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BILL NO. 3-4-14-1

SUMMARY – An Ordinance to amend Clark County Air Quality New Source Review Program Regulations for Major and Minor Sources by adopting amendments to incorporate federal requirements and repealing current Air Quality Regulation Section 1.

ORDINANCE NO. 4189
(of Clark County, Nevada)

AN ORDINANCE TO AMEND CLARK COUNTY AIR QUALITY REGULATION SECTION 0 TO REVISE OR ADD CERTAIN DEFINITIONS TO MEET FEDERAL REQUIREMENTS OR ENSURE CLARITY; REPEAL SECTION 1; AMEND SECTION 12.0 TO INCORPORATE FEDERAL REQUIREMENTS FOR PERMITTEE RESPONSIBILITY, STACK HEIGHT LIMITS, RECORDKEEPING AND REPORTING AND STATE OF NEVADA REQUIREMENTS FOR JURISDICTION OF CERTAIN FACILITIES; AMEND SECTION 12.1 TO INCLUDE REQUIREMENTS FOR FINE PARTICULATES AND PERMITTEE RESPONSIBILITY, THRESHOLDS FOR PUBLIC NOTICE FOR CERTAIN POLLUTANTS ,AND INCORPORATE A LIST OF INSIGNIFICANT ACTIVITIES; AMEND SECTION 12.2 TO INCLUDE REQUIREMENTS FOR FINE PARTICULATES, REQUIREMENTS FOR FUGITIVE EMISSIONS TO BE CONSIDERED IN DETERMINING THE STATUS OF A PROPOSED MODIFICATION, REVISE DEFINITIONS TO INCORPORATE THE LANGUAGE OF FEDERAL LAW AND CLARIFY WHEN A PLANTWIDE APPLICABILITY LIMIT MAY BE ADJUSTED; AMEND SECTION 12.3 TO REVISE CERTAIN DEFINITIONS TO REMOVE EXEMPTIONS, INCORPORATE THE LANGUAGE OF FEDERAL LAW AND REQUIRE FUGITIVE EMISSIONS TO BE CONSIDERED IN DETERMINING THE STATUS OF A PROPOSED MODIFICATION; REVISE REQUIREMENTS FOR INTERPOLLUTANT TRADING TO CLARIFY THE CONDITIONS UNDER WHICH SUCH TRADES ARE PERMISSABLE, AND TO ESTABLISH OFFSET RATIOS FOR NONATTAINMENT AREAS CONSISTENT WITH FEDERAL LAW; AMEND SECTION 12.4 TO CLARIFY WHEN A BASIC CONTROL TECHNOLOGY REVIEW IS REQUIRED, TO PROVIDE AUTHORITY THAT A PERMIT NOT BE ISSUED UNLESS ALL APPLICABLE REQUIREMENTS ARE MET; ESTABLISH PERMITTEE RESPONSIBILITY; RENUMBER SECTIONS; CORRECT CITATIONS; AND MAKE MINOR CHANGES FOR GREATER CLARITY; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

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

SECTION 1. Clark County Air Quality Regulation Section 0 – Definitions, adopted by reference in Clark County Code Chapter 9.08, Section 9.08.130, is amended as reflected in Exhibit 1, attached hereto.

SECTION 2. Clark County Air Quality Regulation Section 1 – Definitions, adopted by reference in Clark County Code Chapter 9.08, Section 9.08.130, is repealed in its entirety, as reflected in Exhibit 2, attached hereto.

SECTION 3. Clark County Air Quality Regulation Section 12.0 – Applicability, General Requirements and Transition Procedures, adopted by reference in Clark County Code Chapter 9.08, Section 9.08.130, is amended as reflected in Exhibit 3, attached hereto.

SECTION 4. Clark County Air Quality Regulation Section 12.1 – Permit Requirements for Minor Sources, adopted by reference in Clark County Code Chapter 9.08, Section 9.08.130, is amended as reflected in Exhibit 4, attached hereto.

SECTION 5. Clark County Air Quality Regulation Section 12.2 – Permit Requirements for Major Sources in Attainment Areas, adopted by reference in Clark County Code Chapter 9.08, Section 9.08.130, is amended as reflected in Exhibit 5, attached hereto.

SECTION 6: Clark County Air Quality Regulation Section 12.3 – Permit Requirements for Major Sources in Nonattainment Areas, adopted by reference in Clark County Code Chapter 9.08, Section 9.08.130, is amended as reflected in Exhibit 6, attached hereto.

SECTION 7. Clark County Air Quality Regulation Section 12.4 – Authority to Construct Application and Permit Requirements for Part 70 Sources, adopted by reference in Clark County Code Chapter 9.08, Section 9.08.130, is amended as reflected in Exhibit 7, attached hereto.

SECTION 8. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 9. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases, or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 10. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 4th day of March, 2014.

PROPOSED BY: Commissioner Steve Sisolak

PASSED on the 18th day of March 2014.

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AYES: Susan Brager

Lawrence L. Brown III

Tom Collins

Chris Giunchigliani

Mary Beth Scow

Steve Sisolak
Lawrence Weekly

NAYS: None

ABSTAINING: None

ABSENT: None

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: _____
Steve Sisolak, Chair

ATTEST:

_____
DIANA ALBA, County Clerk

This ordinance shall be in force and effect from and after the 1st day of April 2014.

EXHIBIT 1

SECTION 0: DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT 1

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

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

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

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

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

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

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

Air Quality Areas for each Criteria Air Pollutant by Air Quality Planning Region					
	PM_{10}	CO	VOC	NO_x	SO_2 and Pb
Serious Nonattainment Area	LV	LV			
Moderate Nonattainment Area					
Prevention of Significant Deterioration (PSD) Area	IV, SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA[1]	IV, SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA	SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA	SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA	LV, EV, IV, SI, JL, SH, GV, NH, PV, CV, MS, PR, ST, FF, IS, NT, TV, CW, MR, MW, CS, LM, VV, BA, GB, GA

[1]See "Airshed Regions within Clark County, Nevada" table on p. 3 for region abbreviations.

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

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

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

Airshed Regions within Clark County, Nevada		
Air Quality Planning Region	Airshed Region	Air Quality Planning Region Abbreviation
Las Vegas Valley	Hydrographic Area 212	LV
Eldorado Valley	Hydrographic Area 167	EV
North Ivanpah Valley	Hydrographic Area 164A	IV
South Ivanpah Valley	Hydrographic Area 164B	SI
Jean Lake Valley	Hydrographic Area 165	JL
South Hidden Valley	Hydrographic Area 166	SH
Garnet Valley	Hydrographic Area 216	GV
North Hidden Valley	Hydrographic Area 217	NH
Paiute Valley	Hydrographic Area 214	PV
Colorado River Valley	Hydrographic Area 213	CV
Mesquite Valley	Hydrographic Area 163	MS
Pahrump Valley	Hydrographic Area 162	PR
South Three Lakes Valley	Hydrographic Area 211	ST
Frenchman Flat	Hydrographic Area 160	FF
Indian Springs Valley	Hydrographic Area 161	IS
North Three Lakes Valley	Hydrographic Area 168	NT
Tikapoo Valley	Hydrographic Area 169B	TV
California Wash	Hydrographic Area 218	CW
Muddy River Springs Area	Hydrographic Area 219	MR
Lower Meadow Valley Wash	Hydrographic Area 205	MW
Coyote Springs Valley	Hydrographic Area 210	CS
Lower Moapa Valley	Hydrographic Area 220	LM
Virgin River Valley	Hydrographic Area 222	VV
Black Mountains Area	Hydrographic Area 215	BA
Gold Butte Area	Hydrographic Area 223	GB
Greasewood Area	Hydrographic Area 224	GA

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

"Allowable Emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to practically

enforceable limits which restrict the operating rate, hours of operation, or both) and the most stringent of the following:

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

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

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

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

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

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

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

(c) Any requirement under Section 111 ("New Source Performance Standards") of the Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Building, structure, facility, or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major

Group" (which have the same first two digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0, respectively) or the North American Industry Classification System, as published in 2002.

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

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

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

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

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

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

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

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

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

"Commercial and Residential Construction" means construction of structures intended to be utilized solely as personal dwellings, including but not limited to single family homes, duplexes, fourplexes, apartments, condominiums, and town houses; construction of institutional structures, schools, libraries, churches, hospitals, parks, office structures; shopping malls; residential streets within a subdivision; improvements to existing curbed paved roads; parking lots, parking lot structures; and construction of underground utilities for sanitary sewer, water, electricity, natural gas and communication.

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an

application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

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

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

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

"Control Officer" means the Air Pollution Control Officer appointed by the County Manager, the Control Officer's designee or individual staff members who have been delegated the authority by the Control Officer or his /her designee to perform specific Control Officer functions.

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

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

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

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

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

"Dust Suppressant" means water, solution of water and chemical surfactants, foam, or any other dust palliative which is not prohibited for ground surface application by the

EPA or NDEP or by any applicable law or regulation, as a treatment material for reducing fugitive dust emissions.

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

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

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

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

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

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

"Enforceable As a Practical Matter" (or "Practicably Enforceable" or "Practically Enforceable") means that a permit meets the following criteria:

The permit conditions are permanent and quantifiable;
The permit includes a legally enforceable obligation to comply;
The limits impose an objective and quantifiable operational or production limit, or require the use of in-place air pollution control equipment;
The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;
The permit conditions are enforceable and independent of any other applicable limitations; and
The permit contains conditions for monitoring, recordkeeping, reporting, and testing to determine compliance as specified in Section 12.1.4.1(d).

"EPA" means the United States Environmental Protection Agency.

"Ethanol" means an alcohol with the chemical formula CH_3CH_2OH.

"Excess Emissions" means emissions in excess of an emission limitation.

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

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

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

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

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

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

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

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

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

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

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

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

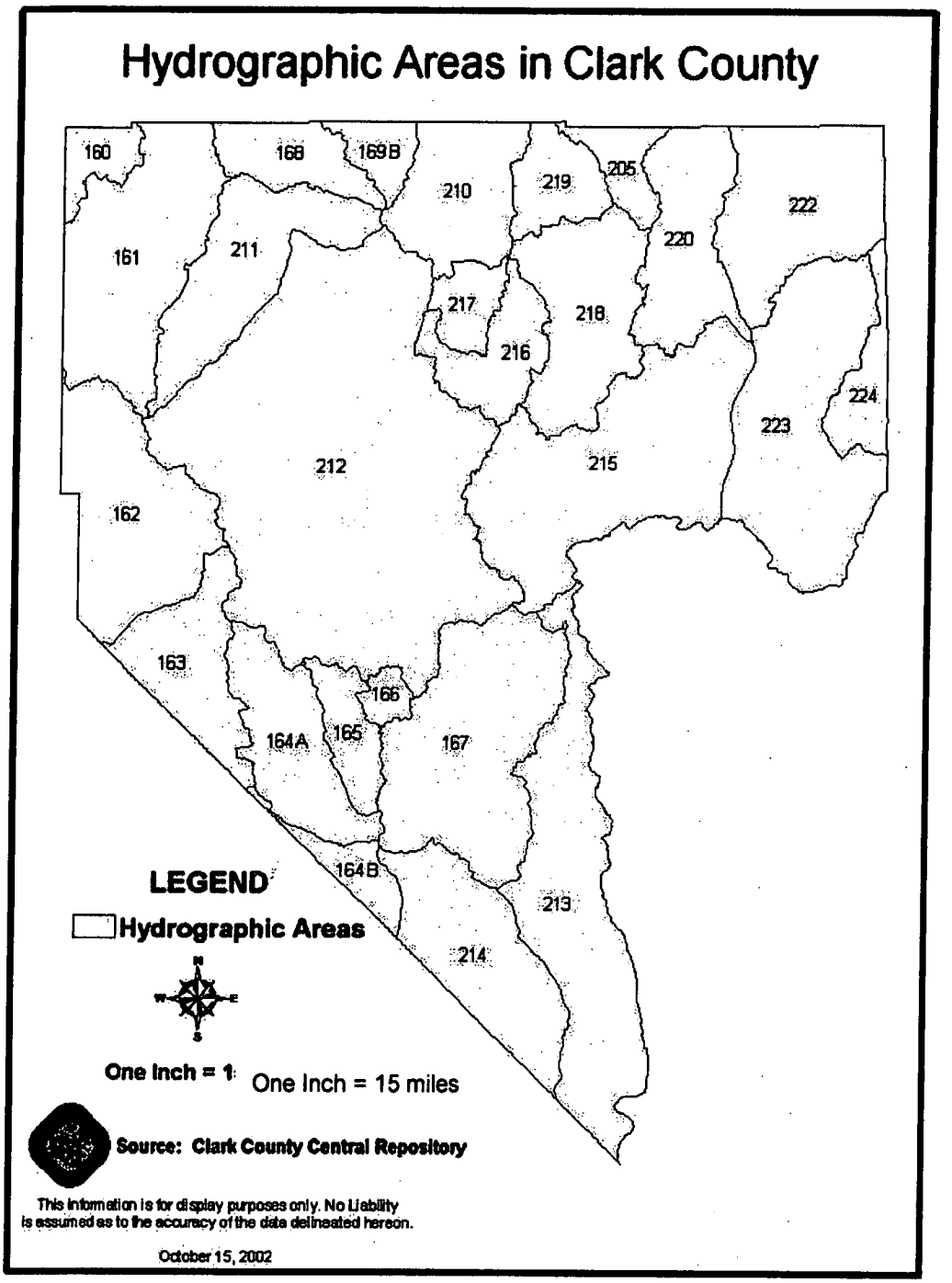
"Good Engineering Practice (GEP) Stack Height" means a stack height meeting the requirements described in Subsection 12.2.7.3 of the AQRs.

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

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

"Hydrographic Basin Areas" or "Hydrographic Areas" means the areas within Clark County, Nevada as defined in the *State of Nevada Hydrographic Areas Map*, prepared by the Division of Water Resources, Rev. 9/71. A hydrographic area may extend into adjacent county(s), but the hydrographic area will terminate at the state boundary. The following map, provided for quick reference, represents the hydrographic areas and air quality planning regions within the Clark County boundary and excludes only the portion of the hydrographic area that is outside of the Nevada boundary:

EXHIBIT 1


Hydrographic Areas in Clark County
160
168
169B
210
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205
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212
215
162
163
166
164A
165
167
164B
213
214
LEGEND
Hydrographic Areas
N
W
E
S
One Inch = 1 Mile
One Inch = 15 miles
Source: Clark County Central Repository
This information is for display purposes only. No Liability is assumed as to the accuracy of the data delineated hereon.
October 15, 2002

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

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

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

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

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

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

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

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

"National Ambient Air Quality Standard" means all of the National Ambient Air Quality Standards contained in Part 50 of Title 40 of the Code of Federal Regulations, including the definitions, scope, reference conditions, and appendices thereto, which are incorporated herein by this reference as of July 1, 2012.

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

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

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

(a) Crushed and broken stone, including limestone, dolomite, granite, traprock, sandstone, quartz, quartzite, marl, marble, slate, shale, oil shale, and shell;

(b) Sand and gravel;

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

(d) Rock salt;

(e) Gypsum;

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

(g) Pumice;

(h) Gilsonite;

(i) Talc and pyrophyllite;

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

(k) Barite;

(l) Fluorspar;

(m) Feldspar;

(n) Diatomite;

(o) Perlite;

(p) Vermiculite;

(q) Mica; and

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

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

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

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

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

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

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

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

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

(a) An unsubdivided or undeveloped tract of land.

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

(c) An undeveloped or partially developed lot.

(d) Non-road easements.

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

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

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

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

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

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

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

"Part 70 Source" means the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Process Weight" means the total weight of all materials introduced into any specific process, which process may cause any discharge into the atmosphere. Solid fuels

charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. "Process weight per hour" will be derived by dividing the total process weight by the number of hours in one complete operation thereof, excluding any time during which the equipment is idle.

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

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

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

(a) Energy and environmental impacts and costs;

(b) Cost effectiveness;

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

(d) Technical feasibility.

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

RACT may be determined on a case-by-case or source category-specific basis, at the option of the person performing the control technology review, and shall take into account relevant findings and determinations in EPA's RACT/BACT/LAER Clearinghouse. The determination of cost effectiveness may consider the analysis contained in the *EPA Office of Air Quality Planning and Standards Cost Control Manual.*

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

"Reconstruction" or "Reconstruct" means: (1) for the purpose of meeting the requirements of 40 CFR Part 60 ("New Source Performance Standards"), the definition at 40 CFR § 60.15, or (2) for the purpose of meeting the requirements of 40 CFR Part 63 ("National Emission Standards for Hazardous Air Pollutants"), the definition at 40 CFR § 63.2.

EXHIBIT 1

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

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

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

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

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

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

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

"Responsible Official" means one of the following:

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

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

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

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

(c) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this definition, a principal executive officer of a federal agency includes the

chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency; or

(d) For Title IV affected sources:

(1) The designated representative, as defined in 40 CFR 72.2, insofar as actions, standards, requirements, or prohibitions under Title IV of the Act, "Acid Deposition Control," or the regulations promulgated there under are concerned; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT 1

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

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

(1) methane;
(2) ethane;
(3) methylene chloride (dichloromethane);
(4) 1,1,1-trichloroethane (methyl chloroform);
(5) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
(6) trichlorofluoromethane (CFC-11);
(7) dichlorodifluoromethane (CFC-12);
(8) chlorodifluoromethane (HCFC-22);
(9) trifluoromethane (HFC-23);
(10) 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
(11) chloropentafluoroethane (CFC-115);
(12) 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
(13) 1,1,1,2-tetrafluoroethane (HFC- 134a);
(14) 1,1-dichloro 1-fluoroethane (HCFC-141b);
(15) 1-chloro 1,1-difluoroethane (HCFC-142b);
(16) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
(17) pentafluoroethane (HFC-125);
(18) 1,1,2,2-tetrafluoroethane (HFC-134);
(19) 1,1,1- trifluoroethane (HFC-143a);
(20) 1,1-difluoroethane (HFC-152a);
(21) parachlorobenzotrifluoride (PCBTF);
(22) cyclic, branched, or linear completely methylated siloxanes;
(23) acetone;
(24) perchloroethylene (tetrachloroethylene);
(25) 3,3- dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
(26) 1,3-dichloro-1,1,2,2,3- pentafluoropropane (HCFC-225cb);
(27) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
(28) difluoromethane (HFC-32);
(29) ethylfluoride (HFC-161);
(30) 1,1,1,3,3,3- hexafluoropropane (HFC-236fa);
(31) 1,1,2,2,3-pentafluoropropane (HFC-245ca);
(32) 1,1,2,3,3-pentafluoropropane (HFC-245ea);
(33) 1,1,1,2,3-pentafluoropropane (HFC- 245eb);
(34) 1,1,1,3,3-pentafluoropropane (HFC-245fa);
(35) 1,1,1,2,3,3- hexafluoropropane (HFC-236ea);
(36) 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
(37) chlorofluoromethane (HCFC-31);
(38) 1 chloro-1-fluoroethane (HCFC-151a);
(39) 1,2- dichloro-1,1,2-trifluoroethane (HCFC-123a);

(40) 1,1,1,2,2,3,3,4,4-nonafluoro-4- methoxy-butane ($C_4F_9OCH_3$ or HFE-7100);

(41) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3- heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$);

(42) 1-ethoxy-1,1,2,2,3,3,4,4,4- nonafluorobutane ($C_4F_9OC_2H_5$ or HFE-7200);

(43) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3- heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$);

(44) Methyl acetate~~,~~;

(45) 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$, HFE-7000)~~,~~;

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

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

(48) methyl formate (HCOOCH[3])~~, (1)~~;

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

(50) dimethyl carbonate;

(51) propylene carbonate;

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

(53) HCF_2OCF_2H (HFE-134);

(54) $HCF_2OCF_2OCF_2H$ (HFE-236cal2);

(55) $HCF_2OCF_2CF_2OCF_2H$ (HFE-338pcc13);

(56) $HCF_2OCF_2OCF_2CF_2OCF_2H$ (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));

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

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

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

(i) Cyclic, branched, or linear, completely fluorinated alkanes;
(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

~~(45) Tertiary-butyl acetate ($C_6H_{12}O_2$).~~

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

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

EXHIBIT 2

AIR POLLUTION CONTROL REGULATIONS

SECTION 1 - DEFINITIONS

1.0 In these Regulations, unless the context otherwise requires.

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

1.4 **"Air Contaminant"** means, any substance discharged into the atmosphere except water vapor or water droplets.

1.7 **"Air Pollution Control Committee"** means, three (3) members selected from the District Board of Health of Clark County to perform the functions set forth in these Regulations.

1.12 **"Area Source"** means, a collection of minor sources each emitting less than 22.7 metric tons (25 tons) per year of any pollutant for which there is a standard.

1.13 **"Atmosphere"** means, the portion of air which envelops the earth that is not contained in any enclosed building or structure.

1.19 **"Board"** means, the District Board of Health of Clark County.

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

1.34 **"Existing Facility"** means, any single source of contaminant on

~~which construction or modification was begun prior to August 25, 1971.~~

~~1.35 **"Existing Gasoline Station"** means, a place capable of receiving, storing, and dispensing one or more grades of gasoline for use in motor vehicles and for which construction commenced prior to November 1, 1977.~~

~~1.36 **"Fixed Capital Cost"** means, the capital needed to provide all the depreciable components.~~

~~1.42 **"Fumes"** means, minute solid particles generated by the condensation of vapors from solid matter after volatilization from the molten state, or may be generated by sublimation, distillation, calcination, or chemical reaction, when these processes create airborne particles.~~

~~1.46 **"Health District"** means, the Clark County Health District.~~

~~1.47 **"Hearing Board"** means, seven (7) members appointed by the Board of Health to perform the function set forth in the Nevada Revised Statutes and these Regulations.~~

~~1.50 **"Integrated Sampling"** means, sampling for an average concentration during an arbitrary time period. It generally involves collection of the sample in the field followed by analysis of the sample in the laboratory.~~

~~1.56 **"Minor Source"** means, a source of air contaminants in which the potential to emit for each and every contaminant is less than the significant emission rate.~~

~~1.57 **"Mist"** means, liquid particulates or droplets, about the size of raindrops, such as fog, that are formed by condensation or vapor, or atomization of a liquid by mechanical spraying.~~

~~1.63 **"New Gasoline Station"** means, a place capable of receiving, storing and dispensing one or more grades of gasoline for use in motor vehicles and for which construction commenced on or after November 1, 1977.~~

~~1.64 **"New Source"** means, any stationary source of air contaminant on which construction or reconstruction has begun after August 25, 1971.~~

EXHIBIT 2

1.66 **"NIC"** means, Nevada Industrial Commission.

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

1.87 **"Shutdown"** means, the cessation of operation of any affected facility for any purpose.

1.88 **"Significant"** means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates.

