

**GUAM ADMINISTRATIVE
RULES AND REGULATIONS**

TITLE 22

**GUAM ENVIRONMENTAL
PROTECTION AGENCY**

TITLE 22
GUAM ENVIRONMENTAL PROTECTION AGENCY

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STANDARDS AND REGULATIONS**

**CHAPTER 1
GUAM AIR POLLUTION CONTROL
STANDARDS AND REGULATIONS**

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

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

2011 COMPILER NOTE: Entire chapter repealed and reenacted by rules submitted to the Legislature on March 4, 2005 and became effective June 4, 2005 pursuant to the affirmative legislative decision to not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

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

**ARTICLE 1
DEFINITIONS**

2011 COMPILER NOTE: Promulgated as §§ 1101-1101.1 which Compiler designated as Article 1 to harmoniously fit this chapter and renumbered to maintain the codification scheme of the GAR.

- § 1101. Definitions.

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§ 1101. Definitions.

As used in these Standards and Regulations:

(a) “Administrator” means the Administrator of the Guam Environmental Protection Agency (“GEPA”) or an authorized agent, officer or inspector.

(b) “Agricultural burning” means the use of open outdoor fires in agricultural operations, forest management or range improvements.

(c) “Agricultural operation” means a bona fide agricultural activity with the primary purpose of providing agricultural instruction by an educational institution, and includes the growing and harvesting of crops or the raising of fowl or animals.

(d) “Air pollutant” means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive, inclusive of source material, special nuclear material and by product material; substance; or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any pollutant, to the extent that the agent or combination of such agents is identified in any Federal or local rules as precursors.

(e) “Air pollution” means the presence in the outdoor air of one (1) or more substances in quantities and for durations which may endanger human health or welfare, plant or animal life or property or which may unreasonably interfere with the comfortable enjoyment of life and property, but excludes all aspects of employer-employee relationships as to health and safety hazards.

(f) “Air Pollution Control Act” means Air Pollution Control Act, Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated.

(g) “Air pollution control equipment” means equipment or a facility of a type intended to eliminate, prevent, reduce,

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or control the emissions of any regulated or hazardous air pollutant to the atmosphere.

(h) “Air pollution control permit” means written authorization from the Administrator to construct, modify, relocate or operate an air pollution emission source. A permit authorizes the permittee to cause or allow the emission of a regulated air pollutant in a specified manner or amount, or to do any act, not forbidden by these Standards and Regulations, but requiring review by GEPA.

(i) “Air pollution emission source” means any piece of equipment or any activity at a building, structure, facility or installation that emits, or may emit, any air pollutant. For this definition, "building, structure, facility, or installation" means all of the air pollutant emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, except the activities of any vessel. Air 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 first two (2) digit code, as described in the Standard Industrial Classification Manual, 1987, or approved equivalent standard industrial classification.

(j) “Allowable emissions” means the emissions of an air pollution emission source calculated using the maximum rated capacity of the source, unless the source is subject to Federally enforceable limits which restrict the operating rate, capacity or hours of operations, or any combination of these, and the most stringent of the following:

(1) the applicable standards set forth in 40 CFR Parts 60, 61 and 63, as amended;

(2) any Guam implementation plan emission limitation, including those with future compliance dates; and

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(3) the emission rates specified in a Federally enforceable permit condition, including those with future compliance dates.

(k) “Ambient Air” means the general outdoor atmosphere to which the public has access.

(l) “Annual capacity factor” means the ratio of the actual annual heat input divided by the potential annual heat input of fuel burning equipment.

(m) “Applicant” means any person who submits an application for a permit.

(n) “Best available control technology” means an emissions limitation, including a visible emission standard based on the maximum degree of reduction for each pollutant, subject to regulation approved pursuant to the Clean Air Act which would be emitted from any proposed air pollution emission source or modification which the Administrator, 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 best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard promulgated pursuant to 40 CFR Parts 60, 61 and 63, as amended. If the Administrator 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 best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design,

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equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(o) “Biomass fuel burning boilers” means fuel burning equipment with an annual capacity factor greater than fifty percent (50%) for biomass fuel.

(p) “Board” means the GEPA Board of Directors.

