

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

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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 Requirement and Preconstruction Review Applicability Criteria

- (a) Except as provided in Section 12.4.3.2(e) for minor revisions of a Part 70 Operating Permit, an owner or operator of an existing or new Part 70 source shall obtain an Authority to Construct Permit from the Control Officer before beginning actual construction or continuing to operate any of the following:
 - (1) A new Part 70 source;
 - (2) A “Major Modification” as defined in Sections 12.2 or 12.3;
 - (3) A modification that increases the Part 70 source’s PTE by an amount equal to or greater than the minor NSR significant level in Section 12.4.2.1;
 - (4) Construction, modification, or reconstruction of an affected facility that becomes newly subject to a standard, limitation, or other requirement under 40 CFR Part 60;
 - (5) Construction or reconstruction of a new source or of an affected source that becomes newly subject to a standard, limitation, or other requirement under 40 CFR Part 63, including, but not limited to, construction or modification that requires preconstruction review under 40 CFR Part 63.5; or
 - (6) A modification to a solid waste incinerator unit as defined by an applicable standard under 40 CFR Part 60.
- (b) Unless the Control Officer receives and grants a written request to extend the 18-month period referenced in paragraphs (b)(1) or (b)(2) of this section at least 30 days before the deadline, an Authority to Construct Permit issued under Section 12.4 or an authority to construct authorization issued under Section 12.5 shall remain in effect only if:
 - (1) The owner or operator commences the construction, modification, or reconstruction of the Part 70 source within 18 months of the issuance date of an Authority to Construct Permit or authorization to construct;
 - (2) Such activity is not discontinued for a period greater than 18 months; and

- (3) The Control Officer does not revoke and reissue, or terminate, the Authority to Construct Permit for cause.
- (c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, if an existing Part 70 Operating Permit would prohibit such construction, modification, or reconstruction, the owner or operator of the Part 70 source must obtain a Part 70 Operating Permit revision pursuant to Sections 12.5.2.13 or 12.5.2.14, as appropriate, 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 Part 70.2, the Clean Air Act (the Act), or common usage, in that order of priority.

- (a) “Affected Emissions Unit” means any part or activity of a stationary source that increases emissions due to construction, modification, or reconstruction at the Part 70 source and emits, or has the potential to emit, any regulated air pollutant, but is not constructed, modified, or reconstructed.
- (b) “Constructed Emissions Unit” means any part or activity of a stationary source that is newly constructed, modified, or reconstructed and emits, or has the potential to emit, any regulated air pollutant.
- (c) “Existing Part 70 Source” means a Part 70 source that has a valid Part 70 Operating Permit or that submitted a complete Part 70 Operating Permit application before submitting a complete Section 12.4 Authority to Construct Permit application.
- (d) “Minor NSR Significant Levels” means an increase in the potential to emit that equals or exceeds the following rates for the pollutants listed in Table 1.

Table 1. Title

Type of Air Pollutant	Potential to Emit (tpy)
PM _{2.5}	5.0
PM ₁₀	7.5
CO	50
VOC	20
NO _x	20

Type of Air Pollutant	Potential to Emit (tpy)
SO ₂	20
Lead (Pb)	0.6
H ₂ S	5
Total Reduced Sulfur (including H ₂ S)	5

- (e) "Modification" or "Modify," unless otherwise defined by an applicable requirement, means either construction that results in a new Part 70 source, or construction at an existing Part 70 source that increases emissions of a regulated air pollutant or that requires a minor or significant permit revision pursuant to Section 12.5.2.14.
- (f) "New Part 70 Source" means a Part 70 source that is not an existing Part 70 source.
- (g) "Portable Source" means a stationary source that is specifically designed to be transferred to a new location as need warrants and to operate at the new location for 24 months or less. Portable sources may be subject to other applicable federal requirements under the Act.
- (h) "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 a representative is approved in advance by the Control Officer.
 - (2) For a partnership or sole proprietorship: a general partner or the proprietor;
 - (3) For a municipality, state, federal, or other public agency: 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 Part 72.2, insofar as actions, standards, requirements, or prohibitions under Title IV of the Act, "Acid Deposition Control," or the regulations promulgated under it 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 Requirements

(a) Application Requirements.