Pollutant and Emissions Rate

Carbon monoxide — 25 tons per year (TPY)
Nitrogen oxides — 40 TPY
Sulfur dioxide — 40 TPY
Particulate matter — 5 TPY
Volatile organic compounds — 40 TPY
Lead — 0.2 TPY
Asbestos — 0.007 TPY
Beryllium — 0.0004 TPY
Mercury — 0.1 TPY
Vinyl chloride — 1 TPY
Fluoride — 3 TPY
Sulfuric acid mist — 7 TPY
Hydrogen sulfide (H_2S) — 10 TPY
Total reduced sulfur (including H_2S) — 10 TPY
Reduced sulfur compounds (including H_2S) — 10 TPY
Total chloride — 10 TPY

1.89 **"Significant Source of Total Chlorides"** means, a process or process equipment

a) which emits more than 10 pounds per hour from a stack or stacks, or

b) which has fugitive emissions of more than 25 pounds per hour from a single building or other distinct fugitive source.

More than one significant source of total chloride may exist under the same management, control or ownership.

~~1.91 **"Single Source"** means, all similar process operations located at a single contiguous property which can technically be replaced by a single process that performs the same function.~~

~~1.93 **"Smoke"** means, the product of incomplete combustion consisting chiefly of particles of unburned carbon.~~

~~1.94 **"Source of Air Contaminant"** means, anything which emits any air contaminant.~~

~~1.95 **"Special Mobile Equipment"** means, every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved upon a paved roadway. Special mobile equipment may include but is not limited to graders, scrapers, bulldozers and other construction equipment.~~

~~1.97 **"Standard Commercial Equipment"** means, equipment manufactured in quantity for the purpose intended and completely specified as to the size, type and ratings in catalogs, and other printed literature readily available locally to officials within Clark County.~~

~~1.98 **"Standard Conditions"** means, a temperature of 20° Celcius (68° F) and a pressure of 760 mm of mercury (29.92 inches of mercury).~~

~~1.99 **"Start Up"** means, the setting in operation of an affected facility for any purpose.~~

~~1.100 **"Stationary Source"** means, any building, structure, facility, or installation which emits or may emit any air contaminant subject to regulations contained herein. A stationary source is composed of one or more emission units, is located on one or more contiguous or adjacent properties, and is under control of the same person (or persons under common control). Examples of emission units are:~~

~~Stacks;~~
~~Vents;~~
~~Process areas releasing air contaminants;~~
~~Unpaved haul roads serving a gravel processing operation;~~
~~Air pollution control equipment;~~
~~Evaporation towers;~~
~~Storage tanks; and~~
~~Stationary engines.~~

~~Emission units do not include motor vehicle emissions.~~

~~1.101 **"Stop Order"** means, a written notice by the Control Officer served on a person or persons engaged in the doing or causing the construction,~~

~~installation or alteration, or work to be stopped.~~

~~1.105 **"Uncombined Water"** means, a visible mist of condensed water vapor.~~

~~1.108 **"Vapor Disposal System"** means, a device or combination of devices into which vapors are passed before being vented into the atmosphere.~~

EXHIBIT 3

SECTION 12.0: APPLICABILITY, GENERAL REQUIREMENTS AND TRANSITION PROCEDURES

EXHIBIT 3

12.0 Applicability, General Requirements and Transition Procedures

12.0.1 Applicability

The requirements of Section 12 apply as follows:

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

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

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

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

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

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

12.0.2 General Requirements

(a) All stationary sources, including any stationary source not required to obtain a Permit to Operate under these regulations, shall be subject to other applicable requirements that regulate activities at stationary sources, even though a Permit to Operate is not required. Such applicable requirements include, but are not limited to, opacity standards, nuisance prohibitions, and fugitive dust control.

12.0.3 Transition Procedures

(a) Unless otherwise provided in the permit, the conditions in an Authority to Construct Permit, Permit to Operate or Part 70 Operating Permit issued by the Control Officer before the effective date of these regulations continues in effect until one of the following occurs:

(1) The Authority to Construct Permit, Permit to Operate or Part 70 Operating Permit is terminated.

(2) The Control Officer issues or denies a permit to the source pursuant to Section 12.1, 12.4, 12.5, or 12.11 after the effective date of these regulations.

(b) After the effective date of these regulations, all minor sources shall be subject to Section 12.1 as follows:

(1) A minor source that has submitted an application for a permit authorizing its construction and has not been issued a permit before the effective date of these regulations shall have that application processed pursuant to Section 12.1 as amended on this date, unless its application was deemed complete before the effective date of these regulations. If the application was deemed complete before the effective date of these regulations, then the application shall be processed pursuant to the requirements of Section 12 as they existed at that time.

(2) An existing minor source operating under a permit issued by the Control Officer prior to the effective date of these regulations must submit an application within five years of this date or earlier if requested in writing by the Control Officer.

(3) An existing minor source that does not have an initial minor source permit may submit a permit application at any time after the effective date of these regulations, but shall submit a permit application within one hundred eighty (180) days of receipt of written notice from the Control Officer that an application is required.

(4) An existing minor source making a change that is subject to the notice, logging or permit revision provisions under Section 12.1.5, as amended on the effective date of these regulations, shall comply with the provisions of that section.

(c) After the effective date of these regulations, all Part 70 sources required to obtain a Part 70 Operating Permit shall be subject to Sections 12.2, 12.3, 12.4, and/or 12.5 in accordance with the provisions in those sections.

12.0.4 Permittee Responsibility To Comply With Control Strategy

(a) No approval of an authority to construct or authority to operate permit issued pursuant to Section 12 shall affect the responsibility of the permittee to comply with the applicable requirements of the Nevada State Implementation Plan.

12.0.5 Stack Height

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

12.0.6 General Requirements for Records and Reports

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

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

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~~(d)~~(c) Emission data obtained pursuant to Section 12.0.6 from owners or operators of any source permitted under the provisions of Section 12 shall be correlated with applicable emission limitations and/or other applicable control measures. The data and the results of the correlation shall be made available to the public for review during normal business hours at the Department of Air Quality Office, 4701 West Russell Road, Las Vegas, Nevada 89118.

History: Adopted November 3, 2009

EXHIBIT 4

SECTION 12.1: PERMIT REQUIREMENTS FOR MINOR SOURCES

EXHIBIT 4

12.1 Permits for Minor Sources

12.1.0 Applicability

Section 12.1 is applicable to any stationary source located in Clark County that has the potential to emit (PTE) a regulated air pollutant equal to or greater than the thresholds listed in Section 12.1.1(c), but less than the major source thresholds listed in 12.2.2.1(ff) or 12.3.2(y). This includes any Part 70 source that is exempt from the requirement to obtain a Part 70 Permit and has a PTE that equals or exceeds the thresholds listed in Section 12.1.1(c) or that takes a Voluntarily Accepted Emission Limit pursuant to Section 12.1.7.

12.1.1 Definitions

Unless the context requires otherwise, the following terms shall have the meanings set forth below for purposes of Section 12.0, 12.1, 12.4, 12.5, and 12.11. When a term is not defined, it shall have the meaning provided in Section 0, ~~Chapter 9.08 of the Clark County Code,~~ Nevada Revised Statutes (NRS) § 445B, the Federal Clean Air Act, or common usage, in that order of priority.

(a) "Exempt stationary source" means any stationary source with a potential to emit that is less than the levels listed in paragraph (c) below or that is listed in Section 12.1.2.

(b) "Existing minor source" means any minor source that has been issued an "Authority to Construct" or "Permit to Operate" and that has not been issued an initial minor source permit but is required to have one, or that is determined by the Control Officer to be an exempt stationary source prior to the effective date of this rule.

(c) "Minor source" means a stationary source that is not required to obtain an "Authority to Construct" pursuant to Section 12.4.3 or a Part 70 Operating Permit and that has a potential to emit equal to or greater than the following levels for any listed pollutant:

Type of Air Pollutant	Potential to Emit (tpy)
PM2.5	5
PM_{10}	5
CO	25
VOC	5
NO_x	5
SO_2	25
Lead (Pb)	0.3
H_2S	1

(d) "Minor Source Permit" means a single permit that authorizes the construction and operation of a new minor source or the modification and operation of an existing minor source.

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

(f) "New minor source" means any stationary source that has had its application for an initial minor source permit authorizing its construction and operation declared complete pursuant to Section 12.1.3.3 after [the effective date of this rule].

(g) "Significant" means an increase at a minor source in the potential to emit of any of the following pollutants at a rate that would equal or exceed any of the following:

Type of Air Pollutant	Potential to Emit (tpy)
$\underline{PM_{2.5}}$	<u>7.5</u>
PM_{10}	7.5
CO	35
VOC	20
NO_x	20
SO_2	40
Lead (Pb)	0.6
H_2S	5
Total Reduced Sulfur (including H_2S)	5

12.1.2 Emission Units and Activities Exempt from Permit Requirements

(a) Construction and operation of any emission units or performance of any of the activities listed in Sections 12.1.2(c) or ~~12.5.2.5~~<u>Appendix A of Section 12.1</u> shall be exempt from the requirement to obtain a permit under Section 12 subject to the following requirements:

(1) The exempt emission units and activities shall be listed in the source's application and permit;

(2) The exempt emission units and activities shall remain subject to any other applicable requirements; and

(3) The potential to emit of all exempt units and activities shall be considered in determining if a stationary source is required to

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

(b) If a stationary source, based on information submitted by its owner or operator, is determined by the Control Officer to be an exempt stationary source, or is categorically exempt under paragraph (c), the owner or operator may request a letter of exemption confirming that status. The letter shall list all exempt emission units and activities.

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

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

(2) Production of hot water for use by on-site personnel not related to any industrial or production process;

(3) Emissions associated with paved and unpaved roads and parking lots that have public access, as well as activities associated with the repair and maintenance of paved and unpaved roads, including paving or sealing, or both, of parking lots and roadways. Such activities and emissions are subject to the requirements of Sections 91 and 92 of these regulations;

(4) Temporary "padding" machines used on an underground utility project, including the engine that powers them, provided there is no crusher and the project is being performed under the conditions of a Dust Control Permit issued pursuant to Section 94;

(5) Temporary on-site demolition debris "grinders," including the engine that powers them, provided the project is being performed under the conditions of a Dust Control Permit issued pursuant to Section 94;

(6) Temporary trenching machines, including the engine that powers them, provided the project is being performed under the

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

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

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

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

(C) The duration of the temporary operation or experimental trial is less than thirty (30) days of total operating time;

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

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

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

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

(iii) The dates the owner or operator anticipates the construction, reconstruction, or modification will

begin, operations will begin, and operations will cease;

(iv) An estimate of the potential emissions increase and the estimated actual emissions increase resulting from the construction or reconstruction; and

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

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

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

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

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

(G) The exemption provided by Section 12.1.2(c)(7) shall not apply to facilities or sources whose normal course of business involves operations that are experimental in nature, part of pilot plants, or characterized by frequent product changes.

(d) The Control Officer shall review, on a case-by-case basis, insignificant activities for an individual minor source that are listed in the application but do not require a detailed description. No activity with the potential to emit greater than two (2) tpy of any criteria pollutant or five (5) tpy of any combination of criteria pollutants shall be eligible to be determined an insignificant activity under this Section.

12.1.3 Permit Application

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

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

12.1.3.2 Timely Application

(a) An existing minor source that does not have an initial minor source permit issued pursuant to Section 12.1 prior to the effective date of this regulation may submit a permit application at any time after the effective date of this section, but shall submit a permit application within one hundred eighty (180) days of receipt of written notice from the Control Officer that an application is required.

(b) For purposes of permit renewal, a timely application is one that is submitted to the Control Officer at least one hundred twenty (120) days, but no more than two hundred seventy (270) days, before the date of permit expiration.

12.1.3.3 Complete Application

To be deemed complete, an application must contain all information required under Section 12.1.3.6. It must also be accompanied by payment of the applicable fee(s) established in Section 18. Unless the Control Officer determines that an application is not complete within sixty (60) days of receipt, the application shall be deemed complete. If, while processing an application that has been deemed complete, the Control Officer determines that additional information is necessary to evaluate or take final action on the application, he or she may request such information in writing and set a reasonable deadline for its submission. Failure to provide the additional information by the deadline could result in denial of the application.

12.1.3.4 Permit Application Shield

If an existing minor source submits a timely and complete application for continued operation under an initial minor source permit or renewal of a minor source permit, the source's failure to have the permit or renewal is not a violation of these regulations until the Control Officer takes final action on the application. This application shield shall cease to apply if, after a completeness determination, the applicant fails to submit any additional information identified as needed to process the application by a deadline the Control Officer has specified in writing.

12.1.3.5 Duty to Supplement or Correct Application

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

12.1.3.6 Application Contents

(a) A permit application for (1) a new minor source, (2) an existing minor source that has not been issued an initial permit, (3) the renewal of an existing minor source permit, (4) a voluntarily accepted emission limitation or standard, (5) a significant permit revision to a minor source permit, or (6) a minor permit revision to a minor source permit shall contain the following information:

(1) Identifying information, including but not limited to company name and address (and plant name and address, if different from the company name), owner or operator's name and agent, email address, telephone number and name(s) of plant site manager/contact with associated email addresses and telephone numbers.

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

(3) The following emissions-related information:

(A) The potential to emit of all regulated air pollutants emitted from each emission unit.

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

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

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

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

(F) Other information required by any applicable requirement;

(G) The calculations on which the information in paragraphs (A) through (F) is based; and

(4) A justification for any exemption sought from any otherwise applicable requirement;

~~(5) At the option of the applicant, a declaration that it wants the entire permit, or specifically identified permit conditions or applicable requirements, to be federally enforceable;~~

~~(6)~~(5) A certification signed by the responsible official stating that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete. Signature of the certification statement shall subject the applicant to liability under Nevada state laws forbidding false or misleading statements;

~~(7)~~(6) For a new or modified source, a schedule of construction, if applicable;

~~(8)~~(7) A list of emission limitations and other requirements applicable to the source; and

~~(9)~~(8) A list of emission units or activities claimed as exempt under 12.1.2(c).

(b) In addition to the information required by paragraph (a), if the application is for a new minor source that will have a potential to emit that is significant for any regulated air pollutant, a demonstration of RACT for the affected pollutant shall be proposed and shall include the methodology by which RACT was determined and how compliance with RACT will be demonstrated.

(c) In addition to the information required by paragraph (a), if the application is for a modification to an existing minor source and requires a minor source significant permit revision pursuant to Section 12.1.6(a)(7), the application shall contain the following:

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

(2) A description and quantification of actual emissions of all regulated air pollutants before and after the modification;

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

(4) A schedule of compliance, if applicable.

(d) In addition to the information required by paragraph (a), if the application is for a voluntarily accepted emission limitation, the applicant shall demonstrate that the emission limitation to be imposed to avoid an applicable requirement is more stringent than any emission limitation that would otherwise be applicable to that source, including those in the Nevada SIP.

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

12.1.4 Permit Content

12.1.4.1 Terms and Conditions

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

(a) Identification of all applicable requirements;

(b) A physical description of each emission unit or units and operating information consistent with the application information;

(c) Emission limitations for any source or emission unit that ensure:

(1) The National ~~a~~Ambient ~~A~~Air ~~q~~Quality ~~s~~Standards will be attained or maintained;

(2) The public health will be protected; and

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

(d) Monitoring, testing, reporting, and recordkeeping requirements that ensure reasonable information is provided to evaluate compliance consistent with permit terms and conditions, the underlying requirements of these regulations, and the Act. At a minimum, the following shall be contained in each minor source permit:

(1) The permit shall incorporate all applicable monitoring requirements, including, where applicable, the following:

(A) All emissions monitoring and analysis procedures or test methods required by any applicable requirement;

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

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

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

(A) Records of required monitoring information that include the following:

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

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

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used;

(v) The results of such analyses; and

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

(B) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes, but is not limited to, all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, data from the data acquisition system and copies of all reports required by the permit.

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

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

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

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

(f) Emission limitations and standards, including those operational requirements and limitations necessary to: (1) ensure compliance with any RACT determination, if one has been required; (2) ensure the source does not require a major source Authority to Construct or Part 70 Operating Permit; (3) ensure compliance with all applicable requirements at the time of permit issuance; and (4) ensure that any ambient air increment as prescribed by Section 12.2.3 is not exceeded.

(g) The following conditions shall also apply:

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

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

(3) If emission limitations are to be applicable to startup and shutdown, they shall be addressed on a case-by-case basis in the

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

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

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

(j) A list of exempt activities pursuant to Section 12.1.2(c);

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

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

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

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

(m) Compliance testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with ~~the terms~~the terms and conditions of the permit, including the following:

(1) The Control Officer may require stack testing, monitoring, or reporting to assure compliance with all applicable requirements. Any monitoring or testing shall be performed in accordance with Section 12.~~8~~10, an applicable requirement, or other methods approved by the Control Officer.

(2) As a condition of the issuance of the permit, that the owner or operator agrees to permit inspection of the premises to which the permit relates, including the location where records must be kept under the conditions of the permit, by any authorized representative of the Control Officer at any time during the permittee's hours of operation without prior notice to perform the following:

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

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

(C) Sample or monitor substances or parameters for the purpose of assuring compliance with the permit or applicable requirements; and

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

(3) Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification, and any other certification required under this section, shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(4) A permit renewal for an existing source shall include a schedule for compliance with any requirement with which the source is not in compliance at the time of permit issuance. This shall include a schedule of remedial measures, including an enforceable sequence of actions (with milestones) leading to compliance with any requirements with which the source was not in compliance at the time of permit issuance. This compliance schedule shall resemble, and be at least as stringent as, that contained in any judicial consent decree or administrative order the source is subject to. Any such schedule shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(5) The permit shall include any other compliance provisions the Control Officer may require.

(n) If the permit is for a new minor source or a modification to an existing minor source that requires a significant permit revision, the permit shall require that the permittee provide a written notice to the Control Officer no later than thirty (30) days prior to commencing operation that:

(1) The source as constructed or modified is the same as the source or modification authorized by the permit or revision; or

(2) The source as constructed or modified differs from the source or modification authorized by the permit or revision issued, and the differences are listed and described. A source may be subject to enforcement action as a result of differences between the permitted and constructed source.

(3) If the permit is for a new source or modification to an existing source that requires no additional construction, then the owner or operator shall, as part of the application, provide the notice specified in paragraph (1) or (2) at the time the application is deemed complete. In a situation involving a transfer in ownership of the air quality permit, the requirements of Section 12.12 shall apply.

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

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

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

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

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

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

(4) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect

only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(r) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of these regulations and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(s) The permit does not convey any property rights of any sort, or any exclusive privilege.

(t) The permittee shall furnish to the Control Officer, within a reasonable time, any information that the Control Officer may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Control Officer along with a claim of confidentiality pursuant to Section 12.6.

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

(v) Include a condition that the permit shall not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the Nevada SIP, or that are otherwise federally enforceable.

~~(v)~~(w) Include a condition that ~~no action on~~ the permit shall not affect the responsibilities of the permittee to comply with the applicable portions of a control strategy in the SIP.

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

12.1.4.2 Acknowledgment of Responsibility for Compliance

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

12.1.5 Permit Application Processing Procedures

12.1.5.1 Action on Application

(a) A new minor source permit, significant permit revision, or permit renewal may be issued only if all of the following conditions have been met:

(1) The Control Officer has received a complete application as prescribed by Section 12.1.3.3,

(2) The Control Officer has complied with the requirements for public participation under Section 12.1.5.3 as applicable;

(3) The Control Officer has determined that the conditions of the permit provide for compliance with all applicable requirements; and

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

(b) Following the close of the public participation process prescribed by Section 12.1.5.3, the Control Officer shall issue or deny the permit or significant permit revision. The Control Officer shall deny a permit or significant permit revision if the applicant fails to demonstrate that the source will be designed, controlled, and operated in a manner that meets all applicable requirements.

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

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

12.1.5.2 Permit Processing Deadlines

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

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

12.1.5.3 Public Participation

(a) Notice of Proposed Action.

(1) After receipt of a complete application for (1) a new minor source with a potential to emit any pollutant that exceeds 50 tpy for CO; 40 tpy for VOCs, SO_2, or NO_X; ~~15~~ 10 tpy for $PM_{2.5}$; 15 tpy for PM_{10}; 10 tpy for H_2S; or 0.6 tpy for lead; (2) a new minor source that will be located within 1,000 feet of the outer boundary of a school, hospital, or residential area; or (3) a significant permit revision that is required because of a significant increase in an existing minor source's potential to emit, the Control Officer shall publish in a newspaper of general circulation within Clark County, Nevada, and on the Department's web site, a Notice of Proposed Action on the application containing the following:

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

(B) The date the Control Officer received the completed application;

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

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

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

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

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

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

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

(J) An opportunity for any person to request a public hearing, consistent with the requirements of subsection (b) below, at which oral and written comments on the application will be received, or notice of such a hearing if one has been scheduled.

(2) All written comments must be received by the Control Officer within thirty (30) days from the publication date of the Notice of Proposed Action.

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

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

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

(B) Any other person who requests such notice.

(b) During the Notice of Proposed Action public comment period specified in paragraph (a)(2), any person may petition the Control Officer in writing for a public hearing. All such petitions shall contain the petitioner's name, address, daytime telephone number, email address, and reason for requesting a hearing.

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

(2) The petitioner and the applicant shall receive at least seven (7) days' prior written notice of the date and location of the public hearing. If the petition for hearing is denied, the Control Officer shall notify the petitioner within 30 days of receipt of the petition.

(c) An existing minor source that has applied for its initial minor source permit pursuant to Section 12.1 shall only be subject to the public participation requirements of Section 12.1.5.3, paragraphs (a) and (b), if the source's PTE exceeds one or more of the following: 50 tpy for CO; 40 tpy for VOCs, SO_2, and NO_x; 15 tpy for $PM_{2.5}$ and PM_{10}; and 0.6 tpy for lead.

(d) An existing minor source that has applied for an initial minor source permit pursuant to Section 12.1 and has a PTE below all the air pollutant thresholds listed in paragraph (c) shall have the proposed permit or permit revision posted on the Department's website for a period of thirty (30) days, during which any person may submit comments to the Control Officer on those provisions in the proposed permit that differ from conditions in the source's existing permit. The Control Officer shall consider such comments in determining the final language of the permit.

12.1.5.4 Permit Transfers

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

12.1.6 Revisions to an Existing Minor Source Permit

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

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

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

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

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

(B) A change in an applicable requirement.

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

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

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

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

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

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

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

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

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

(b) **Minor Permit Revision.** Making any of the changes listed in paragraphs (2)(A) through (~~E~~D) at a minor source requires a minor permit revision.

(1) Within thirty (30) days of the Control Officer's receipt of an application for a minor permit revision pursuant to paragraph (2), the Control Officer shall:

(A) Issue the minor revision as proposed;

(B) Deny the minor revision because:

(i) It does not qualify as a minor permit revision because it is a significant permit revision;

(ii) It does not otherwise qualify as a minor permit revision under the criteria in paragraph (b) above; or

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

(C) Amend and issue the revised minor source permit.