(q) “BTU” means British Thermal Unit.

(r) “CFR” means the Code of Federal Regulations.

(s) “Clean Air Act” means the Clean Air Act, as amended, Title 42 United States Code § 7401, et seq. and all subsequent amendments.

(t) “Commenced” as applied to construction of or modification to an air pollution emission source, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(1) begun, or caused to begin a continuous program of actual operation or on-site construction of the source; 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 operation or construction of the source.

(u) “Complete” means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(v) “Compliance Plan” means a plan which includes a description of how an owner or operator proposes to comply with all applicable requirements of these Standards and Regulations, and includes a schedule of compliance and a schedule under which the owner or operator will submit progress reports to GEPA.

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(w) “Construction” means a physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of an emissions unit which would result in a change in actual emissions.

(x) “Day” unless otherwise specified, means calendar day.

(y) “Director” means the Director of Department of Customs and Quarantine or his designee.

(z) “Draft permit” means the version of a permit for which the Administrator offers public notice, including the method by which a public hearing can be requested, and an opportunity for public comment pursuant to § 1419.

(aa) “Emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error, and shall not include an exceedance of a health-based emission limitation.

(bb) “Emission” means the act of releasing or discharging air pollutants into the ambient air from any source or an air pollutant which is released or discharged into the ambient air from any source.

(cc) “Emission limitation” means a requirement established by the Administrator or USEPA Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or

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maintenance procedures for a source to assure continuous emission reduction.

(dd) “Emissions unit” means any part or activity of an air pollution emission source that emits or has the potential to emit any regulated or hazardous air pollutant.

(ee) “Existing air pollution emission source” means an air pollution emission source that has received an air pollution control permit, commenced construction or a modification, or was in operation prior to the effective date of these Standards and Regulations.

(ff) “Federally enforceable” means all limitations and conditions which are enforceable by the USEPA Administrator, including those requirements developed pursuant to 40 CFR Parts 60, 61 and 63, as amended; requirements within the Guam implementation plan; or any permit requirements established pursuant to 40 CFR Part 52.21, as amended; or all permit terms and conditions in all air pollution control permit except those specifically designated as not Federally enforceable as described in § 1414; or regulations approved pursuant to 40 CFR Part 51, Subpart I, as amended, including operating permits issued under an EPA approved program that is incorporated into these Standards and Regulations, and expressly requires adherence to any permit issued under such program.

(gg) “Forest management” means wildland vegetation management using prescribed burning procedures conducted by a public agency or through a cooperative agreement involving a public agency.

(hh) "Fuel burning equipment" means a furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by heat transfer.

(ii) “Fugitive dust” means the emission of solid airborne particulate matter from any source other than combustion.

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

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

(ll) “Hazardous air pollutants” means those hazardous air pollutants listed pursuant to § 112(b) of the Clean Air Act, and any other hazardous air pollutants listed in § 1702.

(mm) “Heavy-duty vehicle” means any motor vehicle designed primarily for transportation of property and rated at more than six thousand (6000) pounds gross vehicle weight or designed primarily for transportation of persons having a capacity of more than twelve (12) persons.

(nn) “Light-duty vehicle” means any motor vehicle designed primarily for transportation of property and rated at less than six thousand (6000) pounds gross vehicle weight or designed primarily for transportation of persons and having a capacity of less than twelve (12) persons.

(oo) “mg/m³” means milligrams per cubic meter.

(pp) “Mobile source” means any vehicular air pollutant source, including, but not limited to, automobiles, trucks, buses, other motor vehicles, nonroad engines and equipment, aircraft, ships, boats and other waterborne craft.

(qq) “Month” means a calendar month.

(rr) “Motor vehicle” means a self-propelled vehicle capable of transporting a person or any material or any permanently or temporarily affixed apparatus.

(ss) “Motor vehicle engine” means engines powered by petroleum- based fuels used to provide power to motor vehicles.

(tt) “NAAQS” means the National Ambient Air Quality Standards contained in 40 CFR Part 50, as amended.

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(uu) “National Emission Standards for Hazardous Air Pollutants” means the Federal emission standards contained in 40 CFR Parts 61 and 63, as amended.