The owner or operator of the Part 70 source shall submit an application for an Authority to Construct Permit on a form provided by the Control Officer. The application shall contain the following information related to the construction, modification, or reconstruction:

- (1) A description of all emissions of regulated air pollutants from all affected and constructed emissions units, and a projected operating schedule for each emissions unit;
- (2) An identification and description of all points of emissions, and a process description of all activities, including design capacity, that may generate emissions of the regulated air pollutants described in paragraph (a)(1) of this section in sufficient detail to establish a 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 (tpy) and for such shorter-term averages as needed to establish compliance using the applicable standard reference test method or another methodology specified in paragraph (a)(7) of this section;
- (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 this section 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 RACT control technology demonstration is required:
 - (A) For each constructed emissions unit at which an emissions increase in an air pollutant occurs if the modification will increase the Part 70 source's PTE by an amount equal to or greater than the minor NSR significant level defined in Section 12.4.2.1(d) for the pollutant, and if increases in that pollutant at the emissions unit are not otherwise subject to a control technology review under Sections 12.2 or 12.3.
 - (B) For each emissions unit for which the owner or operator seeks to increase or remove an existing emission limitation if, in the absence of such emission limitation, the emissions unit would have been subject to the RACT demonstration requirement in paragraph (A) of this section in a previous application for an Authority to Construct Permit, and for which application the Control Officer issued an Authority to Construct Permit within the last five years without requiring the emissions unit to comply with RACT.
 - (C) The RACT control technology demonstration shall only apply to the pollutant(s) exceeding the minor NSR significant level. The application shall describe how the owner or operator determined RACT and will measure compliance, 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 Part 64.3;
- (12) If the source proposes to treat any information or data in the application 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; and
- (14) For construction, modification, or reconstruction that increases the Part 70 source's PTE by an amount equal to or greater than the minor NSR significant level defined in Section 12.4.2.1(d) for a regulated air pollutant, but less than the major source or major modification threshold in Sections 12.2 or 12.3, a demonstration that the construction will not cause an exceedance of the National Ambient Air Quality Standards (NAAQS), as defined in Section 0, or an exceedance of the ambient air increments specified in Section 12.2.3.

(b) **Additional Application Requirements for Construction or Modification Subject to Section 12.2 (Major Source PSD).**

If the construction or modification is subject to the Prevention of Significant Deterioration (PSD) 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 Sections 12.2 or 12.3.

(c) **Additional Application Requirements for Construction or Modification Subject to Section 12.3 (Major Source Non-attainment NSR).**

If the construction or modification 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 LAER compliance required by Section 12.3.5.2;
 - (4) Reserved.
 - (5) The information necessary to demonstrate the applicant has satisfied or will satisfy the emissions offset requirements in Section 12.3.6; and
 - (6) Any other information the Control Officer determines is needed to process the application in accordance with Sections 12.2 or 12.3.
- (d) **Additional Requirements for Construction, or Requirements for Construction or Reconstruction of a Part 70 Source Subject to a Standard under Sections 112(d), (f), or (h) of the Act (MACT Source).**
- (1) In addition to any other application requirements in Section 12.4, if the construction of a new Part 70 source—or the construction or reconstruction of an existing Part 70 source—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 Part 63.5 and paragraph (a) of this section. The Authority to Construct Permit for such a source shall comply with the requirements in 40 CFR Part 63.5(e).
- (e) **Exemption and Additional Requirements for Portable Sources.**
- (1) When a portable source that previously received an Authority to Construct Permit under Sections 12.2 or 12.3 proposes moving to a new location (as defined in Section 0) within Clark County, the requirements of paragraphs (a) through (d) of this section shall not apply provided that:
 - (A) The portable source would comply with its existing Authority to Construct Permit and Part 70 Operating Permit at the new location;
 - (B) The portable source operates only in hydrographic areas authorized under the permit;
 - (C) If, at the time of relocation, the new location is an attainment area, the Authority to Construct Permit meets the applicable requirements under Section 12.2 for operating in that attainment area;