(2) The changes below may be implemented seven (7) calendar days after filing a complete application on a form obtained from the Control Officer. The application shall specify how the change qualifies as a minor permit revision under this section and propose language for the permit revision sought. No change listed in this section shall proceed if the Control Officer objects within the 7 day waiting period.

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

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

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

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

(c) **Administrative Permit Revision.** The following changes at a minor source require a permit revision, but are considered administrative and occur automatically upon notice to the Control Officer. These changes are not subject to the revision processes in Sections 12.1.6(a) and (b):

(1) Corrects typographical errors;

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

(3) Requires more frequent monitoring or reporting by the permittee;

(4) Incorporates newly applicable requirements that become newly applicable because of an amendment to an existing rule or adoption of a new rule;

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

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

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

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

(d) **Changes That Can Be Made With Prior Notice.** The following changes at a minor source may be made without a permit revision if the source provides prior written notice of the change on a form specified by the Control Officer by the deadlines specified in the applicable paragraph below. No change listed under this section shall proceed if the Control Officer objects within the applicable waiting period.

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

(2) A physical change, or a change in the method of operation, that increases actual emissions less than ten (10) percent of the applicable major source threshold for the air pollutant(s) emitted, but does not increase the source's potential to emit: seven (7) days after the date of receipt of the written notice by the Control Officer.

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

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

(5) A change that will result in the emissions of a new regulated air pollutant above an applicable regulatory threshold and less than a significant amount (as defined in Section 12.1.1(g)), but that does not trigger a new applicable requirement for that source category: thirty (30) days after the date of receipt of the written notice by the Control Officer. For purposes of this requirement, the applicable regulatory threshold for a regulated air pollutant

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

(e) **Changes That Can Be Made With On-Site Logging.** The following changes may be made at a minor source if the source maintains an on-site record or log of the changes on a form obtained from the Control Officer:

(1) Implementing an alternative operating scenario provided for in the permit, including raw material changes;

(2) Changing process equipment or operating procedures, or making any other physical change, if the permit requires the change to be logged;

(3) Adding any emission unit or activity listed in Section 12.1.2; or

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

(f) The Control Officer may revise a permit annually for a minor source without notice or public input to incorporate changes in notices filed pursuant to paragraphs (c) and (d) above and information contained in on-site records or logs maintained pursuant to paragraph (e).

(g) Any modification at a minor source that results in an increase in PTE equal to or greater than the emissions of a major stationary source (as defined in Sections 12.2 and 12.3) is subject to the applicable permit requirements in Section 12.4, as well as those in Sections 12.2 and/or 12.3.

(h) In the event that a change to a minor source may correspond to more than one category of revision or change listed in this section, the category of revision or change imposing the more stringent requirements shall apply.

12.1.7 Permits Containing Voluntarily Accepted Emission Limitations and Standards

(a) A source may voluntarily propose in its application, and accept in its permit, emission limitations or other standards that are ~~permanent, quantifiable,~~ enforceable as a practical matter~~, and more stringent than an otherwise applicable requirement~~ to avoid being subject to a major source New Source Review under Sections 12.2 or 12.3; having to obtain a Part 70 Operating Permit under Section 12.5; becoming a major Hazardous Air Pollutants (HAPs) source; being subject to

RACT; or meeting other applicable requirements. ~~For the purposes of this section, "enforceable as a practical matter" shall mean that the permit meets the following criteria:~~

~~(1) The permit conditions are permanent and quantifiable;~~

~~(2) The permit includes a legally enforceable obligation to comply;~~

~~(3) The limits impose an objective and quantifiable operational or production limit, or require the use of in-place air pollution control equipment;~~

~~(4) The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;~~

~~(5) The permit conditions are enforceable and independent of any other applicable limitations; and~~

~~(6) The permit conditions for monitoring, recordkeeping, reporting, and testing to determine compliance as specified in Section 12.1.4.1(d).~~

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

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

History: Adopted November 3, 2009

Appendix A: Insignificant Activities and Emissions

An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement.

(a) The following types of activities and emissions units may be presumptively omitted from a permit application for a Part 70 Operating Permit. Certain of the listed activities include qualifying statements intended to exclude many similar activities:

(1) Combustion emissions from propulsion of mobile sources;

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

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

(4) Noncommercial food preparation;

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

(6) Janitorial services and consumer use of janitorial products;

(7) Internal combustion engines used for landscaping purposes;

(8) Laundry activities, except for dry-cleaning and steam boilers;

(9) Bathroom/toilet vent emissions;

(10) Emergency (backup) electrical generators at residential locations;

(11) Tobacco smoking rooms and areas;

(12) Blacksmith forges;

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

plant owners/operators must still get a permit if otherwise required.

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

(15) Portable electrical generators that can be moved by hand from one location to another;

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

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

(18) Air compressors and pneumatically operated equipment, including hand tools;

(19) Batteries and battery charging stations, except at battery manufacturing plants;

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

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

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

(23) Drop hammers or hydraulic presses for forging or metalworking;

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

(25) Vents from continuous emissions monitors and other analyzers;

(26) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;

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

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

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

(30) Consumer use of paper trimmers/binders;

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

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

(33) Laser trimmers using dust collection to prevent fugitive emissions;

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

(35) Routine calibration and maintenance of laboratory equipment or other analytical instruments;

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

(37) Hydraulic and hydrostatic testing equipment;

(38) Environmental chambers not using HAP gases;

(39) Shock chambers;

(40) Humidity chambers;

(41) Solar simulators;

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

(43) Process water filtration systems and demineralizers;

(44) Demineralized water tanks and demineralizer vents;

(45) Boiler water treatment operations, not including cooling towers;

(46) Oxygen scavenging (deaeration) of water;

(47) Ozone generators;

(48) Fire suppression systems;

(49) Emergency road flares;

(50) Steam vents and safety relief valves;

(51) Steam leaks;

(52) Steam cleaning operations; and

(53) Steam sterilizers.

EXHIBIT 5

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

LIST OF TABLES

12.2 Prevention of Significant Deterioration in Attainment Areas

12.2.1 Applicability Procedures

12.2.1.1 Preconstruction Review Requirements

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

12.2.1.2 Construction of Major Stationary Sources or Modifications

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

12.2.1.3 Authority to Construct Permit Requirement

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

12.2.1.4 Projects

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

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

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

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

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

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

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

12.2.1.5 Major Sources with Plantwide Applicability Limitations

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

12.2.1.6 Existing Emission Unit Projects

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

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

(1) A description of the project;

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

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

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

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

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

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

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

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

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

12.2.1.7 Availability of Information

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

12.2.1.8 Secondary Emissions

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

12.2.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

(1) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, ~~and~~ shutdowns, ~~except emissions from a shutdown associated with a~~ and malfunctions.

(B) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the

source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

~~(i)~~(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of the particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (ii)(1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

~~(C)~~(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

~~(D)~~(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraph (1)(~~B~~C) of this definition.

(2) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Control Officer for a permit required under these regulations, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

(A) The average rate shall include fugitive emissions to the extent quantifiable.

(B) The average rate shall include emissions associated with startups, ~~and~~ shutdowns, ~~except emissions from a shutdown associated with a~~ and malfunctions.

(C) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(D) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must ~~currently~~ comply as of the particular date had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (ii)(1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(E) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(F) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraphs (2)(C) and (D) of this definition.

(3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal ze-

ro; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(4) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (1) of this definition, for other existing emissions units in accordance with the procedures contained in paragraph (2) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (3) of this definition.

(d) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under 40 CFR Part 81 and Section 107(d)(1)(A)(ii) or (iii) of the Act in which the major stationary source or major modification establishing the minor source baseline date would construct, or in which it would have an air quality impact ~~equal to or greater than one (1) microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date has been established.~~for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$.

(1) Area redesignations under 40 CFR Part 81 and Section 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(A) Establishes a minor source baseline date; or

(B) Is subject to Section 12 of the AQRs.

(2) Any baseline area established originally for the Total Suspended Particulates (TSP) increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if the Control Officer rescinds the corresponding minor source baseline date.

(e) "Baseline concentration" means:

(1) That ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established, and shall include:

(A) The actual emissions, representative of sources in existence on the applicable minor source baseline date, except

as otherwise provided in paragraph (2) of this definition; and

(B) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(2) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(A) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(B) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

(f) "Basic design parameter" means:

(1) Except as provided in paragraph (3) of this definition, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate, or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units (Btu) content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.

(2) Except as provided in paragraph (3) of this definition, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

(3) If the owner or operator believes the basic design parameter(s) in paragraphs (1) and (2) of this definition is not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Control Officer an alternative basic design parameter(s) for the source's process unit(s). If the Control Officer approves of the use of an alternative basic design parameter(s), the Control Officer shall issue a permit that is legally en-

forceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).

(4) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (1) and (2) of this definition.

(5) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the 5-year period immediately preceding the planned activity.

(6) Efficiency of a process unit is not a basic design parameter.

(7) The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.

(g) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(h) "Best Available Control Technology (BACT)" means an emission limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Control Officer, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a de-

sign, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(i) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same SIC or NAICS code) as described in either the Standard Industrial Classification manual, 1972, as amended by the 1977 supplement or the North American Industrial Classification System manual.

(j) "Categorical stationary source" means any stationary source of air pollutants that belongs to one of the following categories:

(1) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;

(2) Coal cleaning plants (with thermal dryers);

(3) Kraft pulp mills;

(4) Portland cement plants;

(5) Primary zinc smelters;

(6) Iron and steel mills;

(7) Primary aluminum ore reduction plants;

(8) Primary copper smelters;

(9) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(10) Hydrofluoric, sulfuric, or nitric acid plants;

(11) Petroleum refineries;

(12) Lime plants;

(13) Phosphate rock processing plants;

(14) Coke oven batteries;

(15) Sulfur recovery plants;

(16) Carbon black plants (furnace process);

(17) Primary lead smelters;

(18) Fuel conversion plants;

(19) Sintering plants;

(20) Secondary metal production plants;

(21) Chemical process plants;

(22) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

(23) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(24) Taconite ore processing plants;

(25) Glass fiber processing plants; and

(26) Charcoal production plants.

~~(27) Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or 112 of the Act.~~

(k) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage at a new or existing facility, which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen (NO_x) associated with the utilization of coal in the generation of electricity or process steam which was not in widespread use as of November 15, 1990.

(l) "Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The federal contribution for a qualifying project shall be at least twenty (20) percent of the total cost of the demonstration project.

(m) "Commence," as applied to construction of a major stationary source or major modification, means that the owner or operator has all nec-

essary preconstruction approvals or permits, including an Authority to Construct Permit, and either has:

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

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

(n) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Control Officer from requesting or accepting any additional information.

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

(p) "Continuous Emissions Monitoring System (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of Section 12.2 to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(q) "Continuous Emissions Rate Monitoring System (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(r) "Continuous Parameter Monitoring System (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of Section 12.2, to monitor process and control device operational parameters and other information, and to record average operational parameter value(s) on a continuous basis.

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

(t) "Emissions unit" means any part of a stationary source that emits, or would have the potential to emit, any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of Section 12.2, there are two types of emissions units, as described in paragraphs (1) and (2) of this definition:

(1) A "new emissions unit" is any emissions unit which is (or will be) newly constructed and which has existed for less than two (2) years from the date such emissions unit first operated. For the purposes of this definition, the date an emissions unit first operated shall not be extended by any shakedown period established pursuant to paragraph (ii)(6) of Section 12.2.2.

(2) An "existing emissions unit" is any emissions unit that does not meet the requirements in paragraph (1) of this definition. A replacement unit is an existing emissions unit.

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

(v) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

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

(x) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

(y) "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing the power of self-government.

(z) "Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

(aa) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air-quality environmental impacts.

(bb) "Lowest Achievable Emission Rate (LAER)" means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed major stationary source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the LAER for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

For purposes of this definition only, the term "any state" means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and includes the Commonwealth of the Northern Mariana Islands.

(cc) "Low terrain" means any area other than high terrain.

(dd) "Major modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.

(1) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(2) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair, and replacement;

(B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(D) Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;

(E) Use of an alternative fuel or raw material by a stationary source which:

(i) The source was capable of accommodating before January 6, 1975, unless such change is prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to Section 12 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, or

(ii) The source is approved to use under any permit issued under Section 12 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, or 40 CFR 52.21.

(F) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to Subpart I of 40 CFR Part 51.

(G) Any change in ownership at a stationary source;

(H) The installation, operation, cessation, or removal of a Temporary Clean Coal Technology Demonstration Project, provided that the project complies with:

(i) The Nevada SIP; and

(ii) Other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(I) The installation or operation of a permanent Clean Coal Technology Demonstration Project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis; or

(J) The reactivation of a very clean coal-fired electric utility steam generating unit.

(3) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Section 12.2.19 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification shall apply.

(4) The fugitive emissions of a major stationary source shall ~~not~~ be included in determining, for any of the purposes of Section 12.2, whether a particular physical change or change in the method of operation is a major modification, ~~unless the major stationary source is a categorical stationary source or belongs to any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.~~

(ee) "Major source baseline date" means:

(1) In the case of ~~particulate matter~~ PM_{10} and sulfur dioxide, January 6, 1975, ~~and~~;

(2) In the case of nitrogen dioxide, February 8, 1988; and

(3) In the case of $PM_{2.5}$, October 20, 2010.

(ff) "Major stationary source"

(1) Means:

(A) Any of the categorical stationary sources of air pollutants which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant;

(B) Notwithstanding the stationary source size otherwise specified in paragraph (1)(A) of this definition, any non-categorical stationary source which emits, or has the potential to emit, 250 tpy or more of a regulated NSR pollutant; or

(C) Any stationary source specified in paragraphs (1)(A) or (1)(B) of this definition which emits, or has the potential to emit, greenhouse gases ("GHGs") that are subject to regulation as defined in 40 CFR § 52.21(b)(49) as of July ~~20~~19, 2011; or

(D) Any physical change that would occur at a stationary source not qualifying under paragraphs (1)(A) or (1)(B) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

(2) A major stationary source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone.

(3) The fugitive emissions of a stationary source shall not be included in determining, for any of the purposes of Section 12.2, whether it is a major stationary source, unless the source is a categorical stationary source or belongs to any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

(gg) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to Section 12 of the AQRs submits a complete application under the relevant regulations.

(1) The trigger date is:

(A) In the case of particulate matter and sulfur dioxide, August 7, 1977; ~~and~~

(B) In the case of nitrogen dioxide, February 8, 1988~~.~~; and

~~(B)~~(C) In the case of $PM_{2.5}$, October 20, 2011.

(2) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(A) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under 40 CFR Part 81 and Section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under Section 12.2 of the AQRs; and

(B) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(3) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the Control Officer shall rescind a minor source baseline date where it can be shown, to the satisfaction of the Control Officer, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

EXHIBIT 5

(hh) "Necessary preconstruction approvals or permits" means those permits or approvals required under air quality control laws and regulations which are part of the Nevada SIP, these regulations, or federal air quality control laws and regulations, including the Authority to Construct Permits issued pursuant to Section 12.4.

(ii) "Net emissions increase (NEI)" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the following:

(1) The amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change, or change in the method of operation, at a stationary source as calculated pursuant to Sections 12.2.1.4(a) through (e); and

(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable.

(C) For the purposes of calculating increases and decreases under paragraph (1)(B) of this definition, baseline actual emissions shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (1)(C) and (2)(E) of that definition shall not apply.

~~(i) For the purposes of calculating increases under paragraph (1)(B) of this definition, actual emissions after the contemporaneous project shall be determined as provided in the definition of actual emissions, except as provided in paragraph (1)(C)(iii) of this definition.~~

~~(ii) For the purposes of calculating increases under paragraph (1)(B) of this definition, if the Control Officer determines that there is no sufficiently representative time period of actual emissions after a contemporaneous project, pursuant to Section 12.2.2(a)(1), actual emissions after the contemporaneous project shall be determined as provided in the definition of projected actual emissions.~~

~~(iii) For the purposes of calculating decreases under paragraph (1)(B) of this definition, actual emissions after the contemporaneous project shall be determined as provided in the definition of actual emissions.~~

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five (5) years before construction on the particular change commences and the date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if the Control Officer has not relied on it in issuing a permit for the source under Section 12 or any other regulation approved by the Administrator pursuant to 40 CFR Part 51, which permit is in effect when the increase in actual emissions from the particular change occurs.

(4) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(5) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(C) The Control Officer has not relied on it in issuing any permit under Section 12, or any other regulations approved pursuant to 40 CFR Part 51, Subpart I, nor has the state of Nevada relied on it in demonstrating attainment or reasonable further progress; and

(D) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(6) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown, or any new emissions unit that replaces an existing emissions unit and that requires shakedown, becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.

(jj) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to

emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the types or amounts of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is enforceable as a practical matter. Secondary emissions do not count in determining the potential to emit of a stationary source.

(kk) "Predictive Emissions Monitoring System (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters and other information, and calculate and record the mass emissions rate on a continuous basis.

(ll) "Prevention of Significant Deterioration (PSD) Permit" means any permit that is issued under a major source preconstruction permit program that has been approved by the Administrator and incorporated into the Nevada SIP to implement the requirements of Part C, Subchapter I of the Act. Any permit issued under such a program is a major NSR permit.

(mm) "Project" means a physical change in, or change in the method of operation of, an existing stationary source.

(nn) "Projected actual emissions" means the maximum annual rate, in tpy, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five (5) years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the ten (10) years following that date if (1) the project involves increasing the design capacity or potential to emit of any emissions unit for that regulated NSR pollutant, and (2) full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(1) In determining the projected actual emissions (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including, but not limited to historical operational data, the company's own representations, the company's expected business activity and highest projections of business activity, the company's filings with the county, state, or federal regulatory authorities, and compliance plans under these regulations;

(B) Shall include fugitive emissions to the extent quantifiable;

(C) Shall include emissions associated with startups, ~~and~~ shutdowns, ~~except emissions from a shutdown associated with a~~ and malfunctions; and

(D) Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth.

(E) In lieu of using the method set out in paragraphs (1)(A)-(D) of this definition, the owner or operator of the major stationary source may elect to use the emissions unit's potential to emit, in tpy.

(oo) "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change, or change in the method of operation, associated with commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the 2-year period prior to the enactment of the Act Amendments of 1990, and the emissions from such unit continue to be carried in the Clark County emissions inventory at the time of enactment;

(2) Was equipped prior to shutdown with a continuous system of emissions control that achieved a removal efficiency for sulfur dioxide of no less than eighty-five (85) percent and a removal efficiency for particulates of no less than ninety-eight (98) percent;

(3) Is equipped with low-NOx burners prior to the time of commencing operations following reactivation; and

(4) Is otherwise in compliance with the requirements of these regulations.

(pp) "Regulated NSR pollutant," for purposes of Section 12.2, means the following:

(1) Any pollutant for which a National Ambient Air Quality Standard has been promulgated. This includes, but is not limited to, the following:

(A) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in es-

tablishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included;

(B) Any pollutant identified as a constituent or precursor to a pollutant for which a National Ambient Air Quality Standard has been promulgated. The Administrator has identified the following ~~P~~precursors ~~identified by the Administrator~~ for the purposes of NSR ~~are the following~~:

(i) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(ii) Sulfur dioxide is a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas.

(iii) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all attainment and unclassifiable areas~~,~~ unless the state or county demonstrates to the Administrator's satisfaction, or EPA demonstrates, that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(iv) Volatile organic compounds are presumed not to be precursors to $PM_{2.5}$ in any attainment or unclassifiable area~~,~~ unless the state or county demonstrates to the Administrator's satisfaction, or EPA demonstrates, that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

~~(1)~~(2) Any pollutant that is subject to any standard promulgated under Section 111 of the Act;

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

~~(2)~~(4) Any pollutant that otherwise is subject to regulation under the Act as defined in 40 CFR § 52.21(b)(49~~8~~) as of July 19, 2011.

~~(3) Any pollutant that otherwise is subject to regulation under the Act as defined in 40 CFR § 52.21(b)(49) as of July 1, 2010, except that the following pollutants are not regulated NSR pollutants unless the listed pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Act:~~

~~(A) Any or all Hazardous Air Pollutants (HAPs) either listed in Section 112(b)(1) of the Act or added to the list pursuant to Section 112(b)(2) of the Act, and not delisted pursuant to Section 112(b)(3) of the Act; and~~

(5) The term "Regulated NSR Pollutant" shall not include any or all hazardous air pollutants either listed in Section 112 of the Act, or added to the list pursuant to Section 112(b)(2) of the Act and ~~which have~~ not ~~been~~ delisted pursuant to Section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Act.

~~(B) Any or all substances listed pursuant to Section 112(r)(3) of the Act.~~

(qq) "Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (1) through (4) of this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. The criteria are:

(1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(2) The emissions unit is identical to, or functionally equivalent to, the replaced emissions unit.

(3) The replacement does not alter the basic design parameters of the process unit.

(4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(rr) "Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells or—as determined by the Administrator, in consultation with the Secretary of Energy—a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(1) Repowering shall also include any oil and/or gas-fired unit which has been awarded Clean Coal Technology Demonstration Project funding as of January 1, 1991, by the U.S. Department of Energy.

(2) The Control Officer shall give expedited consideration to permit applications for any source that satisfies the requirements of Section 12.2.2(rr) and is granted an extension under Section 409 of the Act.

(ss) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of Section 12.2, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(tt) "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.

(uu) "Significant" means:

(1) In reference to a net emissions increase or a source's potential to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- Carbon monoxide: 100 tpy;

- NO_x: 40 tpy;
- Sulfur dioxide: 40 tpy;
- Particulate matter: 25 tpy;
- PM_{10}: 15 tpy;
- $PM_{2.5}$: 10 tpy of direct $PM_{2.5}$ emissions or 40 tpy of sulfur dioxide emissions or 40 tpy of nitrogen oxide emissions;
- Ozone: 40 tpy of volatile organic compounds or nitrogen oxides;
- Lead: 0.6 tpy;
- Fluorides: 3 tpy;
- Sulfuric acid mist: 7 tpy;
- Hydrogen sulfide (H_2S): 10 tpy;
- Total reduced sulfur (including H_2S): 10 tpy;
- Reduced sulfur compounds (including H_2S): 10 tpy;
- Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tpy).
- Municipal waste combustor metals (measured as Particulate Matter): 14 megagrams per year (15 tpy);
- Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tpy);
- Municipal solid waste landfills emissions (measured as non-methane organic compounds): 45 megagrams per year (50 tpy); and
- Ozone-depleting substances: 100 tpy.
- GHG: The sum of the six well-mixed GHGs on a mass basis greater than 0 tpy and the sum of the six well-mixed GHGs equal to or greater than 75,000 tpy CO2e as defined in 40 CFR § 52.21(b)(49) as of July ~~2019~~ 2011, 2011.

(2) "Significant" means, in reference to a net emissions increase or a source's potential to emit a regulated NSR pollutant that is not listed in this definition, any emissions rate.

(3) Notwithstanding the pollutant-specific significance levels specified in this definition "significant" means any emissions rate or any net emissions increase associated with a major stationary

source or major modification which would construct within 10 kilometers of a Class I area and have an impact on such area equal to or greater than 1 microgram per cubic meter (24-hour average).