(vv) “New air pollution emission source” means an air pollution emission source that commenced construction or modification on or after the effective date of these Standards and Regulations.

(ww) “Opacity” means a condition which renders material partially or wholly impervious to rays of visible light and causes obstruction of an observer's view.

(xx) “Open Burning” means the burning of trees, brush, grass and other vegetative matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flare.

(yy) “Owner or operator” means a person who owns, leases, operates, controls, or supervises an air pollution emission source.

(zz) “Particulate matter” means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

(aaa) “Permit” means written authorization from the Administrator to construct, modify, relocate, or operate any regulated or hazardous air pollutant source.

(bbb) “Permit renewal” means the process by which a permit is reissued at the end of its term.

(ccc) “Person” means any individual, partnership, firm, association, municipality, public or private corporation, subdivision, or agency of Guam, trust, estate or any other legal entity. Legal entity includes any agency, department or instrumentality of the United States and any officer, agent, or employee of such entities.

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(ddd) “PM10” means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

(eee) “Potential annual heat input” means the product of the maximum rated heat input capacity (megawatts or million BTU per hour) times 8760 hours per year.

(fff) “Potential to emit” means the maximum capacity of an air pollution emission source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a 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 if the limitation is enforceable by the Administrator and the USEPA Administrator.

(ggg) “PSD” means prevention of significant deterioration.

(hhh) “Range improvement” means the removal of vegetation for a wildlife, game or livestock habitat.

(iii) “Reconstruction” means the replacement of components at an existing air pollution emission source to such an extent that the fixed capital cost of the new components exceeds fifty per cent (50%) of the fixed capital cost that would be required to construct a comparable entirely new air pollution emission source.

(jjj) “Regulated air pollutant” means:

- (1) Nitrogen oxides or any volatile organic compound;
- (2) Any air pollutant for which a national or Guam ambient air quality standard has been promulgated;
- (3) Any air pollutant that is subject to any standard promulgated under § 111 of the Clean Air Act;

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

(5) Any pollutant subject to a standard promulgated under § 112 or other requirements established under § 112 of the Clean Air Act, including §§ 112(g), (j), and (r) of the Clean Air Act, including the following:

(A) Any pollutant subject to requirements under § 112(j) of the Clean Air Act. If the USEPA Administrator fails to promulgate a standard by the date established pursuant to § 112(e) of the Clean Air Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established pursuant to § 112(e) of the Clean Air Act; and

(B) Any pollutant for which the requirements of § 112(g)(2) of the Clean Air Act have been met, but only with respect to the individual source subject § 112(g)(2) requirement; or

(6) Any other pollutant subject to a standard or requirement in these Standards and Regulations.

(kkk) “Responsible official” means:

(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 an authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than two hundred fifty (250) persons or have gross annual

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sales or expenditures exceeding Twenty Five Million Dollars (\$25,000,000) (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Administrator;

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

(3) For a municipality, state, federal, or other public agency: a principal executive officer, ranking elected official, or an authorized representative as approved by the Administrator. For the purposes of these Standards and Regulations, a principal executive officer of a federal agency includes the chief executive officer, commanding officer, or equivalent rank or position, having responsibility for the overall operations of a principal geographic unit of the agency.

(lll) "Risk assessment" means the process of determining the potential adverse health effects of human exposure to environmental hazards. The process includes hazard identification, dose-response assessment, exposure assessment and risk characterization by quantifying the magnitude of the public health problem that results from the hazard.

(mmm) "SICC" means Standard Industrial Classification Code.

(nnn) "Significant" means, in reference to a net emissions increase or the potential of a source to emit:

(1) A rate of emissions that would equal or exceed any of the following pollutant and emission rates:

(A) Carbon monoxide: 100 tpy;

(B) Nitrogen oxides: 40 tpy;

(C) Sulfur dioxide: 40 tpy;

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(D) Particulate matter: a total of 25 tpy of particulate matter of all sizes or 15 tpy of PM10;

(E) Ozone: 40 tpy of volatile organic compounds;

(F) Lead: 0.6 tpy;

(G) Asbestos: 0.007 tpy;

(H) Beryllium: 0.0004 tpy;