- (D) If, at the time of relocation, the new location is a nonattainment area, the Authority to Construct Permit satisfies the applicable requirements under Section 12.3 for operating in that nonattainment area;
 - (E) The portable source would operate in the new location for no more than two years;
 - (F) The portable source provides the Control Officer with advance notice of the proposed relocation on a form specified by the Control Officer, and gives the Control Officer sufficient advance notice to allow for public participation before relocating.
 - (i) At a minimum, the notice shall identify the new location to which the portable source proposes to relocate, the date of the proposed relocation, the probable duration of operation at the new location, and the potential to emit each air pollutant at that location.
 - (ii) If the portable source would relocate to within 1,000 feet of the outer boundary of a school, hospital, or residential area, the Control Officer should receive sufficient advance notice to allow for public participation before relocation, but in no case shall such notice be less than 60 days before the proposed relocation date; or
 - (iii) A portable source shall submit advance notice to the Control Officer for all other requests to relocate no later than 30 days before the proposed relocation date.
 - (G) The portable source does not relocate to the new location unless the Control Officer provides written notice to the portable source that the Control Officer approves operations at the new location; and
 - (H) The portable source complies with any Control Officer Order issued under the authority of Section 4.1(b) and Section 12.4.3.3(f)(3)(C) that would restrict operations or emissions at a specific location.
- (2) A portable source must comply with paragraph (e) of this section to qualify for exemption from the requirement to obtain an Authority to Construct Permit under Sections 12.2.8(b) and 12.3.1.3(b).

12.4.3.2 Application Processing Procedures

- (a) For construction or modifications subject to Sections 12.2 or 12.3, the Control Officer shall follow the procedures in either Section 12.2.16 or paragraph (d) of this section to process the application and to provide for public participation.
- (b) When an owner or operator of a Part 70 source must revise the Part 70 Operating Permit before construction, modification, or reconstruction (as specified in Section 12.4.1.1(c)), the Control Officer shall follow the procedures in Sections 12.5.2.13 or 12.5.2.14, as applicable, to process the application for an Authority to Construct Permit and revise the Part 70 Operating Permit.
- (c) For construction, modification, and reconstruction not subject to paragraph (a) or (b) of this section, and except as provided in paragraphs (d) and (e) of this section, the Control Officer shall determine whether the application is complete and issue the Authority to Construct Permit in accordance with the following procedures:
 - (1) Within 100 days of receiving 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 the application is incomplete and return it to the applicant. If substantial additional information is not required, the Control Officer shall determine the application is complete.

If the Control Officer does not make a determination on application completeness within 100 days, the application is automatically deemed complete on the 101st day after the date of receipt.

- (2) If the Control Officer discovers, after the date the application is determined to be complete, that additional information is required to act on it, the Control Officer may request the additional information needed to determine whether the proposed project will comply with all applicable requirements. The applicant must provide in writing any additional information requested within the time specified in the Control Officer's written request. A delay in submitting the requested information may result in a corresponding delay in Control Officer action on the application, or the Control Officer may withdraw the previous completeness determination and declare the application incomplete.

- (3) When Section 12.4.1.1(a)(3) requires an Authority to Construct Permit, the Control Officer shall follow the public participation procedures in Section 12.4.3.3 before issuing the permit.
 - (4) When Sections 12.4.1.1(a)(4) or (a)(6) require an Authority to Construct Permit, the owner or operator of the Part 70 source shall follow the notification requirements in Section 14.1(b)(1) (incorporating by reference 40 CFR Part 60, Subpart A), and the Control Officer shall follow the applicable procedures in Section 14.1(b)(1) before issuing the Authority to Construct Permit.
 - (5) When Section 12.4.1.1(a)(5) requires an Authority to Construct Permit, the owner or operator of the Part 70 source shall follow the notification requirements in Sections 13.2(b)(1) (incorporating by reference 40 CFR Part 63, Subpart A); the Control Officer shall determine that the construction or reconstruction will not cause emissions in violation of the relevant standard(s) and any other federally enforceable requirements and, if applicable, will provide for participation procedures in accordance with 40 CFR Part 63, Subpart B when making a case-by-case Maximum Achievable Control Technology determination before issuing the Authority to Construct Permit.
 - (6) The Control Officer shall not issue an Authority to Construct Permit 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.
- (d) **Part 70 Operating Permit Significant Permit Revision.** For construction, modification, or reconstruction that meets the criteria for a significant permit revision under Section 12.5.14(c)(1), the owner or operator may submit an application for an Authority to Construct Permit that fulfills both the requirements of Section 12.4.3.1(a) and the requirements for an application for a significant revision to an existing Part 70 Operating Permit in Section 12.5.2.14(c)(2); the owner or operator and Control Officer may then follow the procedures for significant permit revisions in Section 12.5.2.14(c) to obtain authorization to construct and operate under a revised Part 70 Operating Permit and/or an Authority to Construct Permit.
- (e) **Part 70 Operating Permit Minor Permit Revision.** For modifications that increase the Part 70 source's PTE by an amount less than the minor NSR significance level defined in Section 12.4.2.1 and meet the criteria for a minor permit revision under Section 12.5.2.14(a)(1):
- (1) The owner or operator may submit an application for an Authority to Construct Permit that fulfills both the requirements of Section