(vv) "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

(ww) "Startup" means the setting into operation of any air pollution control equipment or process equipment for any purpose except the routine phasing in of process equipment.

(xx) "Stationary source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(yy) "Temporary Clean Coal Technology Demonstration Project" means a Clean Coal Technology Demonstration Project that is operated for a period of five (5) years or less, and which complies with the requirements of these regulations and other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

12.2.3 Ambient Air Increments

In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Table 12.2-1. Increment Limits

Pollutant		Maximum allowable increases ($\mu g/m^3$)
Class I		
Particulate Matter	$PM_{2.5}$, annual arithmetic mean	1
	$PM_{2.5}$, 24-hr maximum	2
	PM_{10}, annual arithmetic mean	4
	PM_{10}, 24-hr maximum	8
Sulfur Dioxide	Annual arithmetic mean	2
	24-hr maximum	5
	3-hr maximum	25
Nitrogen Dioxide	Annual arithmetic mean	2.5
Class II		
Particulate Matter	$PM_{2.5}$, annual arithmetic mean	4
	$PM_{2.5}$, 24-hr maximum	9
	PM_{10}, annual arithmetic mean	17
	PM_{10}, 24-hr maximum	30

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Pollutant		Maximum allowable increases ($\mu g/m^3$)
Sulfur Dioxide	Annual arithmetic mean	20
	24-hr maximum	91
	3-hr maximum	512
Nitrogen Dioxide	Annual arithmetic mean	25
Class III		
Particulate Matter	$PM_{2.5}$, annual arithmetic mean	8
	$PM_{2.5}$, 24-hr maximum	18
	PM_{10}, annual arithmetic mean	34
	PM_{10}, 24-hr maximum	60
Sulfur Dioxide	Annual arithmetic mean	40
	24-hr maximum	182
	3-hr maximum	700
Nitrogen Dioxide	Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

12.2.4 Ambient Air Ceilings

No concentration of a pollutant shall exceed the concentration permitted under the secondary National Ambient Air Quality Standard or the primary National Ambient Air Quality Standard, whichever is lowest for the pollutant, for a period of exposure.

12.2.5 Restrictions On Area Classifications

12.2.5.1 Class I Areas

All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

(a) International parks,

(b) National wilderness areas which exceed 5,000 acres in size,

(c) National memorial parks which exceed 5,000 acres in size, and

(d) National parks which exceed 6,000 acres in size.

12.2.5.2 Redesignation of Class I Areas

Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in 40 CFR Part 51.

12.2.5.3 Class II Areas

Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in 40 CFR Part 51.

12.2.5.4 Redesignating Areas

The following areas may be redesignated only as Class I or II:

(a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

12.2.5.5 Exclusions from Increment Consumption

(a) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

(1) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

(2) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

(3) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(4) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to ex-

isting sources which are included in the baseline concentration; and

(5) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources which are affected by plan revisions approved by the Administrator as meeting the criteria specified in paragraph (a)(3) of Section 12.2.5.5.

(b) If the plan provides that the concentrations to which paragraphs (a)(1) or (a)(2) of Section 12.2.5.5 refers shall be excluded, it shall also provide that no exclusion of such concentrations shall apply more than five (5) years after the effective date of the order to which paragraph (a)(1) of Section 12.2.5.5 refers or the plan to which paragraph (a)(2) of Section 12.2.5.5, refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five (5) years after the later of such effective dates.

(c) For purposes of excluding concentrations pursuant to paragraph (a)(5) of Section 12.2.5.5, the Administrator may approve a plan revision that:

(1) Specifies the time over which the temporary emissions increase of sulfur dioxide, particulate matter, or nitrogen oxides would occur. Such time is not to exceed two (2) years in duration unless a longer time is approved by the Administrator.

(2) Specifies that the time period for excluding certain contributions in accordance with paragraph (c)(1) of Section 12.2.5.5, is not renewable;

(3) Allows no emissions increase from a stationary source which would:

(A) Impact a Class I area or an area where an applicable increment is known to be violated; or

(B) Cause or contribute to the violation of a National Ambient Air Quality Standard.

(4) Requires limitations to be in effect the end of the time period specified in accordance with paragraph (c)(1) of Section 12.2.5.5, which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

12.2.6 Redesignation

12.2.6.1 Clark County

All areas of Clark County (except as otherwise provided under Section 12.2.5) are designated Class II as of December 5, 1974. Redesignation of any area of the county (except as otherwise precluded by Section 12.2.5) may be proposed by the Control Officer, as provided below and subject to approval by the Administrator, as a revision to the Nevada SIP.

12.2.6.2 Requirements

(a) Clark County, through the state of Nevada, may submit to the Administrator a proposal to redesignate areas of the county Class I or Class II provided that:

(1) At least one public hearing has been held in accordance with the procedures established in Section 12.2.16;

(2) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least thirty (30) days prior to the public hearing;

(3) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least thirty (30) days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(4) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the county, through the state of Nevada, has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of sixty (60) days) to confer with the county respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the county shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

(5) The county, through the state of Nevada, has proposed the redesignation after consultation with the elected leadership of lo-

cal and other substate general purpose governments in the area covered by the proposed redesignation.

(b) Any area other than an area to which Section 12.2.5 refers may be redesignated as Class III if:

(1) The redesignation would meet the requirements of Section 12.2.6.2;

(2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the county and the governor, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless state law provides that the redesignation must be specifically approved by state legislation), and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

(3) The redesignation would not cause or contribute to a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any National Ambient Air Quality Standard; and

(4) Any permit application for any major stationary source or major modification, subject to review under Section 12.2.11, which could receive a permit under Section 12.2 only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

12.2.6.3 Reserved

12.2.6.4 Administrator Approval

The Administrator will disapprove, within ninety (90) days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of Section 12.2.6 or is inconsistent with Section 12.2.5. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

12.2.6.5 Resubmitting Disapproved Proposal

If the Administrator disapproves any proposed redesignation, the county may resubmit the proposal after correcting the deficiencies noted by the Administrator.

12.2.7 Stack Heights

12.2.7.1 Emission Limitation

The degree of emission limitation required for control of any air pollutant under Section 12.2 shall not be affected in any manner by:

(a) So much of the stack height of any source as exceeds good engineering practice; or

(b) Any other dispersion technique.

12.2.7.2 Time Frame

Section 12.2.7.1 shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

12.2.7.3 Stack Height Limitation

(a) The limitations set forth herein shall not apply to stacks or dispersion techniques used by the owner or operator prior to December 31, 1970, for which the owner or operator had:

(1) Begun, or caused to begin, a continuous program of physical on-site construction of the stack;

(2) Entered into building agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack, to be completed in a reasonable time; or

(3) Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act, which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.

(b) Good engineering practice stack height is calculated as the greater of the four numbers in paragraphs (b)(1) through (b)(4) of Section 12.2.7.3:

(1) 213.25 feet (65 meters);

(2) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 CFR Part 51 or 52, Hg = 2.5H;

(3) For all other stacks, Hg = H + 1.5L, where:

Hg = Good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = Height of nearby structure, measured from the ground-level elevation at the base of the stack;

L = Lesser dimension (height or projected width) of nearby structure;

provided that the EPA, the Control Officer, or a local control agency may require the use of a field study or fluid model to verify good engineering practice (GEP) stack height for the source; or

(4) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain obstacles.

(5) For a specific structure or terrain feature, "nearby" shall be:

(A) For purposes of applying the formulae in paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, that distance up to five (5) times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile);

(B) For conducting demonstrations under paragraph (b)(4) of Section 12.2.7.3, not greater than 0.8 km (1/2 mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height (H+) of the feature, not to exceed two (2) miles if such feature achieved a height (H+) 0.8 km from the stack. The height shall be at least forty (40) percent of the GEP stack height as determined by the formula provided in paragraph (b)(3) of Section 12.2.7.3 or 85 feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.

(6) "Excessive concentrations" means, for the purpose of determining GEP stack height under paragraph (b)(4) of Section 12.2.7.3:

(A) For sources seeking credit for stack height exceeding that established under paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects, and which contributes to a total concentration due to emissions from all sources that is greater than a National Ambient Air Quality Standard. For sources subject to the requirements for permits or permit revisions under Section 12.2.7.3, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects, and greater than the applicable maximum allowable increase contained in Section 12.2.3. The allowable emissions rate to be used in making demonstrations under paragraph (b)(4) of Section 12.2.7.3 shall be prescribed by the new source performance standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Control Officer, an alternative emission rate shall be established in consultation with the source owner or operator;

(B) For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, either:

(i) A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in paragraph (b)(4) of Section 12.2.7.3, except that the emission rate specified by any applicable SIP shall be used; or

(ii) The actual presence of a local nuisance caused by the existing stack, as determined by the Control Officer.

(C) For sources seeking credit after January 12, 1979, for a stack height determined under paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, where the Control Officer requires the use of a field study or fluid model to verify GEP stack height; for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers; and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in paragraphs (b)(2) and (b)(3) of Section 12.2.7.3, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(c) The degree of emission limitation required of any source after the respective date given in paragraph (a) of Section 12.2.7.3 for control of any pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice, or by any other dispersion technique.

(d) Before the Control Officer issues an Authority to Construct Permit or permit revision under Section 12.2 to a source based on a good engineering practice stack height that exceeds the height allowed by paragraph (b) of Section 12.2.7.3, the Control Officer shall notify the public of the availability of the demonstration study and provide the opportunity for a public hearing in accordance with the requirements of Section 12.2.16.

12.2.8 Exemptions

The requirements of Sections 12.2.9 through 12.2.17 shall not apply to a particular major stationary source or major modification if:

(a) The major stationary source or major modification would be a nonprofit health or nonprofit educational institution, or the major modification would occur at such an institution; or

(b) The source is a portable stationary source which has previously received a permit, and:

(1) The owner or operator proposes to relocate the major stationary source, and emissions of the major stationary source at the new location would be temporary;

(2) The emissions from the major stationary source would not exceed its allowable emissions;

(3) The emissions from the major stationary source would impact no Class I area and no area where an applicable increment is known to be violated; and

(4) Reasonable notice is given to the Control Officer prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Control Officer not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the Control Officer.

~~(4)~~

12.2.8.1 Nonattainment Areas

The requirements of Sections 12.2.9 through 12.2.17 shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the major stationary source or major modification is located in an area designated as nonattainment under 40 CFR 81.329.

12.2.8.2 Class I Areas

The requirements of Sections 12.2.10, 12.2.12, and 12.2.14 shall not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the major stationary source or the net emissions increase of that pollutant from the major modification:

(a) Would impact no Class I area and no area where an applicable increment is known to be violated; and

(b) Would be temporary.

12.2.8.3 Class II Areas

The requirements of Sections 12.2.10, 12.2.12, and 12.2.14 as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than fifty (50) tpy.

12.2.8.4 Threshold Limits

The Control Officer may exempt a major stationary source or major modification from the requirements of Section 12.2.12, with respect to monitoring for a particular pollutant, if:

(a) The emissions increase of the pollutant from the new source, or the net emissions increase of the pollutant from the modification, would cause, in any area, air quality impacts less than the following amounts.

Table 12.2-2. Air Quality Impact Limits

Pollutant	Emissions Increase ($\mu g/m^3$)
Carbon monoxide, 8-hour average	575
Nitrogen dioxide, annual average	14
$PM_{2.5}$	0 (in accordance with *Sierra Club vs EPA*, 706 F.3d 428 D.C. Circuit 2013,no exemption is available with regard to $PM_{2.5}$)
PM_{10}, 24-hour average	10
Sulfur dioxide, 24-hour average	13
Ozone	No *de minimis* air quality level is provided for ozone. However, any net increase of 100 tpy or more of VOCs or NO_x subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data.
Lead, 3-month average	0.1
Fluorides, 24-hour average	0.25
Total reduced sulfur, 1-hour average	10
Hydrogen sulfide, 1-hour average	0.2
Reduced sulfur compounds, 1-hour average	10

(b) The concentrations of the pollutant in the area that the major stationary source or major modification would affect are less than the concentrations listed in paragraph (a) of Section 12.2.8.4; or

(c) The pollutant is not listed in paragraph (a) of Section 12.2.8.4.

12.2.9 Control Technology Review

A major stationary source or major modification shall meet each applicable requirement.

12.2.9.1 Major Stationary Sources

A new major stationary source shall apply BACT for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

12.2.9.2 Major Modifications

A major modification shall apply BACT for each regulated NSR pollutant for which it would result in a significant net emissions increase at the stationary source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change, or change in the method of operation, in the emissions unit.

12.2.9.3 Phased Construction Projects

For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

12.2.10 Source Impact Analysis

12.2.10.1 Demonstration of Impact

The owner or operator of the proposed major stationary source or major modification shall demonstrate that allowable emissions increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(a) Any NAAQS in any air quality control region; or

(b) Any applicable maximum allowable increase over the baseline concentration in any area.

12.2.10.2 Violation of Standard

A major stationary source or major modification will be considered to cause or contribute to a violation of a National Ambient Air Quality Standard when such source or modification would, at a minimum, exceed the significance

levels listed in Table 12.2-3 at any locality that does not (or would not) meet the applicable national standard.

Table 12.2-3a. Significance Levels

Pollutant	Annual	Significance Levels Averaging time (hours)			
		24	8	3	1
SO_2	1.0 µg/m^3	5 µg/m^3		25 µg/m^3	
PM_{10}	1.0 µg/m^3	5 µg/m^3			
NO_2	1.0 µg/m^3				
CO			0.5 mg/m^3		2 mg/m^3

~~For purposes of $PM_{2.5}$, the demonstration required in paragraph (k)(1) of this section is deemed to have been made if the emissions increase from the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the following amounts:~~

~~Table 12.2-3b. $PM_{2.5}$ Significance Levels~~

~~Pollutant~~	~~Averaging time~~	~~Class I Area~~	~~Class II Area~~	~~Class III Area~~
~~$PM_{2.5}$~~	~~Annual~~	~~0.06 µg/m^3~~	~~0.3 µg/m^3~~	~~0.3 µg/m^3~~
~~$PM_{2.5}$~~	~~24-hour~~	~~0.07 µg/m^3~~	~~1.2 µg/m^3~~	~~1.2 µg/m^3~~

12.2.11 Air Quality Models

12.2.11.1 Model Applicability

All estimates of ambient concentrations required under Section 12.2 shall be based on applicable air quality models, databases, and other requirements specified in 40 CFR Part 51, Appendix W ("Guideline on Air Quality Models").

12.2.11.2 Model Modifications and Substitutions

Where an air quality model specified in 40 CFR Part 51, Appendix W ("Guideline on Air Quality Models") is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with Section 12.2.16.

12.2.12 Air Quality Analysis

12.2.12.1 Preapplication Analysis

(a) Any application for an Authority to Construct Permit under Section 12.2 shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following :

(1) For the source, each pollutant that it would have the potential to emit in a significant amount; or

(2) For the modification, each pollutant for which it would result in a significant net emissions increase.

(b) With respect to any such pollutant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Control Officer determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(c) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(d) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one (1) year and shall represent at least the year preceding receipt of the application; except that, if the Control Officer determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year (but not to be less than four (4) months), the data that is required shall have been gathered over at least that shorter period.

(e) The owner or operator of a proposed new stationary source or modification of an existing stationary source of volatile organic compounds who satisfies all conditions of 40 CFR Part 51, Appendix S, Section IV may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Section 12.2.12.1.

(f) With respect to any requirements for air quality monitoring of PM_{10}, the owner or operator of the major stationary source or major modification shall use a monitoring method approved by the Administrator and shall estimate the ambient concentrations of PM_{10} using the data

collected by such approved monitoring method in accordance with estimating procedures approved by the Control Officer.

12.2.12.2 Post-Construction Monitoring

The owner or operator of a major stationary source or major modification shall, after construction of the major stationary source or major modification, conduct such ambient monitoring as the Control Officer determines is necessary to determine the effect emissions from the major stationary source or major modification may have, or are having, on air quality in any area.

12.2.12.3 Operations of Monitoring Stations

The owner or operator of a major stationary source or major modification shall meet the requirements of 40 CFR Part 58, Appendix B during the operation of monitoring stations for purposes of satisfying Section 12.2.12.

12.2.13 Source Information

The owner or operator of a proposed major stationary source or major modification shall submit all information necessary to perform any analysis or make any determination required under Section 12.2.13.

12.2.13.1 Required Information

With respect to a major stationary source or major modification to which Sections 12.2.9, 12.2.11, 12.2.13, and 12.2.15 apply, such information shall include:

(a) A description of the nature, location, design capacity, and typical operating schedule of the major stationary source or major modification, including specifications and drawings showing its design and plant layout;

(b) A detailed schedule for construction of the major stationary source or major modification;

(c) A detailed description as to what system of continuous emission reduction is planned for the major stationary source or major modification, emission estimates, and any other information necessary to determine that BACT would be applied.

12.2.13.2 Information on Air Quality Impacts

Upon request of the Control Officer, the owner or operator shall also provide information on:

(a) The air quality impact of the major stationary source or major modification, including meteorological and topographical data necessary to estimate such impact; and

(b) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since the major source baseline date in the area the major stationary source or major modification would affect.

12.2.14 Additional Impact Analyses

12.2.14.1 Visibility, Soils, and Vegetation

The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the proposed major stationary source or major modification, and general commercial, residential, industrial and other growth associated with the major stationary source or major modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

12.2.14.2 Commercial, Residential, Industrial, and Other Growth

The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

12.2.15 Additional Requirements for Sources Impacting Class I Areas

12.2.15.1 Notice to EPA

The Control Officer shall transmit to the Administrator a copy of each permit application relating to a major stationary source or major modification, and provide notice to the Administrator of every action related to the consideration of such permit.

12.2.15.2 Federal Land Manager

The Federal Land Manager and the federal official charged with direct responsibility for management of Class I lands have an affirmative responsibility to protect the air quality-related values (including visibility) of any such lands and to consider, in consultation with the Administrator, whether a proposed source or modification would have an adverse impact on such values. The Control Officer shall consult with the Federal Land Manager on a proposed major stationary source or major modification that may impact visibility in any Class I Area, in accordance with 40 CFR 51.307.

12.2.15.3 Impact of Denial on Air Quality-Related Values

A Federal Land Manager of any Class I lands may present to the county, after the Control Officer's preliminary determination (required under procedures developed in accordance with Section 12.2.16), a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the county, through the state of Nevada, concurs with such demonstration, the Control Officer shall not issue the permit.

12.2.15.4 Class I Variances

The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source would have no adverse impact on the air quality-related values of such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and so certifies to the state of Nevada, the Control Officer may, provided that applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the following maximum allowable increases over baseline concentration for such pollutants.

Table 12.2-4. Maximum Allowable Pollutant Increases

Pollutant	Maximum allowable increase ($\mu g/m^3$)
Particulate Matter:	
$PM_{2.5}$, annual arithmetic mean	4
$PM_{2.5}$, 24-hr maximum	9
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

12.2.15.5 Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence

(a) The owner or operator of a proposed source or modification which cannot be approved under procedures developed pursuant to Section 12.2.16 may demonstrate to the governor, through the Control Officer, that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of twenty-four (24) hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility).

(b) The Control Officer, through the governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may grant, after notice and an opportunity for a public hearing, a variance from such maximum allowable increase.

(c) If such variance is granted, the Control Officer may issue a permit to such source or modification in accordance with provisions developed pursuant to Section 12.2.16, provided that the applicable requirements of the Nevada SIP are otherwise met.

12.2.15.6 Variance by the Governor with the President's Concurrence

(a) The recommendations of the Control Officer, through the governor, and the Federal Land Manager shall be transferred to the president in any case where the governor recommends a variance in which the Federal Land Manager does not concur.

(b) The president may approve the governor's recommendation if he finds that such variance is in the national interest.

(c) If such a variance is approved, the Control Officer may issue a permit in accordance with provisions developed pursuant to the requirements of Section 12.2.16, provided that the applicable requirements of the Nevada SIP are otherwise met.

12.2.15.7 Emission Limitations for Presidential or Gubernatorial Variance

In the case of a permit issued under procedures developed pursuant to Section 12.2.16, the source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the maximum allowable increases over the baseline concentration shown in Table 12.2-5, and to assure that such emissions would not cause or contribute to concentrations which ex-

ceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period.

Table 12.2-5. Maximum Allowable Increase ($\mu g/m^3$)

Period of exposure	Low Terrain	High Terrain
24-hr maximum	36	62
3-hr maximum	130	221

12.2.16 Public Participation

12.2.16.1 Notice of Proposed Action

(a) An application shall be deemed to be complete unless, within sixty (60) days of receipt, the Control Officer notifies the applicant by certified mail that the application is deficient and not complete. In the event of a deficiency, the date of receipt of the application shall be the date on which the Control Officer received all required information.

(b) Within one (1) year after receipt of a complete application, the Control Officer shall:

(1) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved; and

(2) Make available in at least one (1) location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(c) After receipt of a complete application for an Authority to Construct Permit under Sections 12.2, or 12.3 and 12.4, the Control Officer shall publish in a newspaper of general circulation within Clark County, Nevada, within each region in which the proposed source would be constructed, and on the department's web site a Notice of Proposed Action on the application containing the following:

(1) The date of the department's receipt of the completed application;

(2) The location where documents relevant to the application will be available;

(3) For an Authority to Construct Permit reviewed pursuant to Section 12.2, a summary of the following:

(A) The results of air quality modeling and any other air quality impact analyses;

(B) The results of the analysis of alternatives;

(C) The determination of BACT; and

(D) The level of PSD increments to be consumed by the source, as determined under Section 12.2.3.

(4) For an Authority to Construct Permit reviewed pursuant to Section 12.3, a summary of the following:

(A) Statewide compliance demonstration;

(B) Air quality impact analysis;

(C) Determination of the LAER; and

(D) Description of the emissions offsets relied upon in the application.

(5) The department's preliminary determination of whether the application should be approved or disapproved;

(6) The proposed Authority to Construct Permit conditions;

(7) A determination by the Control Officer that the approval of the construction will not cause or contribute to a violation of a National Ambient Air Quality Standard, a PSD increment identified in Section 12.2.3, or otherwise violate any provisions of the Nevada SIP;

(8) The total PTE of each regulated NSR pollutant, as applicable;

(9) An opportunity for any person to submit written comments on the application and any documents relevant to the application; and

(10) An opportunity for any person to request a public hearing at which oral and written comments on the application will be received, or notice of such a hearing if one has been scheduled.

(d) All written comments must be received by the Control Officer within thirty (30) days from the publication date of the Notice of Proposed Action.

12.2.16.2 Distribution of Notice

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

(a) Any other state or local air pollution control agencies;

(b) The chief executives of the city and county where the source would be located;

(c) Any comprehensive regional land use planning agency;

(d) Any state, Federal Land Manager, and Indian governing body whose lands may be affected by emissions from the source or modification;

(e) The Regional Administrator for EPA's Region 9; and

(f) Any other person who requests such notice.

