extension thereof subsequently issued by the GEPA Administrator for the same emission units.

§ 1806.6. Technology Clearinghouse.

Within thirty (30) days of the issuance of any permit under this rule, the GEPA Administrator shall submit control technology

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information from the permit to the USEPA Administrator for the purposes listed in § 173(d) of the CAA.

§ 1807. Source Obligations.

2023 NOTE: As adopted by P.L. 36-140:2 (Dec. 28, 2022), this provision did not include any text.

§ 1807.1. Enforcement.

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this rule, any changes to the application as required by the GEPA Administrator, or the terms of its nonattainment major NSR permit or a renewal or extension thereof, shall be subject to enforcement action.

§ 1807.2. 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 GEPA Administrator may extend the eighteen (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.

§ 1807.3. 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 Guam or federal law.

§ 1807.4. 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 to emit a

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pollutant, then the requirements of this rule shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

§ 1808. Public Participation.

After the GEPA Administrator has made a preliminary written decision to issue a nonattainment major NSR permit for a new major stationary source or major modification, as specified in §§ 1806.1 and 1806.2, the GEPA Administrator shall:

(a) publish, in at least one (1) newspaper of general circulation in Guam, a notice stating the preliminary decision of the GEPA Administrator, noting how pertinent information can be obtained, including how the public can access the information specified in § 1808(b), and inviting written public comment for a thirty (30)-day period following the date of publication. The notice shall include the time and place of any hearing that may be held, including a statement of procedure to request a hearing (unless a hearing has already been scheduled);

(b) no later than the date the notice of the preliminary written determination is published, make available in at least one (1) location, a copy of all materials the applicant submitted, a copy of the preliminary decision, a copy of the proposed nonattainment major NSR permit, and a copy or summary of other materials, if any, considered in making the preliminary written decision;

(c) send a copy of the notice of public comment to the applicant, EPA Region 9, any persons requesting such notice, and any other interested parties, such as the Mayor of the village where the source would be located, the Guam Land Use Commission, and any federal land manager whose lands may be affected by emissions from the source or modification;

(d) provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control

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technology required, and other appropriate considerations, if in the GEPA Administrator’s judgment such a hearing is warranted. The GEPA Administrator shall give notice of any public hearing at least thirty (30) days in advance of the hearing.

§ 1809. Plant-Wide Applicability Limits (PAL).

The GEPA Administrator shall issue a Plant-wide Applicability Limit (PAL) permit according to the provisions contained in 40 CFR 51.165(f)(1) through (14). The provisions of 40 CFR 51.165(f)(1) through (14) are hereby incorporated by reference.

§ 1810. Invalidation.

If any provision of this rule or the application of such provision to any person or circumstance is held invalid, the remainder of this rule 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.

§ 1811. Effective Date for Referenced Federal Regulations.

All references and citations in this rule to Title 40 of the Code of Federal Regulations (CFR) refer to the referenced federal regulation as in effect on October 17, 2022.