12.4.3.1(a) and the requirements for an application for a minor permit revision in Section 12.5.2.14(a)(3); the owner or operator may then begin actual construction and operate under the authority provided by Section 12.5.2.14(a)(6), and the Control Officer may follow the procedures for minor permit revision in Section 12.5.2.14 to issue an authorization to construct and operate under a revised Part 70 Operating Permit and/or an Authority to Construct Permit.

- (2) An authorization to construct and operate granted by Section 12.5.2.14(a)(6) remains in effect until the Control Officer takes final action on the minor permit revision application under Section 12.5.2.14(a)(5)(A), (B), or (C), or issues a separate Authority to Construct Permit under this section.
 - (3) Notwithstanding paragraph (e)(2) of this section, the Control Officer may modify the Section 12.5.2.14(a)(6) authorization to construct and operate before taking final action on the minor permit revision application by revising the draft minor permit revision under Section 12.6.2.14(a)(5)(D).
- (f) When an owner or operator and the Control Officer follow the Part 70 Operating Permit procedures in paragraphs (b), (d), or (e) of this section, then in accordance with Section 12.4.5.2(b), the revised Part 70 Operating Permit serves as both the Part 70 Operating Permit and the Authority to Construct Permit for the affected and constructed emissions units at the Part 70 source when the Control Officer does not issue a separate Authority to Construct Permit.

12.4.3.3 Public Participation

The Control Officer shall provide for public notice, public comment, and opportunity for a hearing in accordance with this section before issuing an Authority to Construct Permit for a Part 70 source requiring one under Section 12.4.1.1(a)(3) or before approving a portable source relocation request.

- (a) **Notice of Proposed Action on Authority to Construct Permit Application.** Within one year from when the Control Officer determines an application is complete, the Control Officer shall post a Notice of Proposed Action on the department website that meets the requirements of paragraph (c) of this section for any of the following:
 - (1) A request to establish or revise a voluntarily accepted emission limitation.

- (2) An application subject to the RACT control technology demonstration requirement in Section 12.4.3.1(a)(8).
 - (3) An application subject to the Section 12.4.3.1(a)(14) requirement to demonstrate that the construction will not cause an exceedance of the NAAQS (as defined in Section 0) or an exceedance of the ambient air increments specified in Section 12.2.3.
 - (4) Any action for which the Control Officer determines that public participation would better inform a decision on the application.
- (b) **Notice of Proposed Action on the Relocation of a Portable Source.** The Control Officer shall provide a notice that meets the requirements of paragraph (c) of this section after receiving advance notice of the proposed relocation of a portable source if the new location would be within 1,000 feet of the outer boundary of a school, hospital, or residential area.
- (c) The Notice of Proposed Action required by paragraphs (a) or (b) of this section shall be published on the department website at least 30 days before the Control Officer issues a final decision on the Authority to Construct Permit application or on the relocation of a portable source.
- (1) The Notice of Proposed Action shall contain all of the following:
 - (A) The name and address of the owner or operator and, if different, of the Part 70 source.
 - (B) If the Notice of Proposed Action involves relocation of a portable source, the current address of the portable source and the address to which the portable source proposes to relocate;
 - (C) The date the Control Officer received the complete application for an Authority to Construct Permit or the notice of proposed relocation;
 - (D) The nature of the construction, reconstruction, or modification proposed in an Authority to Construct Permit application;
 - (E) The pollutants to be emitted by the Part 70 source and their projected quantities;
 - (F) The name, address, and telephone number of the department representative interested persons may contact for instructions on how to obtain additional information;