12.2.16.3 Public Hearings

During the Notice of Proposed Action public comment period specified in Section 12.2.16.1, any person may petition the Control Officer, in writing, for a public hearing. All such petitions shall contain the petitioner's name, address, daytime telephone number, and the reason for requesting a hearing.

12.2.16.4 Time Frame

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

The petitioner and the applicant shall receive no less than seven (7) days' prior written notice of the date and location of the public hearing. Any notice of hearing shall also be posted on the department's website no less than seven (7) days prior to the public hearing.

12.2.16.5 Comments and Approvals

The Control Officer shall also:

(a) Consider all written comments submitted within a time specified in the notice of public comment, and all comments received at any public hearing(s), in making a final decision on the approvability of the application. The Control Officer shall make all comments available for public inspection in the same locations where the Control Officer made available preconstruction information relating to the proposed source or modification;

(b) Make a final determination whether construction should be approved, approved with conditions, or disapproved; and

(c) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Control Officer made available preconstruction information and public comments relating to the source.

12.2.16.6 Enhanced Public Participation Procedures

If the terms and conditions of an Authority to Construct Permit are to be incorporated into a Part 70 Operating Permit through an administrative permit revision, as provided in paragraph (a)(5) of Section 12.5.2.13, in addition to the foregoing public participation procedures, the applicant shall comply with the requirements of Section 12.5.2.17.

12.2.17 Source Obligation

12.2.17.1 Enforcement

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to Section 12.2 and with any changes to the application as required by the Control Officer, or with the terms of its Authority to Construct Permit, or any owner or operator of a source or modification subject to Section 12.2 who begins actual construction after the effective date of these AQRs without applying for and receiving an Authority to Construct Permit, shall be subject to enforcement action.

12.2.17.2 Termination

An Authority to Construct Permit shall terminate if construction is not commenced within eighteen (18) months after receipt of such permit if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The Control Officer may extend the 18-month period upon a satisfactory showing of good cause why an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction pro-

ject; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

12.2.17.3 Compliance

The issuance of an Authority to Construct Permit shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Nevada SIP and any other requirements under local, state, or federal law.

12.2.17.4 Relaxation in Enforceable Limitations

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification otherwise to emit a pollutant, then the requirements of Sections 12.2.9 through 12.2.17 shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

12.2.18 Innovative Control Technology

12.2.18.1 Request for Approval

An owner or operator of a proposed major stationary source or major modification may request the Control Officer to approve a system of innovative control technology.

12.2.18.2 Requirements for Approval

The Control Officer may, with the consent of the governor of the state of Nevada and the governors of other affected states, determine that the major stationary source or major modification may employ a system of innovative control technology if:

(a) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(b) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 12.2.9.2 by a date specified by the Control Officer. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

(c) The major stationary source or major modification would meet the requirements of Sections 12.2.9 and 12.2.10, based on the emis-

sions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Control Officer;

(d) The major stationary source or major modification would not, before the date specified by the Control Officer:

(1) Cause or contribute to a violation of an applicable National Ambient Air Quality Standard; or

(2) Impact any area where an applicable increment is known to be violated.

(e) All other Applicable Requirements, including those for public participation, have been met; and

(f) The provisions of Section 12.2.15 (relating to Class I areas) have been satisfied with respect to all periods during the life of the major stationary source or major modification.

12.2.18.3 Withdrawal of Approval

The Control Officer shall withdraw any approval to employ a system of innovative control technology made under Section 12.2.18.2 if:

(a) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

(b) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(c) The Control Officer decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

12.2.18.4 BACT Extension for Failure or Withdrawal

If a major stationary source or major modification fails to meet the required level of continuous emission reduction within the specified time period, or the approval is withdrawn in accordance with Section 12.2.18.3, the Control Officer may allow the major stationary source or major modification up to an additional three (3) years to meet the requirement for the application of BACT through use of a demonstrated system of control.

12.2.19 Plantwide Applicability Limits (PALs)

The provisions in Sections 12.2.19.1 through 12.2.19.15 of this section govern actuals PALs.

12.2.19.1 Applicability

(a) The Control Officer may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 12.2.19.1 through 12.2.19.15. The term "PAL" shall mean "actuals PAL" throughout Section 12.2.19.

(b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Section 12.2.19, and complies with the Authority to Construct Permit:

(1) Is not a major modification for the PAL pollutant;

(2) Does not have to be approved through the PSD program; and

(3) Is not subject to the provisions in Section 12.2.17.4.

(c) Except as provided under paragraph (b)(3) of Section 12.2.19.1, a major stationary source shall continue to comply with all applicable federal, state or county requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

12.2.19.2 Definitions

(a) Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.2.19. When a term is not defined in these paragraphs, it shall have the meaning given in Section 12.2.2, Section 0, Section 12.4, or the Act.

(1) "Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit, or have the potential to emit, the PAL pollutant.

(2) "Allowable emissions" means "allowable emissions" as defined in paragraph (a)(3) of Section 12.2.2, except as that definition is modified according to paragraph (A) of this definition:

(A) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(3) "Major emissions unit" means:

(A) Any emissions unit that emits, or has the potential to emit, 100 tpy or more of the PAL pollutant in an attainment area; or

(B) Any emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.

(4) "PAL" means an emission limitation, expressed in tpy, for a pollutant at a major stationary source that is enforceable as a practical matter and established source-wide in accordance with Sections 12.2.19.1 through 12.2.19.15.

(5) "PAL effective date" generally means the date of issuance of the Authority to Construct Permit. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(6) "PAL effective period" means the period beginning with the PAL effective date and ending ten (10) years later.

(7) "PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change in, or change in the method of operation of, the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(8) "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

(9) "Significant emissions unit" means an emissions unit that emits, or has the potential to emit, a PAL pollutant in an amount that is equal to or greater than the significant level as defined in these AQRs or the Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

(10) "Small emissions unit" means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level for that PAL pollutant as defined in these AQRs or the Act, whichever is lower.

12.2.19.3 Permit Application Requirements

As part of a an application for a Part 70 Operating Permit requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Control Officer for approval:

(a) A list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal, state or county applicable requirements, emission limitations, or work practices apply to each unit;

(b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction; and

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by paragraph (a) of Section 12.2.19.13.

12.2.19.4 General Requirements for Establishing PALs

(a) The Control Officer may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(1) through (a)(7) of Section 12.2.19.4 are met.

(1) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter for the entire major stationary source. For each month during the PAL effective period after the first twelve (12) months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve (12) consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven (11) months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2) The PAL shall be established in an Authority to Construct Permit that meets the public participation requirements in Section 12.2.19.5.

(3) The Authority to Construct Permit shall contain all the requirements of Section 12.2.19.7.

(4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit, or have the potential to emit, the PAL pollutant at the major stationary source.

(5) Each PAL shall regulate emissions of only one pollutant.

(6) Each PAL shall have a PAL effective period of ten (10) years.

(7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 12.2.19.12 through 12.2.19.14 for each emissions unit under the PAL through the PAL effective period.

(b) At no time during or after the PAL effective period are emissions reductions of a PAL pollutant which occur during the PAL effective period creditable as decreases for purposes of offsets under Section 12.3.6 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

12.2.19.5 Public Participation Requirements for PALs

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 12.2.16.

12.2.19.6 Setting the 10-year Actuals PAL Level

(a) Except as provided in paragraph (b) of Section 12.2.19.6, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source plus an amount equal to the applicable significant level for the PAL pollutant under these AQRs or under the Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Control Officer shall specify a reduced PAL level(s) (in tpy) in the Authority to Construct Permit, to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Control Officer is aware of prior to issuance of the permit.

(b) For newly constructed units (this does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in

paragraph (a) of Section 12.2.19.6, the emissions must be added to the PAL level in an amount equal to the PTE of the units.

12.2.19.7 Contents of a Part 70 Operating Permit Containing a PAL

The contents shall include the information in paragraphs Section 12.2.19.7 (a) through (j) as listed below:

(a) The PAL pollutant and the applicable source-wide emission limitation in tpy.

(b) The effective date and the expiration date of the PAL conditions (i.e., PAL effective period).

(c) Specification in the permit that if a major stationary source owner or operator applies to renew the PAL conditions in accordance with Section 12.2.19.10 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised Part 70 Operating Permit is issued by the Control Officer;

(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;

(e) A requirement that, once the PAL conditions expire, the major stationary source is subject to the requirements of Section 12.2.19.9;

(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total, as required by paragraph (a) of Section 12.2.19.13;

(g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 12.2.19.12;

(h) A requirement to retain the records required under Section 12.2.19.13 on-site. Such records may be retained in an electronic format;

(i) A requirement to submit the reports required under Section 12.2.19.14 by the required deadlines; and

(j) Any other requirements that the Control Officer deems necessary to implement and enforce the PAL conditions.

12.2.19.8 PAL Effective Period and Reopening of the PAL Conditions in a Part 70 Operating Permit

The conditions in a Part 70 Operating Permit that contain a PAL shall include the following information:

(a) **PAL Effective Period.** The Control Officer shall specify a PAL effective period of ten (10) years from the date of issuance.

(b) **Reopening of the PAL Conditions in a Part 70 Operating Permit**

(1) During the PAL effective period, the permit shall require the Control Officer to reopen the PAL conditions in a Part 70 Operating Permit to:

(A) Correct typographical/calculation errors made in setting the PAL, or reflect a more accurate determination of emissions used to establish the PAL;

(B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 12.3; or

(C) Revise the PAL to reflect an increase in the PAL, as provided under Section 12.2.19.11.

(2) The Control Officer may reopen the conditions of a Part 70 Operating Permit authorizing a PAL for the following:

(A) Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

(B) Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the Control Officer may impose on the major stationary source under the Nevada SIP.

(C) Reduce the PAL if the Control Officer determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air quality-related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

(3) Except for the permit reopening in paragraph (b)(1)(A) of Section 12.2.19.8 for the correction of typographical/calculation er-

rors that do not increase the PAL level, all other reopenings shall be carried out as significant permit revisions to a Part 70 Operating Permit.

12.2.19.9 Expiration of a PAL

Any PAL which is not renewed in accordance with the procedures in Section 12.2.19.10 shall expire at the end of the PAL effective period, and the requirements in paragraphs (a) through (e) of Section 12.2.19.9 shall apply.

(a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised Part 70 Operating Permit established according to the procedures in paragraphs (a)(1) and (a)(2) of Section 12.2.19.9:

(1) Within the time frame specified for PAL renewals in paragraph (b) of Section 12.2.19.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Control Officer) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e) of Section 12.2.19.10, such distribution shall be made as if the PAL had been adjusted.

(2) The Control Officer will decide whether and how the PAL allowable emissions will be distributed and issue a revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Control Officer determines is appropriate.

(b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Control Officer may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the Control Officer issues the revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(2) of Section 12.2.19.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change in, or change in the method of operation at, the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification.

(e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period, except for those limitations that were eliminated by the PAL in accordance with the provisions of paragraph (b)(3) of Section 12.2.19.1.

12.2.19.10 Renewal of a PAL

(a) The Control Officer will follow the procedures specified in Sections 12.2.19.5 and 12.4 in approving any request to renew the PAL conditions in a Part 70 Operating Permit, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Control Officer.

(b) **Application Deadline.** A major stationary source owner or operator shall submit a timely application to the Control Officer to request renewal of the PAL conditions in a Part 70 Operating Permit. A timely application is one that is submitted at least six (6) months prior to, but not earlier than eighteen (18) prior to, the date of expiration of the Part 70 Operating Permit containing the PAL. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL conditions in a Part 70 Operating Permit within this time period, then the PAL conditions shall continue to be effective until the revised permit with the renewed PAL conditions is issued.

(c) **Application Requirements.** The application to renew PAL conditions shall be incorporated into the application for renewal of the affected Part 70 Operating Permit, and shall contain the information required in paragraphs (c)(1) through (c)(4) of Section 12.2.19.10:

(1) The information required in paragraphs (a) through (c) of Section 12.2.19.3;

(2) A proposed PAL level;

(3) The sum of the PTE of all emissions units under the PAL (with supporting documentation); and

(4) Any other information the owner or operator wishes the Control Officer to consider in determining the appropriate level for renewing the PAL conditions.

(d) **PAL Adjustment.** In determining whether and how to adjust the PAL, the Control Officer will consider the options outlined in paragraphs (d)(1) and (d)(2) of this Section 12.2.19.10. However, in no case may any such adjustment fail to comply with paragraph (d)(3) of Section 12.2.19.10.

(1) If the emissions level calculated in accordance with Section 12.2.19.6 is equal to or greater than eighty (80) percent of the PAL level, the Control Officer may renew the PAL at the same level without considering the factors set forth in paragraph (d)(2) of Section 12.2.19; or

(2) The Control Officer may set the PAL at a level that he determines to be more representative of the source's baseline actual emissions, or that he or she determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Control Officer in his or her written rationale.

(3) Notwithstanding paragraphs (d)(1) and (d)(2) of Section 12.2.19:

(A) If the PTE of the major stationary source is less than the PAL, the Control Officer shall adjust the PAL to a level no greater than the PTE of the source; and

(B) The Control Officer shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 12.2.19.11.

(e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the Control Officer has not already adjusted for such requirement, the PAL shall be adjusted at the time ~~the affected Part 70 Operating Permit is renewed.~~ of the PAL permit renewal or Part 70 Operating Permit renewal, whichever occurs first.

12.2.19.11 Increasing a PAL during the PAL Effective Period

(a) The Control Officer may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(1) through (a)(4) of Section 12.2.19.11:

(1) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit as a significant revision to the affected Part 70 Operating Permit. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls), plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten (10) years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3) The owner or operator obtains an Authority to Construct Permit pursuant to Section 12.4 for all emissions unit(s) identified in paragraph (a)(1) of Section 12.2.19.11, regardless of the magnitude of the emissions increase resulting from them. The emissions unit(s) shall comply with any emissions requirements resulting from the Authority to Construct Permit issuance process, even though it has also become subject to the PAL or continues to be subject to the PAL.

(4) The PAL conditions in a Part 70 Operating Permit shall require that the increased PAL level be effective on the day any emissions unit that is part of the significant permit revision becomes operational and begins to emit the PAL pollutant.

(b) The Control Officer shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(2) of Section 12.2.19.11), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL conditions in a Part 70 Operating Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 12.2.19.5.

12.2.19.12 Monitoring Requirements for PALs

(a) **General Requirements**

(1) The PAL conditions in a Part 70 Operating Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL conditions must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL conditions.

(2) The PAL monitoring system must employ one (1) or more of the four (4) general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(1) through (b)(4) of Section 12.2.19.12, and must be approved by the Control Officer.

(3) Notwithstanding paragraph (a)(2) of Section 12.2.19.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(1) of Section 12.2.19.12 if approved by the Control Officer.

(4) Failure to use a monitoring system that meets the requirements of Section 12.2.19 renders the PAL invalid.

(b) **Minimum Performance Requirements for Approved Monitoring Approaches.** The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 12.2.19.12:

(1) Mass balance calculations for activities using coatings or solvents;

(2) CEMS;

(3) CPMS or PEMS; and

(4) Emission factors.

(c) **Mass Balance Calculations.** An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:

(1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in, or created by all materials used in or at, the emissions unit;

(2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Control Officer determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) **CEMS.** An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

(2) The CEMS must sample, analyze, and record data at least every fifteen (15) minutes while the emissions unit is operating.

(e) **CPMS or PEMS.** An owner or operator using a CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen (15) minutes, or at another, less frequent interval approved by the Control Officer, while the emissions unit is operating.

(f) **Emission Factors.** An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(1) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(2) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six (6) months of permit issuance unless the Control Officer determines that testing is not required.

(g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the Authority to Construct Permit.

(h) Notwithstanding the requirements in paragraphs (c) through (g) of Section 12.2.19.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Control Officer shall, at the time of permit issuance:

(1) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(i) **Revalidation.** All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the Control Officer. Such testing must occur at least once every five (5) years after issuance of the Part 70 Operating Permit containing the PAL conditions.

12.2.19.13 Recordkeeping Requirements

(a) The PAL conditions in a Part 70 Operating Permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 12.2.19 and of the

PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five (5) years from the date of such record.

(b) The PAL conditions in a Part 70 Operating Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five (5) years:

(1) A copy of the PAL provisions in a permit application for a Part 70 Operating Permit and any applications for revisions to the affected Part 70 Operating Permit relevant to the PAL; and

(2) Each annual certification of compliance pursuant to the conditions in the affected Part 70 Operating Permit and the data relied on in certifying the compliance.

12.2.19.14 Reporting and Notification Requirements

The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the Control Officer, in accordance with the conditions in the affected Part 70 Operating Permit. The reports shall meet the requirements in paragraphs (a) through (c) of Section 12.2.19.14.

(a) **Semiannual Report.** The semiannual report shall be submitted to the Control Officer within thirty (30) days of the end of each reporting period. This report shall contain the information required in paragraphs (a)(1) through (7) of Section 12.2.19.14:

(1) The identification of the owner and operator and the permit number;

(2) Total annual emissions (in tpy), based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (a) of Section 12.2.19.14;

(3) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

(4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

(5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;

(6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will

be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 12.2.19.12; and

(7) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(b) **Deviation Report.** The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL conditions, including periods where no monitoring was available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected Part 70 Operating Permit. The reports shall contain the following information:

(1) The identification of owner and operator and the permit number;

(2) The PAL requirement that experienced the deviation or that was exceeded;

(3) Emissions resulting from the deviation or the exceedance; and

(4) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(c) **Revalidation Results.** The owner or operator shall submit to the Control Officer the results of any revalidation test or method within three (3) months after completion of such test or method.

12.2.19.15 Transition Requirements

(a) The Control Officer may not issue a PAL that does not comply with the requirements in Sections 12.2.19.1 through 12.2.19.15 after the Administrator has approved regulations incorporating these requirements into the Nevada SIP.

(b) The Control Officer may supersede any PAL which was established prior to the date of approval of the Nevada SIP by the Administrator with a PAL that complies with the requirements of Sections 12.2.19.1 through 12.2.19.15.

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12.2.20 Invalidation

If any provision of Section 12.2.19, or the application of such provision to any person or circumstance, is held invalid, the remainder of Section 12.2.19, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

History: Adopted May 18, 2010. Amended November 16, 2010.

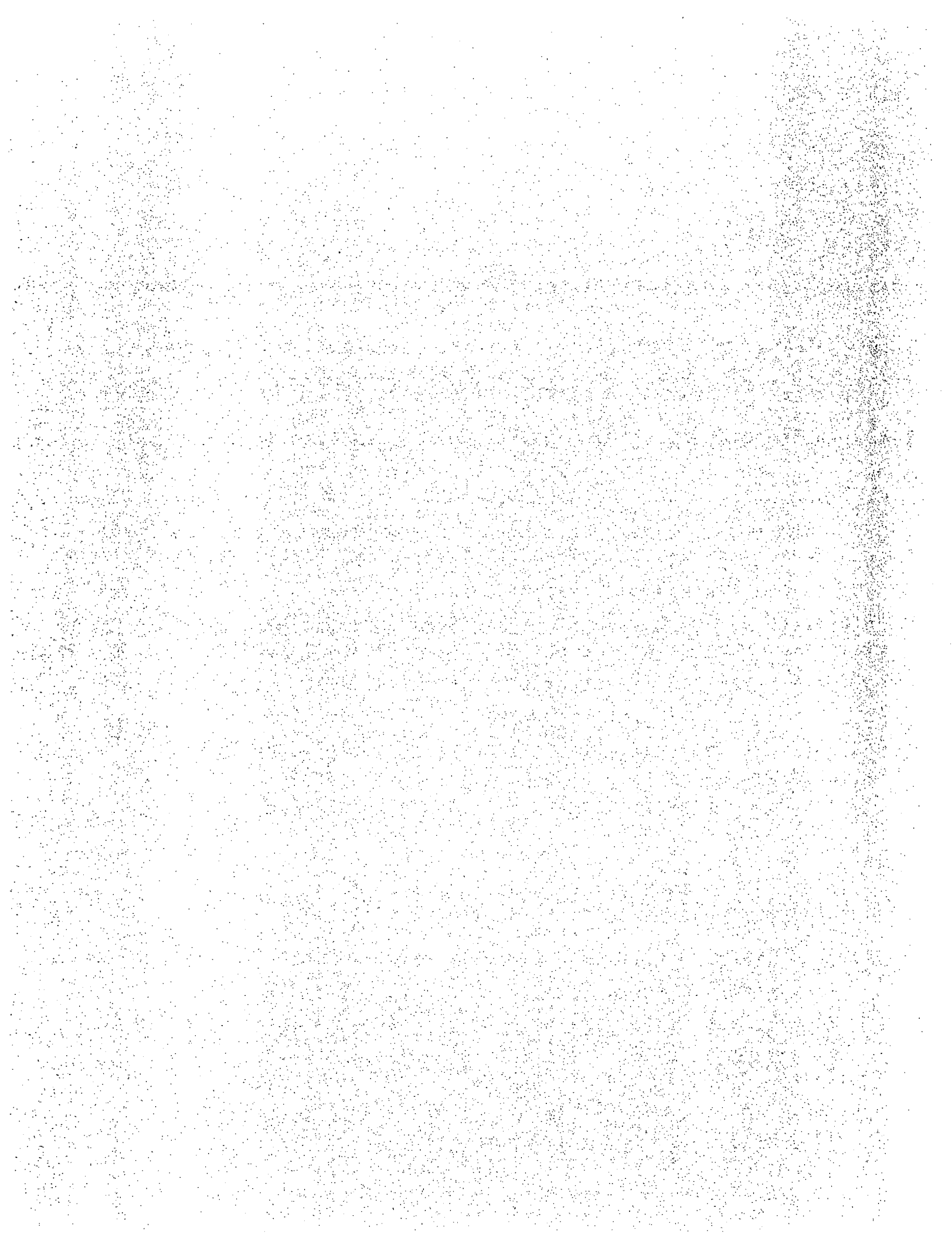

EXHIBIT 6

SECTION 12.3: PERMIT REQUIREMENTS FOR MAJOR SOURCES IN NONATTAINMENT AREAS

LIST OF TABLES

12.3 Permit Requirements for Major Sources in Nonattainment Areas

12.3.1 Applicability Procedures

12.3.1.1 Preconstruction Review Requirements

The preconstruction review requirements of Section 12.3 shall apply to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as nonattainment for any National Ambient Air Quality Standard under Section 107(d)(1)(B) of the Act [42 USC § 7407(d)(1)(B)].

12.3.1.2 Construction of Major Sources or Modifications

The requirements of Sections 12.3.3 through 12.3.8 apply to the construction of any new major stationary source or the major modification of any existing major stationary source if the stationary source or modification is major for the regulated NSR pollutant for which the area is designated nonattainment under 40 CFR Part 81, except as Section 12.3 otherwise provides.

12.3.1.3 Authority to Construct Permit Requirement

No new major stationary source or major modification to which the requirements of Sections 12.3.3 through 12.3.8 apply shall begin actual construction without an Authority to Construct Permit issued pursuant to Section 12.4 that states that the major stationary source or major modification will meet those requirements.