- (G) The location of the administrative record, the times at which the record will be open for public inspection, and a statement that all information in the administrative record for the action (except confidential information, in accordance with NRS 445B.570 and Section 12.6) is available for public inspection;
 - (H) The Control Officer's preliminary determination whether the application for an Authority to Construction Permit or the relocation of a portable source should be approved or disapproved;
 - (I) Directions on how any person may submit written comments on the Notice of Proposed Action and documents in the administrative record, including the date by which the Control Officer must receive comments; and
 - (J) Directions on how any person may request a public hearing on the Notice of Proposed Action, including the date by which the Control Officer must receive the request; or, if the Control Officer has already scheduled a public hearing, the date and location of the hearing and directions for requesting to speak at the hearing.
- (2) The Control Officer shall send a copy of the Notice of Proposed Action and Final Action to the applicant, EPA (if requested), and any other person who requests such notice.
- (d) **Public Hearing on Notice of Proposed Action.**
- (1) During the 30-day public comment period, 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.
 - (2) The Control Officer shall notify petitioners whether the request will be granted or denied within 30 days of receipt.
 - (3) The hearing request shall be granted if the Control Officer determines there is a significant degree of public interest in the Notice of Proposed Action after considering all relevant factors, including, but not limited to, the number of petitioners, the nature of the concerns stated in the petitions, and the type and quantity of emissions emitted by the Part 70 source.
 - (4) If the request is granted, the Control Officer shall publish the hearing date, time, and location on the department website for at

least 30 days prior and provide directions in the notice for requesting to speak at the hearing.

(e) **Final Action on Authority to Construct Permit Application or Proposed Relocation.**

- (1) The Control Officer shall consider all relevant written and oral comments, and all other documents in the administrative record, before taking final action on an Authority to Construct Permit application.
- (2) The Control Officer shall send a written notice to the owner or operator of the Part 70 Source approving or disapproving the relocation of a portable source after considering public comments received on the Notice of Proposed Action.
 - (A) The Control Officer may disapprove the relocation based on information received during the public comment period.
 - (B) The Control Officer may disapprove the relocation upon finding that operations in the new location would cause or contribute to a new violation of a NAAQS or cause an unreasonable risk to public health, welfare, or the safety of any person.
 - (C) Before approving operations in the new location, the Control Officer may issue a Control Officer Order under the authority of Section 4.1(b) to limit emissions or operations at the new location as necessary to prevent the source from causing or contributing to a new violation of a NAAQS or causing an unreasonable risk to public health, welfare, or the safety of any person at the new location, or to establish enforceable restrictions agreed to by the source owner or operator.

12.4.3.4 Permit Content

- (a) 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 years after the date of 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 Part 64.9(b).

- (2) Each of the conditions and requirements of the permit is severable: 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) The revocation and reissuance, or 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 exclusive privilege;
- (7) The permittee shall provide, within a reasonable time and in writing, any information the Control Officer requests 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 the permit requires keeping; the permittee may furnish records deemed confidential directly to the Administrator, along with a claim of confidentiality;
- (8) Upon presentation of credentials, the permittee shall allow the Control Officer (or any authorized representative) to enter the premises where the source is located or emissions-related activity is conducted and to:
 - (A) Access and copy, during normal business hours, 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 to assure compliance with the conditions of the permit or applicable requirements; and
 - (D) Document alleged violations using such devices as cameras or video equipment.
- (9) A responsible official of the source shall certify that, based on information and belief formed after 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; however, applicable requirements not required by the Act or implementing federal regulations, and 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 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 of Sections 12.2 or 12.3 for construction or modifications, subject to those sections;
 - (D) A condition that states that issuance of an Authority to Construct Permit shall not affect the responsibility of the permittee to comply with the applicable requirements of the Nevada SIP or any other applicable requirements; and
 - (E) A statement, consistent with Section 12.4.5.2(a), that where the terms and conditions of the Authority to Construct Permit conflict with applicable requirement(s) in a subsequently issued or revised Part 70 Operating Permit, such terms and conditions are superseded by or appended to the Section 12.4 applicable requirement in the Part 70 Operating Permit.
- (11) The permittee shall maintain documentation of the records required by Sections 12.2.1.6(a) or 12.3.1.6(a), as applicable.

- (12) The permittee shall report the start of construction, construction interruptions exceeding nine months, and completion of construction. The report shall be given to the Control Officer no later than 15 working days after occurrence of the event;
- (13) The permittee shall provide written notification of the actual date of commencing operation to the Control Officer within 15 calendar days;
- (14) The permittee shall provide separate written notifications of commencing operation for each unit of phased construction, which may involve a series of units commencing operation at different times;
- (15) If the authorized construction, reconstruction, or modification is a new Part 70 source or a major modification to an existing Part 70 source, the owner or operator shall, within 60 days of achieving the maximum rate of production of the new source or modification but no later than 180 days after commencing operation, conduct performance tests and furnish the Control Officer with a written report of the test results. The Control Officer may require testing 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;
- (16) The permittee shall post the permit in a location clearly visible and accessible to facility employees and department representatives;
- (17) The permittee shall pay all fees assessed pursuant to Section 18;
- (18) If the permittee owns or operates a portable source, the permittee shall:
 - (A) Provide the Control Officer with advance notice of the proposed relocation on a form specified by the Control Officer, and give notice to the Control Officer with enough time to allow for public participation before relocation.
 - (i) At a minimum, the notice shall identify the proposed new location, the proposed relocation date, the probable duration of operation at the new location, and the potential to emit each air pollutant at that location; and
 - (ii) If the portable source would relocate to within 1,000 feet of the outer boundary of a school, hospital, or residential area, the permittee shall notify the Control

Officer at least 60 days before the proposed relocation date.

(iii) For all other relocation requests, the permittee shall submit advance notice to the Control Officer at least 30 days before the proposed relocation date.

(B) Not relocate to a proposed location until the Control Officer notifies the permittee that operations in the new location are approved;

(C) Not relocate to the proposed location if the Control Officer disapproves the relocation; and

(D) Comply with any Control Officer Order issued under the authority of Section 4.1(b) and Section 12.4.3.3(e)(2)(C) that restricts operations or emissions at a specific location.

12.4.4 Authority to Construct Permit Revisions

12.4.4.1 Permit Revision Procedures

(a) The Control Officer may revise an Authority to Construct Permit only through:

(1) An administrative or significant permit revision, as specified in paragraph (b) and (c) of this section;

(2) The Part 70 Operating Permit procedures specified in Section 12.5.2.14; or

(3) A revision of Section 12.4 applicable requirements in a Part 70 Operating Permit using the procedures in Sections 12.5.2.13 or 12.4.2.14. Revising applicable requirements of, or adding terms and conditions to, the Part 70 Operating Permit may supersede or append certain terms and conditions to the Authority to Construct Permit, as specified in Section 12.4.5.2(a).

(b) **Administrative Permit Revisions.**

(1) An administrative permit revision is a 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 when the Control Officer determines that no other change in the permit is necessary, provided the current and new permittee have submitted to the Control Officer a written agreement with a specific date for transfer of permit responsibility, coverage, and liability, and that the permit transfer procedures in Section 12.12 are complied with;
 - (E) Incorporates Section 12.4 terms and conditions governing construction or operation of an emissions unit at the Part 70 source that are first recorded as terms and conditions in a Part 70 Operating Permit and that supersede, or are omitted from, the terms and conditions of the Authority to Construct Permit, as provided in Sections 12.4.5.2(a);
 - (F) Revises an existing Authority to Construct Permit before the construction, modification, or reconstruction becomes operational (following a reasonable shakedown period, if necessary, not to exceed 180 days) if such a revision would not result in an increase in the amount or type of emissions authorized under the permit, relocate stack emissions closer to a property boundary, change any control technology requirement, change the applicability of Sections 12.2 or 12.3, or reduce the amount of record-keeping, reporting, or monitoring of emissions at an emissions unit; or
 - (G) Incorporates any other type of change the Administrator has determined are similar to those in paragraphs (A)–(F) of this section.
- (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 30 days from receiving an administrative permit revision request to take final action. The Control Officer may incorporate the revision without providing notice to the public or affected states, provided the revised permit designates all revisions as having been made pursuant to this section.
 - (B) The Control Officer shall provide a copy of the revised permit to the Administrator.
 - (C) The source may implement the changes in the request immediately upon submittal. However, if the Control Officer

determines the change does not qualify as an administrative revision, the source may be subject to enforcement proceedings for violation of existing permit terms and conditions.

- (c) **Significant Permit Revision.** A significant permit revision to an Authority to Construct Permit is any revision that is not an administrative permit revision. 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 procedures shall be limited to the revision and issues relevant to that revision; the procedures specified in paragraphs (c) and (d) of Section 12.5.2.18 do not apply.

12.4.4.2 Administrative Permit Revisions for Title IV Acid Rain Sources

Administrative 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.

12.4.5 Section 12.4 Applicable Requirements in Part 70 Operating Permits

The provisions of this section apply to all Section 12.4 applicable requirements and associated periodic monitoring requirements in Part 70 Operating Permits and to all Authority to Construct Permits issued since May 18, 2010.