12.3.1.4 Projects

The requirements of Section 12.3.1.4 apply to projects at major stationary sources in accordance with the principles set out in paragraphs (a) through (e) of Section 12.3.1.4.

(a) Except as otherwise provided in Section 12.3.1.5, a project is a major modification for a regulated NSR pollutant if it causes two (2) types of emissions increases: a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase will occur depends upon the type of emissions units being added or modified as part of the pro-

ject, according to paragraphs (c) through (e) of Section 12.3.1.4. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source is contained in the definition of net emissions increase. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

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

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

(e) **Hybrid Test for Projects that Involve Multiple Types of Emissions Units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (c) or (d) of Section 12.3.1.4, as applicable with respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

12.3.1.5 Major Sources with Plantwide Applicability Limitations

For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with the requirements in Section 12.3.9.

12.3.1.6 Existing Emission Unit Projects

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

(a) Before beginning actual construction of the project, and as a condition of the source's Authority to Construct Permit, the owner or op-

erator shall document and maintain a record of the following information:

(1) A description of the project;

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

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

(b) If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in paragraph (a) of Section 12.3.1.6 to the Control Officer. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the Control Officer before beginning actual construction, except such owner or operator may still be subject to the requirements of Section 12.1, Section 12.4, or other applicable requirements.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in paragraph (a)(2) of Section 12.3.1.6; and calculate and maintain a record of the annual emissions (in tpy) for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity of, or potential to emit that regulated NSR pollutant at, any emissions unit.

(d) If the emissions unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer within sixty (60) days after the end of each calendar year during which records must be generated under paragraph (c) of Section 12.3.1.6 setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(e) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Control Officer if the annual emissions, in tpy, from the project identified in paragraph (a) of Section 12.3.1.6 exceed the baseline actual emissions (as documented and maintained pursuant

to paragraph (a)(3) of Section 12.3.1.6), by a significant amount for that regulated NSR pollutant, and if such emissions differ from the projected actual emissions (prior to exclusion of the amount of emissions under the definition of projected actual emissions) as documented and maintained pursuant to paragraph (a)(3) of Section 12.3.1.6. Such report shall be submitted to the Control Officer within sixty (60) days after the end of such year. The report shall contain the following:

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

(2) The annual emissions, as calculated pursuant to paragraph (c) of Section 12.3.1.6; and

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

12.3.1.7 Availability of Information

The owner or operator of the source shall make the information required to be documented and maintained pursuant to Section 12.3.1.6 available for review upon a request for inspection by the Control Officer.

12.3.1.8 Secondary Emissions

Secondary emissions shall not be considered in determining whether a stationary source would qualify as a major stationary source. If a stationary source is subject to Section 12.3 on the basis of the direct emissions from the stationary source, the requirements of Section 12.3.6, but no other provisions of Section 12.3, must also be met for secondary emissions.

12.3.2 Definitions

Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.3. When a term is not defined in these paragraphs, it shall have the meaning given in Section 0, or in the Act, in that order of priority.

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

(1) In general, actual emissions as of a particular date shall equal the average rate, in tpy, at which the emissions unit actually emitted the regulated NSR pollutant during a consecutive 24-month period which precedes the particular date and which is

representative of normal source operation. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

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

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

(4) This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Section 12.3.9. Instead, projected actual emissions and baseline actual emissions shall apply for those purposes.

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

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

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

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

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

(1) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Control Officer shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(A) The average rate shall include fugitive emissions, to the extent quantifiable, and emissions associated with startups, ~~and~~ shutdowns, ~~except emissions from a shutdown associated with a~~ and malfunctions.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of the particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by this definition.

(2) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tpy, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period im-

mediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Control Officer for a permit required under these AQRs, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

(A) The average rate shall include fugitive emissions to the extent quantifiable.

(B) The average rate shall include emissions associated with startups, ~~and~~ shutdowns, ~~except emissions from a shutdown associated with a~~ and malfunctions.

(C) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(D) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must comply as of a particular date, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. For the purposes of determining baseline actual emissions for contemporaneous changes pursuant to paragraph (1)(B) of the definition of net emissions increase, the particular date is the date on which the particular change occurred. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the State of Nevada has taken credit for such emissions reductions in an attainment demonstration or maintenance plan, consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).

(E) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(F) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tpy, and for adjusting this amount if required by paragraphs (2)(B) and (2)(C) of this definition.

(3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's PTE.

(4) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph (1) of this definition; for other existing emissions units, in accordance with the procedures contained in paragraph (2) of this definition; and for a new emissions unit, in accordance with the procedures contained in paragraph (3) of this definition.

(d) "Basic design parameter" means:

(1) Except as provided in paragraph (3) of this definition, for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameter(s) for a coal-fired electric utility steam generating unit.

(2) Except as provided in paragraph (3) of this definition, the basic design parameter(s) for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

(3) If the owner or operator believes the basic design parameter(s) in paragraphs (1) and (2) of this definition is not appropriate for a specific industry or type of process unit, the owner

or operator may propose to the Control Officer an alternative basic design parameter(s) for the source's process unit(s). If the Control Officer approves of the use of an alternative basic design parameter(s), the Control Officer shall issue a permit that is legally enforceable that records such basic design parameter(s) and requires the owner or operator to comply with such parameter(s).

(4) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter(s) specified in paragraphs (1) and (2) of this definition.

(5) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter(s) using the maximum value achieved by the process unit in the 5-year period immediately preceding the planned activity.

(6) Efficiency of a process unit is not a basic design parameter.

(7) The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.

(e) "Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(f) "Best Available Control Technology (BACT)" means an emission limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Control Officer, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of

any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If the Control Officer determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(g) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same SIC or NAICS code) as described in either the *Standard Industrial Classification* (SIC) manual, 1972, as amended by the 1977 supplement or the *North American Industry Classification System* (NAICS) manual.

(h) "Categorical stationary source" means any stationary source of air pollutants that belongs to one of the following categories of stationary sources:

(1) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;

(2) Coal cleaning plants (with thermal dryers);

(3) Kraft pulp mills;

(4) Portland cement plants;

(5) Primary zinc smelters;

(6) Iron and steel mills;

(7) Primary aluminum ore reduction plants;

(8) Primary copper smelters;

(9) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(10) Hydrofluoric, sulfuric, or nitric acid plants;

(11) Petroleum refineries;

(12) Lime plants;

(13) Phosphate rock processing plants;

(14) Coke oven batteries;

(15) Sulfur recovery plants;

(16) Carbon black plants (furnace process);

(17) Primary lead smelters;

(18) Fuel conversion plants;

(19) Sintering plants;

(20) Secondary metal production plants;

(21) Chemical process plants;

(22) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

(23) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(24) Taconite ore processing plants;

(25) Glass fiber processing plants; and

(26) Charcoal production plants; and.

~~(27) Any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or 112 of the Act.~~

(i) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(j) "Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of $2.5 billion for commercial demonstration of clean coal technology, or similar pro-

jects funded through appropriations for the EPA. The federal contribution for a qualifying project shall be at least twenty (20) percent of the total cost of the demonstration project.

(k) "Commence," as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits, including an Authority to Construct Permit, and either has:

(1) Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time; or

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

(l) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Control Officer from requesting or accepting any additional information.

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

(n) "Continuous Emissions Monitoring System (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of Section 12.3, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

(o) "Continuous Emissions Rate Monitoring System (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

(p) "Continuous Parameter Monitoring System (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of Section 12.3, to monitor process and control device operational parameters and other information and to record average operational parameter value(s) on a continuous basis.

(q) "Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more

than one-third of its potential electric output capacity, and more than 25 MW of electrical output, to any utility power distribution system. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(r) "Emission Reduction Credit (ERC)" means a unit of emission reduction (in tpy) that has been issued by the Control Officer in accordance with the provisions set forth in Sections 12.3.6 and 12.7.

(s) "Emissions Unit" means any part of a stationary source that emits, or would have the potential to emit, any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of Section 12.3, there are two types of emissions units as described in paragraphs (1) and (2) of this definition:

(1) A "new emissions unit" is any emissions unit which is (or will be) newly constructed and which has existed for less than two (2) years from the date such emissions unit first operated. For the purposes of this definition, the date an emissions unit first operated shall not be extended by any shakedown period established pursuant to paragraph (aa)(6) of Section 12.3.2.

(2) An "existing emissions unit" is any emissions unit that does not meet the requirements in paragraph (1) of this definition. A replacement unit is an existing emissions unit.

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

(u) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

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

(w) "Lowest Achievable Emission Rate (LAER)" means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed major stationary source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a major modification, means the LAER for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

For purposes of this definition only, the term "any state" means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and includes the Commonwealth of the Northern Mariana Islands.

(x) "Major Modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.

(1) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.

(2) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for nitrogen oxides shall be considered significant for ozone unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.

(3) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair, and replacement;

(B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(D) Use of an alternative fuel at a steam generating unit, to the extent that the fuel is generated from municipal solid waste;

(E) Use of an alternative fuel or raw material by a stationary source which:

(i) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to Section 12 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.

(ii) The source is approved to use under any permit issued under Section 12.

(F) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976;

(G) Any change in ownership at a stationary source;

(H) The installation, operation, cessation, or removal of a Temporary Clean Coal Technology Demonstration Project, provided that the project complies with:

(i) The Nevada SIP; and

(ii) Other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

~~(I) The installation or operation of a permanent Clean Coal Technology Demonstration Project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis; or~~

~~(J) The reactivation of a very clean coal-fired electric utility steam generating unit.~~

(4) This definition shall not apply with respect to a particular regulated NSR pollutant when the Major Stationary Source is complying with the requirements under Section 12.3.9 for a PAL

for that regulated NSR pollutant. Instead, the definition of PAL major modification shall apply.

(5) The fugitive emissions of a major stationary source shall ~~not~~ be included in determining, for any of the purposes of Section 12.3, whether a particular physical change or change in the method of operation is a major modification. ~~unless the major stationary source is a categorical stationary source or belongs to any other stationary source category which, as of August 7, 1980, was being regulated under Section 111 or 112 of the Act.~~

(y) "Major Stationary Source" means:

(1) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant except:

(A) For an area designated nonattainment for PM_{10} and classified as "serious," a major stationary source is a stationary source which emits, or has the potential to emit, seventy (70) tpy or more of PM_{10}.

(B) A major stationary source is a stationary source which emits, or has the potential to emit, fifty (50) tpy or more in an area classified as "serious" nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under regulations issued by EPA pursuant to the Act.

(C) For an area designated nonattainment for ozone, a source with the potential to emit VOC or NOx in the following amounts shall be considered a major stationary source:

(i) ≥100 tpy in areas classified as "marginal" or "moderate";

(ii) ≥50 tpy in areas classified as "serious";

(iii) ≥25 tpy in areas classified as "severe"; and

(iv) ≥10 tpy in areas classified as "extreme."

(2) Any physical change that would occur at a stationary source not qualifying as a major stationary source under paragraph (1) of this definition, if the change would constitute a major stationary source by itself under paragraph (1).

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

~~(B)~~(4) A major stationary source that is major for nitrogen oxides shall be considered major for ozone, unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.

~~(3)~~(5) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of Section 12.3 whether it is a major stationary source, unless the source is a categorical stationary source or belongs to any other stationary source category which, as of August 7, 1980, was being regulated under Section 111 or 112 of the Act.

(z) "Necessary preconstruction approvals or permits" means those permits or approvals required under air quality control laws and regulations that are part of the Nevada SIP, these AQRs, or federal air quality control laws and regulations, including the Authority to Construct Permits issued pursuant to Section 12.4.

(aa) "Net Emissions Increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the following:

(1) The amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a particular physical change, or change in the method of operation, at a stationary source as calculated pursuant to paragraphs (a) through (e) of Section 12.3.1.4; and

(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable.

(i) For the purposes of calculating increases and decreases under paragraph (1)(B) of this definition, baseline actual emissions prior to the contemporaneous project shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (1)(D) and (2)(E) of that definition shall not apply.

~~(ii) For the purposes of calculating increases under paragraph (1)(B) of this definition, actual emissions after the contemporaneous project shall be determined as provided in the definition of actual emis-~~

~~sions, except as provided in paragraph (1)(E) of this definition.~~

~~(iii) For the purposes of calculating increases under paragraph (1)(B) of this definition, if the Control Officer determines that there is no sufficiently representative time period of actual emissions after a contemporaneous project, pursuant to paragraph (a)(1) of Section 12.3.2, actual emissions after the contemporaneous project shall be determined as provided in the definition of projected actual emissions.~~

~~(iv) For the purposes of calculating decreases under paragraph (1)(B) of this definition, actual emissions after the contemporaneous project shall be determined as provided in the definition of actual emissions.~~

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five (5) years before construction on the particular change commences and the date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if the Control Officer has not relied on it in issuing a permit for the source under Section 12, or any other regulation approved by the Administrator pursuant to 40 CFR Part 51 or 40 CFR Part 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.

(4) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(5) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(C) The Control Officer has not relied on it in issuing any permit under Section 12 or any other regulations ap-

proved pursuant to 40 CFR Part 51, Subpart I, nor has the state of Nevada relied on it in demonstrating attainment or reasonable further progress; and

(D) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(6) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown, or any new emissions unit that replaces an existing emissions unit and that requires shakedown, becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.

(bb) "Nonattainment Major New Source Review (NSR) Program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the Nevada SIP, or a program that implements 40 CFR Part 51, Appendix S, Sections I through VI. Any permit issued under such a program is a major NSR permit.

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

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

(ee) "Predictive Emissions Monitoring System (PEMS)" means all of the equipment necessary to monitor process and control device operational parameters and other information, and calculate and record the mass emissions rate on a continuous basis.

(ff) "Prevention of Significant Deterioration (PSD) Permit" means any permit that is issued under a major source preconstruction permit

program that has been approved by the Administrator and incorporated into the Nevada SIP to implement the requirements of Part C, Subchapter I of the Act.

(gg) "Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

(hh) "Projected Actual Emissions" means the maximum annual rate, in tpy, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five (5) years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the ten (10) years following that date, if the project involves increasing the design capacity or PTE of any emissions unit for that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

(1) In determining the projected actual emissions (before beginning actual construction), the owner or operator of the major stationary source:

(A) Shall consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the county, state or federal regulatory authorities, and compliance plans under these AQRs;

(B) Shall include fugitive emissions to the extent quantifiable;

(C) Shall include emissions associated with startups, ~~and~~ shutdowns, ~~except emissions from a shutdown associated with a~~and malfunctions; and

(D) Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth.

(2) In lieu of using the method set out in paragraphs (1)(A) through (1)(D) of this definition, the owner or operator of the major stationary source may elect to use the emissions unit's PTE in tpy.

(ii) "Regulated NSR Pollutant," for purposes of Section 12.3, means:

(1) Nitrogen oxides or any volatile organic compounds;

(2) Any pollutant for which a National Ambient Air Quality Standard has been promulgated; ~~and any constituents or precursors identified by the Administrator provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. ; or~~

(3) Any pollutant that is identified as a constituent or precursor of a general pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. The Administrator has identified the following ~~P~~precursors ~~identified by the Administrator~~ for the purposes of NSR ~~are the following~~:

(A) ~~(A)~~ Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.

(B) ~~(B)~~ Sulfur dioxide is a precursor to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas.

(C) ~~(C)~~ Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas, unless the State or county demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

~~(2)~~(D) ~~(D)~~ Volatile organic compounds and ammonia are presumed not to be precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area, unless the State or county demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

~~(3) Any pollutant that is a constituent or precursor of a general pollutant listed under paragraphs (1) or (2) of this definition, provided that a constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant.~~

(4) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be ac-

counted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

(jj) "Replacement Unit" means an emissions unit for which all the criteria listed in paragraphs (1) through (4) of this definition are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced. The criteria are:

(1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(2) The emissions unit is identical to, or functionally equivalent to, the replaced emissions unit.

(3) The replacement does not alter the basic design parameters of the process unit.

(4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(kk) "Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of Section 12.3, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(ll) "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose except routine phasing out of process equipment.

(mm) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(1) Carbon monoxide:

(A) 100 tpy; or

(B) 50 tpy in an area designated nonattainment for CO and classified as "serious," and where stationary sources significantly contribute to ambient CO levels as determined under regulations issued by EPA pursuant to the Act.

(2) Nitrogen oxides: 40 tpy;

(3) Sulfur dioxide: 40 tpy;

(4) Ozone:

(A) 40 tpy of VOCs; or

(B) 40 tpy of nitrogen oxides, unless EPA has granted a waiver for nitrogen oxides emissions under Section 182(f) of the Act and the waiver continues to apply.

(5) PM_{10}: 15 tpy;

(6) $PM_{2.5}$: 10tpy of direct PM2.5 emissions or 40 tpy of sulfur dioxide emissions or 40 tpy of nitrogen dioxide emissions; and

(7) Lead: 0.6 tpy.

(nn) "Significant Emissions Increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

(oo) "Startup" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

(pp) "Stationary Source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

(qq) "Surplus" means an emission reduction that has not been relied on in any air quality program related to any $SIP_{7;}$ that is not a Nevada SIP $requirement_{7;}$ that is not a requirement of a state air quality program

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

(rr) "Temporary Clean Coal Technology Demonstration Project" means a Clean Coal Technology Demonstration Project that is operated for a period of five (5) years or less, and which complies with the SIP for the state in which the project is located and with other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

12.3.3 Statewide Compliance

Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification subject to Section 12.3, the applicant shall either demonstrate that each existing major stationary source owned or operated by the applicant in the state of Nevada is in compliance with all applicable emission limitations and standards under the Act or is in compliance with an expeditious schedule which is federally enforceable or contained in a court decree.

12.3.4 Analysis of Alternatives

Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification subject to Section 12.3, the applicant shall submit an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source that demonstrates, to the satisfaction of the Control Officer, that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

12.3.5 Lowest Achievable Emission Rate

12.3.5.1 Applicable Requirements

A major stationary source or major modification shall meet each applicable requirement.

12.3.5.2 Permit Requirements to Achieve LAER

An Authority to Construct Permit for a new major stationary source or major modification shall contain terms and conditions sufficient to ensure that the major stationary source or major modification will achieve LAER in accordance with paragraphs (a) and (b) of Section 12.3.5.2:

(a) A new major stationary source shall achieve LAER for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

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

12.3.6 Emissions Offset

12.3.6.1 Sufficiency of Reductions

Prior to issuance of an Authority to Construct Permit for a new major stationary source or major modification, the Control Officer shall make a determination that, by the time the source is to commence operation, sufficient offsetting emissions reductions will be surrendered prior to commencing operation, such that allowable emissions from existing sources in the nonattainment area, from new or modified sources which are not major stationary sources, and from the proposed source or modification will be sufficiently less than total emissions from existing sources prior to the application for the offset. At a minimum, this determination requires the applicant to satisfy the offset requirements in Section 12.3.6.2.

12.3.6.2 Offset Methods

Pollutant-specific emissions shall be offset with federally enforceable ERCs or with internal emission reductions.

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

(b) Internal emission reductions used to satisfy offset requirements shall be governed by Sections 12.3.6.3 through 12.3.6.8 and Section 12.7.5, as in effect on September 1, 2010, and as incorporated herein by this reference.

(c) ERCs used to satisfy offset requirements shall be governed by Sections 12.3.6.3 through 12.3.6.6, Section 12.3.6.8, and Section 12.7.5,

as in effect on September 1, 2010, and as incorporated herein by this reference.

12.3.6.3 Restrictions on Trading Pollutants

(a) Pursuant to the Nevada Revised Statutes, Section 445.B.508 (2)(c), purchasing or selling credits of one type of pollutant is prohibited if such credits would be used subsequently to produce a different type of pollutant.

(b) For the purposes of satisfying the offset requirements with respect to ozone, offsetting of VOC emissions increases with NO_X emissions decreases, or NO_X emissions increases with VOC emissions decreases, shall not be prohibited trading. The Control Officer may approve interpollutant emission offsets for precursor pollutants on a case-by-case basis, except for $PM_{2.5}$, which is subject to Section 12.3.6.3(c). In such cases, the Control Officer shall impose, based on an air quality analysis, emission offset ratios in addition to the requirements of Table 12.3-1. PM_{10} emissions shall not be allowed to offset nitrogen oxides or volatile organic compound emissions in ozone nonattainment areas. In no case shall the compounds excluded from the definition of volatile organic compounds be used as offsets for volatile organic compounds. Interpollutant emission offsets used at a major stationary source must receive written approval ~~by~~from the U.S. Environmental Protection Agency.

(c) For the purposes of satisfying the offset requirements with respect to $PM_{2.5}$, offsetting of $PM_{2.5}$ emissions increases with ~~SO_2~~ sulfur dioxide or ~~NO_x~~ nitrogen oxide emissions decreases, or ~~SO_2~~ sulfur dioxide or ~~NO_x~~ nitrogen oxide emissions increases with $PM_{2.5}$ decreases, shall not be prohibited trading. Interpollutant offsets between $PM_{2.5}$ and $PM_{2.5}$ precursors are not allowed unless modeling has been used to demonstrate that $PM_{2.5}$ interpollutant offset ratios are appropriate as approved in a $PM_{2.5}$ nonattainment plan.

12.3.6.4 Timing

(a) Internal emission reductions used to satisfy an offset requirement must be federally enforceable at the time of issuance of the Authority to Construct Permit containing the offset requirements.

(b) Except as provided by paragraph (c) of Section 12.3.6.4, the decrease in actual emissions used to generate ERCs or internal emission reductions must occur by no later than the commencement of operation of the new or modified major stationary source.

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

12.3.6.5 Quantity

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

(a) The unit of measure for offsets, ERCs, and internal emission reductions shall be tpy. All calculations and transactions shall use emission rate values rounded to the nearest one one-hundredth (0.01) tpy.

(b) The quantity of ERCs or internal emission reductions required shall be calculated as the product of the amount of increased emissions, as determined in accordance with paragraph (c) of Section 12.3.6.5, and the offset ratio, as determined in accordance with paragraph (d) of Section 12.3.6.5.

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

(1) The amount of increased emissions includes fugitive emissions in the case of all major stationary sources, including categorical sources.

(2) When the offset requirement is triggered by the construction of a new major stationary source, the amount of increased emissions shall be the sum of the PTE of all emissions units.

(3) When the offset requirement is triggered by a major modification of an existing major stationary source, the amount of increased emissions shall be the sum of the differences between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

(d) The baseline for determining credit for emissions reductions is the emission limit under the State Implementation Plan (including the demonstration of Reasonable Further Progress), in effect at the time the affected permit application is filed, except that the offset baseline shall be the actual emissions of the source from which the offset credit is obtained where:

(1) The demonstration of Reasonable Further Progress and attainment of **National** Ambient Air Quality Standards is based upon the actual emissions of sources located within a designated area for which the requirements of Sections 12.2 and 12.4 were adopted; or

(2) The applicable State Implementation Plan does not contain an emission limitation for the affected source or source category.