12.4.5.1 Authority to Construct Permit and Issuance or Revision of the Part 70 Operating Permit

- (a) Except as provided in Section 12.4.5.2(b), the Authority to Construct Permit serves as the authority to construct and operate the affected and constructed emissions units during the period before a Part 70 Operating Permit is granted or denied, or until the Authority to Construct Permit is incorporated into a Part 70 Operating Permit through a permit revision.
 - (1) After the Control Officer issues or revises the Part 70 Operating Permit, the owner or operator may not operate the affected or constructed emissions units without both a valid Part 70 (or, alternatively, Part 71) Operating Permit and valid Authority to Construct Permit, except as provided in Section 12.4.3.2(f).
 - (2) If the Control Officer denies issuance of the Part 70 Operating Permit, or subsequently revokes the Part 70 Operating Permit without reissuing it (or, alternatively, without EPA issuing a Part

71 Operating Permit), the owner or operator may no longer operate any element of the Part 70 source under the Authority to Construct Permit.

- (b) The Control Officer shall list Section 12.4 as an authority citation in the Part 70 Operating Permit when incorporating applicable requirements of an Authority to Construct Permit in a Part 70 Operating Permit, or when recording an authorization to construct and operate under Section 12.4 directly in a Part 70 Operating Permit.

12.4.5.2 Reconciling Section 12.4 Requirements in the Part 70 Operating Permit with an Authority to Construct Permit

- (a) The Part 70 Operating Permit shall govern the construction and/or operations of the affected and constructed emissions units at the Part 70 source; it shall supersede and/or append to the applicable requirements of a previously issued Authority to Construct Permit, but only with respect to any conflicting or omitted terms and conditions in the Authority to Construct Permit, when:
 - (1) The Section 12.4 applicable requirements, as written in the Part 70 Operating Permit, differ from a previously issued Authority to Construct Permit;
 - (2) The Control Officer revises the terms of an issued Authority to Construct Permit only by revising the Part 70 Operating Permit, as authorized under Section 12.4.4.1(a)(3); or
 - (3) The Part 70 Operating Permit contains additional terms and conditions, such as Sections 12.5.2.6(d)(1)(A)–(B) or 12.5.2.8(a) monitoring requirements, that are related to construction or operation of the affected or constructed emissions units.
- (b) When the Control Officer records or revises an authority to construct and operate under Section 12.4 directly in the Part 70 Operating Permit without issuing a separate Authority to Construct Permit, as authorized under Sections 12.4.3.2(f) and 12.4.4.1(a)(3), then the Part 70 Operating Permit serves as both the Part 70 Operating Permit and the Authority to Construct Permit for the affected and constructed emissions units at the Part 70 source.

12.4.5.3 Survival of Section 12.4 Requirements Following Expiration or Termination of the Part 70 Operating Permit

- (a) When a Part 70 Operating Permit includes terms and conditions that supersede and/or append to the Authority to Construct Permit under Section 12.4.5.2(a), or when a Part 70 Operating Permit includes terms and conditions that serve as the Authority to Construct Permit

as provided under Section 12.4.5.2(b), and the Part 70 Operating Permit subsequently expires or terminates, any such terms or conditions in the permit shall survive expiration or termination if:

- (1) The Part 70 Operating Permit expires only because the owner or operator failed to submit a timely renewal application under Section 12.5.2.1; or
 - (2) The Part 70 Operating Permit terminates because the stationary source no longer qualifies as a Part 70 source but it will continue to operate as a minor source, as defined in Section 12.1.1.
- (b) If the terms and conditions survive termination in accordance with paragraph (a)(1) of this section, they remain applicable requirements; the owner or operator may not operate the Part 70 source until the applicable requirements are incorporated into a new or reissued Part 70 Operating Permit or, alternatively, Part 71 Operating Permit.
- (c) If terms and conditions survive termination in accordance with paragraph (a)(2) of this section, the Control Officer shall issue a new Minor Source Permit (as defined in Section 12.1.1) that includes the terms and conditions surviving termination by following the procedures in Section 12.5.2.1. The Control Officer need not follow the public participation procedures in Section 12.1.5.3 to incorporate the terms and conditions surviving termination of the Part 70 Operating Permit into a Minor Source Permit. The minor source may continue to operate the affected and constructed emissions units under the authority of paragraph (a) of this section until the new permit authorizes continued operation, or until the Control Officer denies issuance of a Minor Source Permit.

History: Adopted May 18, 2010. Amended March 18, 2014; July 20, 2021.