~~(d)~~(e) **The offset ratio shall be expressed as a ratio of emissions reductions to emissions increases.**

(1) The following table contains offset ratios by designated area and pollutant.

(2) The ratios listed in Table 12.3-1 shall be applied based on the classifications contained in the table for a specific pollutant.

Table 12.3-1. Federal Offset Ratio Requirements by Area Designation and Pollutant

Area Designation	Pollutant	Offset Ratio
Marginal Ozone Nonattainment Area ~~without Designation~~	NO_X	1.1:1
	VOC	1.1:1
Moderate Ozone Nonattainment Area	NO_X	1.15:1
	VOC	1.15:1
Serious Nonattainment Area	~~CO~~	~~1:1~~
	PM_{10}	1:1

~~(e)~~(f) **The major stationary source shall be given credit for any portion of the NEI that was previously offset. A pre-modification PTE may only include fugitive emissions if the fugitive emissions were included in the emissions inventory prior to the modification.**

12.3.6.6 Emission Reduction Requirements

Emission reductions used to satisfy an offset requirement shall meet the following requirements:

(a) Emission reductions used to satisfy offset requirements must be real, surplus, permanent, quantifiable, and federally enforceable.

(b) Permitted sources whose internal emission reductions are used to satisfy offset requirements must appropriately amend or cancel their Authority to Construct Permit and/or Part 70 Operating Permit to reflect their new reduced PTE, including practicably enforceable conditions to limit their PTE.

(c) Emission reductions used to satisfy offset requirements must be surplus at the time of issuance of the Authority to Construct Permit containing the offset requirements.

12.3.6.7 Location of Internal Reductions

Internal emission reductions used to satisfy offset requirements shall occur at the same major stationary source at which the increase in emissions occurs. Emission reductions not meeting this criterion shall meet the requirements for ERCs prescribed by Section 12.7.

12.3.6.8 Emission Reduction Credit Requirements

ERCs used to satisfy an offset requirement shall meet the following requirements:

(a) Restrictions on offsetting emissions between airshed regions:

(1) Except as provided by paragraph (a)(2) of Section 12.3.6.8, offsetting emissions from a source located within an airshed region with ERCs from a source located in a different airshed region shall not be allowed.

(2) The Control Officer may approve the use of NO_X and VOC ERCs between airshed regions for the same nonattainment area within the Clark County boundary to satisfy NO_X and VOC offset requirements for that nonattainment area.

(b) The source owner or responsible official utilizing ERCs to satisfy offsets must demonstrate to the satisfaction of the Control Officer that such utilization will not significantly cause or contribute to a violation of a National Ambient Air Quality Standard or an exceedance of a PSD increment identified in Section 12.2.

(c) The use of ERCs shall not provide:

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

(2) An exemption to a stationary source for emission limitations established in accordance with New Source Performance Standards pursuant to Section 14;

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

(4) An exemption to a stationary source from any other air pollution control requirements of federal, state, or county laws, rules, and regulations.

12.3.6.9 ERC Registry

(a) The ERC Registry and its use shall not interfere with the attainment or maintenance of any National Ambient Air Quality Standard.

(b) The ERC Registry and its use shall assure that the use of ERCs does not contravene applicable requirements of the Act and Nevada Revised Statues (NRS) Chapter 445B.

12.3.7 Source Obligation

12.3.7.1 Enforcement

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to Section 12.3 or 12.4 and any changes to the application as required by the Control Officer, or with the terms of its Authority to Construct Permit, or any owner or operator of a source or modification subject to Section 12.3 who begins actual construction after the effective date of these AQRs without applying for and receiving an Authority to Construct Permit, shall be subject to enforcement action.

12.3.7.2 Termination

Approval to construct shall terminate if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The Control Officer may extend the 18-month period upon a satisfactory showing of good cause why an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

12.3.7.3 Compliance

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

12.3.7.4 Relaxation in Enforceable Limitations

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification otherwise to emit a pollutant, then the requirements of Sections 12.3.3 through 12.3.7 shall apply to the stationary source or modification as though construction had not yet commenced on the stationary source or modification.

12.3.8 Public Participation

Issuance of an Authority to Construct Permit pursuant to Section 12.3 and Section 12.4 shall be subject to the public participation requirements in Section 12.2.16.

12.3.9 Plantwide Applicability Limits (PAL)

12.3.9.1 Applicability

(a) The Control Officer may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements in Sections 12.3.9.1 through 12.3.9.15. The term "PAL" shall mean "actuals PAL" throughout Section 12.3.9.

(b) Any physical change in, or change in the method of operation of, a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of Sections 12.3.9.1 through 12.3.9.14, and complies with the PAL conditions in its Part 70 Operating Permit:

(1) Is not a major modification for the PAL pollutant;

(2) Does not have to be approved through the plan's Nonattainment Major NSR Program; and

(3) Is not subject to the provisions in Section 12.3.7.4.

(c) Except as provided under paragraph (b)(3) of Section 12.3.9.1, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

12.3.9.2 Definitions

Unless the context otherwise requires, the following terms shall have the meanings set forth below for the purposes of Section 12.3.9. When a term is

not defined in these paragraphs, it shall have the meaning given in Section 12.3.2, Section 0, or in the Act.

(a) "Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit, or have the potential to emit, the PAL pollutant.

(b) "Allowable emissions" means allowable emissions as defined in paragraph (b) of Section 12.3.2, except as this definition is modified according to paragraphs (1) and (2) below:

(1) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's PTE.

(2) An emissions unit's PTE shall be determined using the definition in paragraph (d)(d) of Section 12.3.2, except that the words "or enforceable as a practical matter" should be added after "Federally Enforceable."

(c) "Major emissions unit" means:

(1) Any emissions unit that emits, or has the potential to emit, 100 tpy or more of the PAL pollutant in an attainment area; or

(2) Any emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.

(d) "PAL" means an emission limitation, expressed in tpy, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with Sections 12.3.9.1 through 12.3.9.15.

(e) "PAL effective date" generally means the date of issuance of the Part 70 Operating Permit containing the PAL conditions, or the date on which a significant permit revision containing the PAL conditions becomes effective. However, the PAL effective date for an increased PAL is the date any emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(f) "PAL effective period" means the period beginning with the PAL effective date and ending ten (10) years later.

(g) "PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change

in, or change in the method of operation of, the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(h) "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

(i) "Project" means a physical change in, or change in the method of operation of, an existing stationary source.

(j) "Significant emissions unit" means an emissions unit that emits, or has the potential to emit, a PAL pollutant in an amount that is equal to or greater than the significant level as defined in paragraph (m)(m) Section 12.3.2 or in the Act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

(k) "Small emissions unit" means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level as defined in paragraph (m)(m) Section 12.3.2 or in the Act, whichever is lower, for that PAL pollutant.

12.3.9.3 Permit Application Requirements

As part of an application for a Part 70 Operating Permit requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Control Officer for approval:

(a) A list of all emissions units at the source designated as small, significant, or major based on their PTE. In addition, the owner or operator of the source shall indicate which, if any, federal, state or county applicable requirements, emission limitations, or work practices apply to each unit;

(b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction;

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month, as required by paragraph (a) of Section 12.3.9.13.

12.3.9.4 General Requirements for Establishing PALs

(a) The Control Officer may establish a PAL at a major stationary source, provided that, at a minimum, the requirements in paragraphs (a)(1) through (a)(7) of Section 12.3.9.4 are met.

(1) The PAL shall impose an annual emission limitation, in tpy, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve (12) months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve (12) consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first eleven (11) months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2) The PAL shall be established in a Part 70 Operating Permit as a significant permit revision.

(3) The Part 70 Operating Permit shall contain all the requirements of Section 12.3.9.7.

(4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5) Each PAL shall regulate emissions of only one pollutant.

(6) Each PAL shall have a PAL effective period of ten (10) years.

(7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 12.3.9.12 through 12.3.9.14 for each emissions unit under the PAL through the PAL effective period.

(b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under Section 12.3.6 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.

12.3.9.5 Public Participation Requirements for PALs

PALs for existing major stationary sources shall be established, renewed, or increased through the public participation procedures in Section 12.2.16.

12.3.9.6 Setting the 10-year Actuals PAL Level

(a) Except as provided in paragraph (b) of Section 12.3.9.6, the Actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under these AQRs or under the Act, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Control Officer shall specify a reduced PAL level(s) (in tons/yr) in the Part 70 Operating Permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Control Officer is aware of prior to issuance of the permit.

(b) For newly constructed units (which does not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in paragraph (a) of Section 12.3.9.6, the emissions must be added to the PAL level in an amount equal to the PTE of the units.

12.3.9.7 Part 70 Operating Permits with PALs

Contents of a Part 70 Operating Permit containing a PAL shall include the information in paragraphs (a) through (j) of Section 12.3.9.7:

(a) The PAL Pollutant and the applicable source-wide emission limitation in tpy;

(b) The effective date and the expiration date of the PAL conditions (PAL effective period).

(c) Specification in the permit that if a major stationary source owner or operator applies to renew the PAL conditions in accordance with Section 12.3.9.9 before the end of the PAL effective period, then the PAL conditions shall not expire at the end of the PAL effective period. It shall remain in effect until a revised Part 70 Operating Permit is issued by the Control Officer.

(d) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions;

(e) A requirement that, once the PAL conditions expire, the major stationary source is subject to the requirements of Section 12.3.9.9;

(f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total, as required by paragraph (a) of Section 12.3.9.13;

(g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 12.3.9.12;

(h) A requirement to retain the records required under Section 12.3.9.13 on-site. Such records may be retained in an electronic format;

(i) A requirement to submit the reports required under Section 12.3.9.14 by the required deadlines; and

(j) Any other requirements that the Control Officer deems necessary to implement and enforce the PAL conditions.

12.3.9.8 PAL Effective Period and Reopening of PAL Conditions

The plan shall require the information in paragraphs (a) and (b) of Section 12.3.9.8.

(a) PAL Effective Period. The Control Officer shall specify a PAL effective period of ten (10) years from the date of issuance.

(b) Reopening of the PAL conditions in a Part 70 Operating Permit.

(1) During the PAL effective period, the plan shall require the Control Officer to reopen the PAL conditions in a Part 70 Operating Permit to:

(A) Correct typographical/calculation errors made in setting the PAL, or reflect a more accurate determination of emissions used to establish the PAL;

(B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Section 12.3.6; or

(C) Revise the PAL to reflect an increase in the PAL as provided under Section 12.3.9.11.

(2) The Control Officer may reopen the PAL conditions in a Part 70 Operating Permit for the following:

(A) Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

(B) Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the Control Officer may impose on the major stationary source under the Nevada SIP.

(C) Reduce the PAL if the Control Officer determines that a reduction is necessary to avoid causing or contributing to a National Ambient Air Quality Standard or PSD increment violation, or to an adverse impact on an air-quality-related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.

(3) Except for the permit reopening in paragraph (b)(1)(A) of Section 12.3.9.8 for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out as significant permit revisions to a Part 70 Operating Permit.

12.3.9.9 Expiration of a PAL

Any PAL which is not renewed in accordance with the procedures in Section 12.3.9.10 shall expire at the end of the PAL effective period, and the requirements in paragraphs (a) through (e) of Section 12.3.9.9 shall apply.

(a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised Part 70 Operating Permit established according to the procedures in paragraphs (a)(1) and (a)(2) of Section 12.3.9.9.

(1) Within the time frame specified for PAL renewals in paragraph (b) of Section 12.3.9.10, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Control Officer) by distributing the PAL allowable emissions for the affected major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under paragraph (e)

of Section 12.3.9.10, such distribution shall be made as if the PAL had been adjusted.

(2) The Control Officer will decide whether and how the PAL allowable emissions will be distributed and issue a revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Control Officer determines is appropriate.

(b) Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Control Officer may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the Control Officer issues the revised Part 70 Operating Permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (a)(2) of Section 12.3.9.9, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification.

(e) The major stationary source owner or operator shall continue to comply with any federal, state or county applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except as provided in paragraph (b)(3) of Section 12.3.9.1.

12.3.9.10 Renewal of a PAL

(a) The Control Officer will follow the procedures specified in Sections 12.3.9.5 and 12.5 in approving any request to renew the PAL conditions in a Part 70 Operating Permit for a major stationary source, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Control Officer.

(b) Application deadline. A major stationary source owner or operator shall submit a timely application to the Control Officer to request renewal of the PAL conditions in a Part 70 Operating Permit. A timely application is one that is submitted at least six (6) months prior to, but not earlier than eighteen (18) months prior to, the date of expiration

of the Part 70 Operating Permit. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL conditions in a Part 70 Operating Permit within this time period, then the PAL conditions shall continue to be effective until the revised permit with the renewed PAL conditions is issued.

(c) **Application Requirements.** The application to renew PAL conditions shall be incorporated in the application for renewal of the affected Part 70 Operating Permit and shall contain the information required in paragraphs (c)(1) through (c)(4) of Section 12.3.9.10:

(1) The information required in paragraphs (a) through (c) of Section 12.3.9.3;

(2) A proposed PAL level;

(3) The sum of the PTE of all emissions units under the PAL (with supporting documentation); and

(4) Any other information the owner or operator wishes the Control Officer to consider in determining the appropriate level for renewing the PAL conditions.

(d) **PAL Adjustment.** In determining whether and how to adjust the PAL, the Control Officer will consider the options outlined in paragraphs (d)(1) and (d)(2) of Section 12.3.9.10. However, in no case may any such adjustment fail to comply with paragraph (d)(3) of Section 12.3.9.10.

(1) If the emissions level calculated in accordance with Section 12.3.9.5 is equal to or greater than eighty (80) percent of the PAL level, the Control Officer may renew the PAL at the same level without considering the factors set forth in paragraph (d)(2) of Section 12.3.9.10; or

(2) The Control Officer may set the PAL at a level that he determines to be more representative of the source's baseline actual emissions, or that he determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Control Officer in his written rationale.

(3) Notwithstanding paragraphs (d)(1) and (d)(2) of Section 12.3.9.10:

(A) If the PTE of the major stationary source is less than the PAL, the Control Officer shall adjust the PAL to a level no greater than the PTE of the source; and

(B) The Control Officer shall not approve renewed PAL level higher than the current PAL unless the major stationary source has complied with the provisions of Section 12.3.9.11.

(e) If the compliance date for a federal or state requirement that applies to the PAL source occurs during the PAL effective period, and if the Control Officer has not already adjusted for such requirement, the PAL shall be adjusted at the time of the affected Part 70 Operating Permit is renewed.

12.3.9.11 Increasing a PAL during the PAL Effective Period

(a) The Control Officer may increase a PAL emission limitation only if the major stationary source complies with the provisions in paragraphs (a)(1) through (a)(4) of Section 12.3.9.11.

(1) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit as a significant revision to the affected Part 70 Operating Permit. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT-equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten (10) years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3) The owner or operator obtains an Authority to Construct Permit pursuant to Section 12.4 for all emissions unit(s) identified in paragraph (a)(1) of Section 12.3.9.11, regardless of the magnitude of the emissions increase resulting from them. These emissions unit(s) shall comply with any emissions requirements resulting from the nonattainment Authority to Construct Permit issuance process, even though they have also become subject to the PAL or continue to be subject to the PAL.

(4) The PAL conditions in a Part 70 Operating Permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL significant permit revision becomes operational and begins to emit the PAL pollutant.

(b) The Control Officer shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT-equivalent controls as determined in accordance with paragraph (a)(2) of Section 12.3.9.11), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL conditions in a Part 70 Operating Permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 12.3.9.5.

12.3.9.12 Monitoring Requirements for PALs

(a) General requirements.

(1) The PAL conditions in a Part 70 Operating Permit must include enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL conditions must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL conditions.

(2) The PAL monitoring system must employ one or more of the four (4) general monitoring approaches meeting the minimum requirements set forth in paragraphs (b)(1) through (b)(4) of Section 12.3.9.12 and must be approved by the Control Officer.

(3) Notwithstanding paragraph (a)(2) of Section 12.3.9.12, the PAL monitoring system may also employ an alternative monitoring approach that meets paragraph (a)(1) of Section 12.3.9.12 if approved by the Control Officer.

(4) Failure to use a monitoring system that meets the requirements of Section 12.3.9.12 renders the PAL invalid.

(b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (c) through (i) of Section 12.3.9.12:

(1) Mass balance calculations for activities using coatings or solvents;

(2) CEMS;

(3) CPMS or PEMS; and

(4) Emission factors.

(c) **Mass Balance Calculations.** An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coatings or solvents shall meet the following requirements:

(1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

(2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

(3) Where the vendor of a material or fuel which is used in or at the emissions unit publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Control Officer determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) **CEMS.** An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B; and

(2) The CEMS must sample, analyze, and record data at least every fifteen (15) minutes while the emissions unit is operating.

(e) **CPMS or PEMS.** An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CPMS or PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and

(2) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen (15) minutes, or at another, less frequent interval approved by the Control Officer while the emissions unit is operating.

(f) **Emission Factors.** An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(1) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

(2) The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and

(3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six (6) months of permit issuance unless the Control Officer determines that testing is not required.

(g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time whenever there is no monitoring data unless another method for determining emissions during such periods is specified in the Part 70 Operating Permit containing the PAL.

(h) Notwithstanding the requirements in paragraphs (c) through (g) of Section 12.3.9.12, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of

the emissions unit, the Control Officer shall, at the time of permit issuance:

(1) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

(2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

(i) **Revalidation.** All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the Control Officer. Such testing must occur at least once every five (5) years after issuance of the Part 70 Operating Permit containing the PAL conditions.

12.3.9.13 Recordkeeping Requirements

(a) The PAL conditions shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of Section 12.3.9 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five (5) years from the date of such record.

(b) The PAL conditions in a Part 70 Operating Permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five (5) years:

(1) A copy of the PAL provisions in the Part 70 Operating Permit application and any applications for revisions to the Part 70 Operating Permit; and

(2) Each annual certification of compliance pursuant to the conditions in the affected Part 70 Operating Permit and the data relied on in certifying the compliance.

12.3.9.14 Reporting and Notification Requirements

The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the Control Officer, in accordance with the conditions in the affected Part 70 Operating Permit. The reports shall meet the requirements in paragraphs (a) through (c) of Section 12.3.9.14.

(a) **Semiannual Report.** The semiannual report shall be submitted to the Control Officer within thirty (30) days of the end of each reporting

period. This report shall contain the information required in paragraphs (a)(1) through (a)(7) of Section 12.3.9.14:

(1) The identification of owner and operator and the permit number;

(2) Total annual emissions (in tpy) based on a 12-month rolling total for each month in the reporting period.

(3) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions;

(4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period;

(5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken;

(6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by paragraph (g) of Section 12.3.9.12; and

(7) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(b) **Deviation Report.** The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL conditions, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the affected Part 70 Operating Permit. The reports shall contain the following information:

(1) The identification of owner and operator and the permit number;

(2) The PAL requirement that experienced the deviation or that was exceeded;

(3) Emissions resulting from the deviation or the exceedance; and

(4) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(c) **Revalidation Results.** The owner or operator shall submit to the Control Officer the results of any revalidation test or method within three (3) months after completion of such test or method.

12.3.9.15 Transition Requirements

(a) The Control Officer may not issue a PAL that does not comply with the requirements in Sections 12.3.9.1 through 12.3.9.15 after the Administrator has approved regulations incorporating these requirements into the Nevada SIP.

(b) The Control Officer may supersede any PAL which was established prior to the date of approval of the Nevada SIP by the Administrator with a PAL that complies with the requirements of Sections 12.3.9.1 through 12.3.9.15.

12.3.10 Potential Visibility Impacts

The Control Officer shall consult with the Federal Land Manager on a proposed major stationary source or major modification that may impact visibility in any Class I Area, in accordance with 40 CFR 51.307.

12.3.11 Invalidation

If any provision of Section 12.3, or the application of such provision to any person or circumstance, is held invalid, the remainder of Section 12.3, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

History: Adopted May 18, 2010

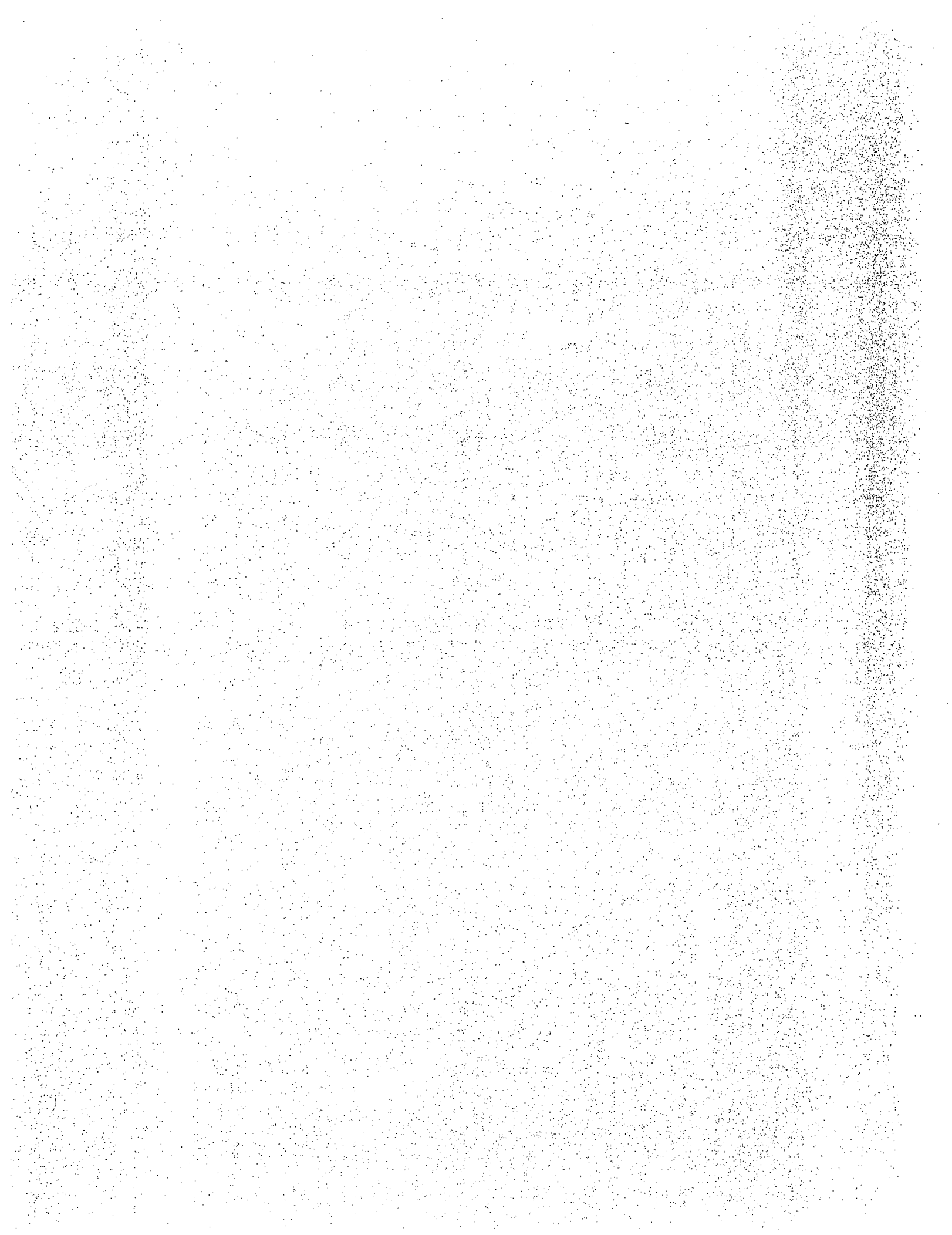

EXHIBIT 7

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

12.4 AUTHORITY TO CONSTRUCT PERMIT REQUIREMENTS FOR PART 70 SOURCES

12.4.1 Authority to Construct Permit Required; Duration

12.4.1.1 Commencement of Construction: Timing Requirements

(a) No person shall begin actual construction of a New Part 70 source, or modify or reconstruct an existing Part 70 source that falls within the preconstruction review applicability criteria, without first obtaining an Authority to Construct Permit from the Control Officer.

(b) If a person commences the construction, modification, or reconstruction of a Part 70 source within eighteen (18) months after the date of issuance of an Authority to Construct Permit and construction is not discontinued for a period greater than twelve (12) months, and provided that a timely and complete Part 70 Operating Permit application is submitted pursuant to Section 12.5.2.1, the Authority to Construct Permit shall remain in effect until a Part 70 Operating Permit is granted or denied, or the modification or reconstruction is incorporated into a Part 70 Operating Permit through a permit revision.

(c) Notwithstanding the provisions of paragraph (b) of Section 12.4.1.1, if an existing Part 70 Operating Permit would prohibit such construction or change in operation, the source must obtain a Part 70 permit revision pursuant to Section 12.5.2.14 before commencing operation.

12.4.2 Definitions

12.4.2.1 Use of Terms

The following definitions apply to terms used in Section 12.4. Unless the context requires otherwise, the following terms shall have the meanings set forth for the purposes of Section 12.4. When a term is not defined, it shall have the meaning provided in Section 0, 40 CFR 70.2, the Act, or common usage, in that order of priority.

(a) "Existing Part 70 source" means a Part 70 source that either has a valid Part 70 Operating Permit issued prior to the effective date of Section 12.4 or has an application for a Part 70 Operating Permit deemed complete prior to the effective date of Section 12.4.

(b) "Minor NSR significant levels" means an increase in the potential to emit that equals or exceeds the following rates for the pollutants listed:

EXHIBIT 7

Type of Air Pollutant	Potential to Emit (tpy)
$PM_{2.5}$, directly emitted	5.0
PM_{10}	7.5
CO	50
VOC	20
NO_x	20
SO_2	20
Lead (Pb)	0.6
H_2S	5
Total Reduced Sulfur (including H_2S)	5

(c) "Modification" or "Modify" means a project which meets any of the preconstruction review applicability criteria in paragraph (e) of Section 12.4.2.1 or that requires a minor or significant permit revision pursuant to Section 12.5.2.14.

(d) "New Part 70 source" means a Part 70 source that is not an existing Part 70 source.

(e) "Preconstruction review applicability criteria" means any of the following:

(1) At an existing major stationary source, a project that will result in a "major modification" as defined in Sections 12.2 or 12.3;

(2) A new Part 70 source or a modification to an existing Part 70 source that is subject to Section 12.4.3.2;

(3) Any project that is subject to a standard, limitation, or other requirement under 40 CFR Part 60;

(4) Any project that is subject to a standard under 40 CFR Part 63, including, but not limited to, construction or reconstruction that requires preconstruction review under 40 CFR § 63.5; or

(5) For a solid waste incineration unit, a project that will result in a modification for purposes of Section 129(g)(3) of the Act.

(f) "Project" means a physical change in, or change in the method of operation of, a ~~major stationary~~Part 70 source.

For purposes of this definition, a physical change or change in the method of operation shall not include:

(1) Routine maintenance, repair, and replacement.

(2) Use of an alternative fuel or raw material by reason of any order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.

(4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(5) Use of an alternative fuel or raw material by a stationary source which:

(A) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51 Subpart I; or

(B) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I.

(6) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Subpart I or 51.166.

(7) Any change in ownership at a stationary source.

(8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(A) The Nevada State Implementation Plan and;

(B) Other requirements necessary to attain and maintain the National Ambient Air Quality Standards during the project and after it is terminated.

(9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to

emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(10) The reactivation of a very clean coal-fired electric utility steam generating unit.

(g) "Responsible official" means one of the following:

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

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

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

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

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

(4) For Title IV affected sources:

(A) The designated representative, as defined in 40 CFR 72.2, insofar as actions, standards, requirements, or prohibitions under Title IV of the Act, "Acid Deposition Control," or the regulations promulgated there under are concerned; or

(B) The responsible official as defined above for any other purposes under Section 12.4.

12.4.3 Authority to Construct Permit for Part 70 Sources

12.4.3.1 Application Submission, Processing and Issuance Requirements for Stationary Sources Subject to Sections 12.2 or 12.3

(a) **Application Requirements**

An application for an Authority to Construct Permit shall be submitted on a form provided by the Control Officer. The application shall contain the following information related to the construction or project:

(1) A description of all emissions of regulated air pollutants from all affected emissions units and a projected operating schedule for each emissions unit;

(2) An identification and a description of all points of emissions and a process description of all activities, including design capacity, which may generate emissions of the regulated air pollutants described pursuant to paragraph (a)(1) of Section 12.4.3.1 in sufficient detail to establish the basis for the applicability of standards and fees;

(3) The emission rates of all regulated air pollutants, including fugitive emission rates. The emission rates must be described in tons per year and for such shorter-term averages as are necessary to establish compliance using the applicable standard reference test method or other methodology specified in paragraph (a)(7) of Section 12.4.3.1;

(4) A description of any new or modified air pollution control equipment to be operated at the stationary source;

(5) The calculations on which the information described in Section 12.4.3.1 are based, including a fuel description and specifications;

(6) Citations to and a description of all applicable requirements;

(7) The applicable test method or other methodology used for determining compliance with each applicable requirement;

(8) A control technology demonstration for RACT shall be submitted for a modification to an existing Part 70 source that requires an Authority to Construct Permit because: (i) the modification will increase the source's potential to emit by an amount that is equal to or greater than the minor NSR significant level in paragraph (b) of Section 12.4.2.1; ~~and~~ (ii) a control technology demonstration is not otherwise required by Section 12.2 or 12.3;

or (iii) the modification will be major for one pollutant and will increase the source's potential to emit by an amount equal to or greater than the minor NSR significant level for one or more pollutants that are not part of or precursors to the pollutant associated with the major modification. The RACT control technology demonstration shall only apply to the pollutant(s) exceeding the minor NSR significant level. The application shall describe how RACT was determined and how compliance with RACT is to be measured, including, if applicable, material usage limits, performance testing, and continuous emissions monitoring.

(9) If applicable, a description of how performance testing will be conducted, including test methods and a general description of testing protocols;

(10) If applicable, the information necessary to establish a basic design parameter;

(11) If applicable, a description of how the permittee proposes to comply with the compliance assurance monitoring requirements in 40 CFR Part 64, including a plan describing how the applicant will comply with the monitoring design criteria in 40 CFR 64.3; and

(12) If any information or data in the application is proposed to be treated as confidential, a demonstration of compliance with the Certification of Confidentiality procedures in Section 12.6.1.

(13) If the applicant wishes to be subject to the enhanced public participation procedures in Section 12.2.16.6, a declaration to that effect.

(b) **Additional Application Requirements for Sources Subject to Section 12.2 (Major Source PSD)**

If the new or modified Part 70 source is subject to the Prevention of Significant Deterioration preconstruction review provisions of Section 12.2, the application shall also contain the following:

(1) The control technology review required by Section 12.2.9;

(2) The source impact analysis required by Section 12.2.10;

(3) The air quality analysis required by Section 12.2.12;

(4) The source information required by Section 12.2.13;

(5) The additional impact analyses required by Section 12.2.14; and

(6) Any other information that the Control Officer determines is necessary to process the application in accordance with Section 12.2 or Section 12.3.

(c) **Additional Application Requirements for Sources Subject to Section 12.3 (Major Source Nonattainment NSR)**

If the new or modified Part 70 source is subject to the nonattainment area preconstruction review provisions of Section 12.3, the application shall also contain the following:

(1) The statewide compliance demonstration required by Section 12.3.3;

(2) The alternatives analysis required by Section 12.3.4;

(3) The LAER demonstration and draft permit conditions required to ensure compliance with LAER required by Section 12.3.5.2;

(4) An air impact analysis, including dispersion modeling;

(5) The information necessary to demonstrate that the applicant has satisfied or will satisfy the emissions offset requirements in Section 12.3.6; and

(6) Any other information that the Control Officer determines is necessary to process the application in accordance with Section 12.2 or Section 12.3.

(d) **Application Processing Procedures**

Any application for a new or modified Part 70 source subject to paragraph (a) of Section 12.4.3.1 shall be processed in accordance with the following procedures:

(1) Within one hundred (100) days after the date of receipt of an application for an Authority to Construct Permit, the Control Officer shall determine if the application is complete. If substantial additional information is required, the Control Officer shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the Control Officer shall determine the application to be complete.

Unless the Control Officer determines that the application is incomplete within one hundred (100) days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the Control Officer de-

termines that the application is complete or the 101st day after the date of receipt, whichever is earlier. Within one year after the date the application is determined to be complete, the Control Officer shall initiate the public participation procedures in Section 12.2.16.

(2) If, after the date the application is determined to be complete, the Control Officer discovers that additional information is required to act on the application, the Control Officer may request additional information necessary to determine whether the proposed project will comply with all of the applicable requirements set forth in Section 12.2 or Section 12.3, as applicable. The applicant must provide in writing any additional information that the Control Officer requests within the time specified in the written request of the Control Officer. Any delay in the submittal of the requested information may result in a corresponding delay in the action of the Control Officer on the application or a determination of incompleteness.

~~(2)~~(3) The Control Officer shall not issue an Authority to Construct or Permit to Operate unless, after the date an application is determined to be complete, the Control Officer determines that the new or modified source will meet all applicable requirements of Section 12.

(e) **Permit Content**

An Authority to Construct Permit issued pursuant to Section 12.4 shall contain each of the following conditions:

(1) The permittee shall retain records of all required monitoring and performance demonstration data and supporting information for five (5) years after the date of the sample collection, measurement, report, or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment, all original strip-chart recordings for continuous monitoring instrumentation and, if applicable, all other records required to be maintained pursuant to 40 CFR 64.9(b).

(2) Each of the conditions and requirements of the permit is severable and, if any are held invalid, the remaining conditions and requirements continue in effect;

(3) The permittee shall comply with all conditions contained in the permit. Any noncompliance constitutes a violation and is grounds for:

(A) An action for noncompliance;

(B) Revocation and reissuance or the termination of the permit by the Control Officer; or

(C) The reopening or revising of the permit by the permittee as directed by the Control Officer.

(4) The need to halt or reduce activity to maintain compliance with the conditions of the permit is not a defense to noncompliance with any condition of the permit;

(5) The Control Officer may revise, revoke and reissue, reopen and revise, or terminate the permit for cause;

(6) The permit does not convey any property rights or any exclusive privilege;

(7) The permittee shall provide the Control Officer, within a reasonable time, with any information that the Control Officer requests in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the conditions of the permit. Upon request, the permittee shall also furnish to the Control Officer copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the Administrator along with a claim of confidentiality;

(8) The permittee shall allow the Control Officer, or any authorized representative of the Control Officer, upon presentation of credentials, to enter the permittee's premises where the source is located or emissions related activity is conducted and to:

(A) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the permit;

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

(C) Sample or monitor, substances or parameters to determine compliance with the conditions of the permit or applicable requirements; and

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

(9) A responsible official of the source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the permit are true, accurate, and complete;

(10) The permit must contain:

(A) All applicable requirements, emission limits, and standards, provided, however, that applicable requirements that are not required by the Act or implementing federal regulations, and that are not in the Nevada SIP, may be included in the permit but shall be specifically designated as being not federally enforceable and not enforceable by a citizen's suit pursuant to the Act, and shall be designated as "county only requirements." Terms and conditions so designated are not subject to the requirements that apply to permit review by EPA and affected states;

(B) Monitoring, recordkeeping, and reporting requirements sufficient to meet the requirements of 40 CFR Part 64 or paragraph (d) of Section 12.5.2.6, as deemed necessary by the Control Officer;

(C) Such other conditions as necessary to demonstrate compliance with the requirements in Section 12.2 or Section 12.3 for construction, subject to those sections.

(D) A condition that states that the approval of an Authority to Construct or Authority to Operate shall not affect the responsibility of the permittee to comply with the applicable requirements of the Nevada State Implementation Plan or any other applicable requirements.

(11) The permittee shall maintain documentation of the records required by paragraph (a) of Section 12.2.1.6 or paragraph (a) of Section 12.3.1.6, if applicable.

(12) The permittee shall report start of construction, construction interruptions exceeding nine (9) months, and completion of construction. The report shall be given to the Control Officer not later than fifteen (15) working days after occurrence of the event;

(13) The permittee shall provide written notification of the actual date of commencing operation, received by the Control Officer, within fifteen (15) calendar days after such date;

(14) The permittee shall provide separate written notification for commencing operation for each unit of phased construction, which may involve a series of units commencing operation at different times;

(15) A source that is a new Part 70 source or a major modification to an existing Part 70 source shall, within sixty (60) days after achieving the maximum rate of production of the new source or modification, but not later than one hundred eighty (180) days after commencing operation, conduct performance tests and furnish the Control Officer a written report of the results of the tests. The Control Officer may require such testing to occur sooner than the 180-day limit if there are adequate grounds to do so. The performance tests required by the Authority to Construct Permit shall be conducted in accordance with the applicable test method and Section 12.8; and

(16) The permittee shall post the permit in a location which is clearly visible and accessible to the facility's employees and representatives of the department.

(17) The permittee shall pay all fees assessed pursuant to Section 18.

12.4.3.2 Application Submission and Processing Requirements for Part 70 Sources Not Subject to Section 12.2, Section 12.3, or Section 12.4.3.3

(a) In order to obtain an Authority to Construct Permit, the owner or operator of a proposed new Part 70 source that is not subject to Section 12.2 or Section 12.3, or the owner or operator of an existing Part 70 source proposing a modification that increases the source's potential to emit by an amount equal to or greater than the minor NSR significant level in paragraph (b) of Section 12.4.2.1, but that is not a major modification under Section 12.2 or Section 12.3, shall submit an application on a form prescribed by the Control Officer.

(1) The application shall contain the information specified in paragraph (a) of Section 12.4.3.1 and a "Control Technology Review" that meets the requirements of Section 12.2.9, except that Reasonably Available Control Technology (RACT) shall be the technology standard instead of Best Available Control Technology. The RACT Technology Review shall be submitted for any pollutant for which the source's potential to emit increases by an amount equal to or greater than the minor NSR significant level, but less than the major source or major modification thresholds. The applicant shall also include a demonstration that the new Part 70 source or modification does not cause an exceedance of the ambient air quality standards ~~in Section 11~~ as defined in

Section 0 or an exceedance of the ambient air increments specified in Section 12.2.3.

(2) The determination of completeness and the procedures for processing the application shall be those in paragraph (d) of Section 12.4.3.1.

(3) The public participation procedures specified in Section 12.1.5.3 shall apply to a permit revision processed under Section 12.4.3.2(a).

(4) The contents of the Authority to Construct Permit issued pursuant to Section 12.4.3.2(a) shall be those in Section 12.4.3.1(e).

(b) In order to obtain an Authority to Construct Permit, the owner or operator of an existing Part 70 source that is proposing a modification that increases the source's potential to emit by an amount less than the minor NSR significance level in paragraph (b) of Section 12.4.2.1 shall comply with the minor revision process listed in Section 12.5.2.14, including the application procedures listed in paragraph (a)(3) of Section 12.5.2.14.

12.4.3.3 Application Submission and Processing Requirements for Construction or Reconstruction of a Part 70 Source Subject to a Standard under Sections 112(d), (f), or (h) of the Act (a MACT source)

In addition to any other applicable application requirements in Section 12.4, if a new Part 70 source, or the reconstruction of an existing Part 70 source that creates a "new affected source" or "reconstructed affected source" that is a major source under 40 CFR Part 63, the owner or operator shall comply with the application requirements under 40 CFR 63.5 and paragraph (a) of Section 12.4.3.1. The Authority to Construct Permit for such source shall comply with the requirements in 40 CFR 63.5(e).

12.4.3.4 Authority to Construct Permit Revisions

(a) An Authority to Construct Permit shall only be revised administratively or as a significant permit revision.

(1) An administrative permit revision is a permit revision that:

(A) Corrects typographical errors;

(B) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change;

(C) Requires more frequent monitoring or reporting by the permittee;

(D) Allows for a change in ownership or operational control of a source where the Control Officer determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Control Officer and the permit transfer procedures specified in Section 12.12 are complied with; or

(E) Incorporates any other type of change which the Administrator has determined to be similar to those in paragraphs (a)(1)(A) through (a)(1)(D) of Section 12.4.3.4.

(2) An administrative permit revision may be made by the Control Officer consistent with the following:

(A) The Control Officer shall take no more than thirty (30) days from receipt of a request for an administrative permit revision to take final action on such request, and may incorporate the revision without providing notice to the public or affected states provided that the revised permit designates any such permit revisions as having been made pursuant to Section 12.4.3.4.

(B) The Control Officer shall provide a copy of the revised permit to the Administrator.

(C) The source may implement the changes addressed in the request for an administrative revision immediately upon submittal of the request. However, if the Control Officer determines that the change does not qualify as an administrative revision, the source may be subject to enforcement proceedings for violation of any existing permit terms and conditions.

(3) A significant permit revision to an Authority to Construct Permit is any revision to the permit that is not an administrative permit revision.

(A) A significant permit revision shall be subject to the same application, determination of completeness, processing procedures, public participation, notification, and timetables as the original Authority to Construct Permit, except that the scope of the procedures shall be limited to the revision and issues relevant to that revision and the proce-

dures specified in paragraphs (c) and (d) of Section 12.5.2.18 do not apply.

(b) From and after the date of commencing operation, an Authority to Construct Permit shall only be revised pursuant to the procedures for revising a Part 70 Operating Permit in Sections 12.5.2.13 and 12.5.4~~-2~~.14.

12.4.3.5 Administrative Permit Revisions for Title IV Acid Rain Sources

Administrative permit revisions to permit conditions governed by the federal Clean Air Act Title IV Acid Rain Program shall comply with 40 CFR Part 72, as incorporated by reference in Section 21.

History: Adopted May 18, 2010

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

CC CLERK
RM 6037
500 S GRAND CENTRAL PKWY
LAS VEGAS NV 89155-0001

Account # **22477**

Ad Number **0000130138**

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for, was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 2 edition(s) of said newspaper issued from 03/25/2014 to 04/01/2014, on the following days:

03 / 25 / 14
04 / 01 / 14

/S/ Stacey M. Lewis
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 2nd day of April, 2014

Notary Mary Lee

MARY A. LEE
Notary Public State of Nevada
No. 09-8941-1
My Appt. Exp. Nov. 13, 2016

ORDINANCE NO. 4189

AN ORDINANCE TO AMEND CLARK COUNTY AIR QUALITY REGULATION SECTION 0 TO REVISE OR ADD CERTAIN DEFINITIONS TO MEET FEDERAL REQUIREMENTS OR ENSURE CLARITY; REPEAL SECTION 1; AMEND SECTION 12.0 TO INCORPORATE FEDERAL REQUIREMENTS FOR PERMITTEE RESPONSIBILITY, STACK HEIGHT LIMITS, RECORDKEEPING AND REPORTING AND STATE OF NEVADA REQUIREMENTS FOR JURISDICTION OF CERTAIN FACILITIES; AMEND SECTION 12.1 TO INCLUDE REQUIREMENTS FOR FINE PARTICULATES AND PERMITTEE RESPONSIBILITY, THRESHOLDS FOR PUBLIC NOTICE FOR CERTAIN POLLUTANTS, AND INCORPORATE A LIST OF INSIGNIFICANT ACTIVITIES; AMEND SECTION 12.2 TO INCLUDE REQUIREMENTS FOR FINE PARTICULATES, REQUIREMENTS FOR FUGITIVE EMISSIONS TO BE CONSIDERED IN DETERMINING THE STATUS OF A PROPOSED MODIFICATION, REVISE DEFINITIONS TO INCORPORATE THE LANGUAGE OF FEDERAL LAW AND CLARIFY WHEN A PLANTWIDE APPLICABILITY LIMIT MAY BE ADJUSTED; AMEND SECTION 12.3 TO REVISE CERTAIN DEFINITIONS TO REMOVE EXEMPTIONS, INCORPORATE THE LANGUAGE OF FEDERAL LAW AND REQUIRE FUGITIVE EMISSIONS TO BE CONSIDERED IN DETERMINING THE STATUS OF A PROPOSED MODIFICATION; REVISE REQUIREMENTS FOR INTERPOLLUTANT TRADING TO CLARIFY THE CONDITIONS UNDER WHICH SUCH TRADES ARE PERMISSIBLE, AND TO ESTABLISH OFFSET RATIOS FOR NONATTAINMENT AREAS CONSISTENT WITH FEDERAL LAW; AMEND SECTION 12.4 TO CLARIFY WHEN A BASIC CONTROL TECHNOLOGY REVIEW IS REQUIRED, TO PROVIDE AUTHORITY THAT A PERMIT NOT BE ISSUED UNLESS ALL APPLICABLE REQUIREMENTS ARE MET; ESTABLISH PERMITTEE RESPONSIBILITY; RENUMBER SECTIONS; CORRECT CITATIONS; AND MAKE MINOR CHANGES FOR GREATER CLARITY; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERTO.

NOTICE IS HEREBY GIVEN that typewritten copies of the above numbered and entitled Ordinance are available for inspection by all interested parties at the Office of the County Clerk of Clark County, Nevada, at her Commission Division Office on the sixth floor of the Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, Nevada, and that said Ordinance was proposed by Commissioner Steve Sisolak on the 4th day of March, 2014, and passed on the 18th day of March, 2014 by the following vote of the Board of County Commissioners:

Aye: Susan Brager
Lawrence L. Brown III
Tom Collins
Chris Giunchigliani
Mary Beth Scow
Steve Sisolak
Lawrence Weekly
Nay: None
Abstaining: None
Absent: None

This Ordinance shall be in full force and effect from and after the 1st day of April, 2014.

(SEAL)
DIANA ALBA, COUNTY CLERK
and Ex-Officio Clerk of the
Board of County
Commissioners
Dated this 18th day of March, 2014.

PUB: Mar. 25, Apr. 1, 2014
LV Review-Journal