(I) Mercury: 0.1 tpy;

(J) Vinyl chloride: 1 tpy;

(K) Fluorides: 3 tpy;

(L) Sulfuric acid mist: 7 tpy;

(M) Hydrogen sulfide (H₂S): 10 tpy;

(N) Total reduced sulfur (H₂S): methyl mercaptan, dimethyl sulfide, and dimethyl disulfide): 10 tpy;

(O) Reduced sulfur compounds (H₂S, carbon disulfide and carbonyl sulfide): 10 tpy;

(P) Municipal waste combustor organics: 3.2 grams per year (3.5 X 10⁻⁶ tpy) measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans;

(Q) Municipal waste combustor metals: 14 megagrams per year (15 tpy) measured as particulate matter; or

(R) Municipal waste combustor acid gases: 36 megagrams per year (40 tpy) measured as sulfur dioxide and hydrogen chloride;

(2) Any net emissions increase of a pollutant or the potential of a source to emit a pollutant subject to regulation pursuant to the Clean Air Act that Paragraph (1) does not list; and

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(3) Notwithstanding paragraph (1), any emissions increase associated with a major air pollution emission source or major modification, which would be constructed within ten (10) kilometers of a national park, wilderness area or memorial park designated as a Class I area by the federal government or GEPA, and will have an impact on such area equal to or greater than one ug/m³ (twenty-four- hour average).

(ooo) “Smoke” means the gaseous products of burning carbonaceous materials made visible by the presence of small particles of carbon.

(ppp) “Source” means property, real or personal, which emits or may emit any air pollutant.

(qqq) “Stack” means a point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(rrr) “Standard Industrial Classification Code” means Major Group Number, Industry Group Number, or Industry Number as described in the most recent edition, supplements, and appendices of the Standard Industrial Classification Manual.

(sss) “Standards of Performance for New Stationary Sources” means the federal emission standards contained in 40 CFR Part 60, as amended.

(ttt) “Stationary source” means any piece of equipment or any activity at a building, structure, facility, or installation that emits or may emit any air pollutant.

(uuu) “Submerged fill pipe” means a fill pipe the discharged opening of which is entirely submerged when the liquid level is six inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean a fill pipe that discharge opening of which is eighteen inches above the bottom of the tank.

(vvv) “Tpy” means tons per year.

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(www) “ug/m3” means micrograms per cubic meter.

(xxx) “Upon program approval” means the date the Guam air pollution control permit program is granted full or interim approval by the USEPA Administrator pursuant to 40 CFR Part 70, as amended, and thereafter.

(yyy) “USEPA” means the United States Environmental Protection Agency.

(zzz) “USEPA Administrator” means the Administrator of the USEPA or his or her designee.

(aaaa) “VOC” means volatile organic compound.

(bbbb) “Volatile organic compound” means a compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other than methane; ethane; methylene chloride (dichloromethane); 1,1,1 trichloroethane (methyl chloroform); 1,1,1- trichloro-2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro-1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142B); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1- difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:

(1) Cyclic, branched, or linear, completely fluorinated alkanes;

(2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

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(3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(cccc) “Volatile organic compound water separator” means a tank, box, sump, or other container which is primarily designed to separate and recover volatile organic compounds from water. Petroleum storage tanks from which water incidental to the process is periodically removed are not considered volatile organic compound water separators.

ARTICLE 2
GENERAL REQUIREMENTS

2011 COMPILER NOTE: Promulgated as §§ 1102-1102.14 which Compiler designated as Article 2 to harmoniously fit this chapter and renumbered to maintain the codification scheme of the GAR.

- § 1201. Prohibition of Air Pollution.
- § 1202. Conflicts in Rules.
- § 1203. Certification.
- § 1204. Sampling, Testing and Reporting Methods.
- § 1205. Air Quality Models.
- § 1206. Operations of Monitoring Stations.
- § 1207. Public Access to Information.
- § 1208. Reporting of Equipment Shutdown.
- § 1209. Prompt Reporting of Deviations.
- § 1210. Prevention of Air Pollution Emergency Episodes.
- § 1211. Variances.
- § 1212. Penalties and Remedies.
- § 1213. Severability.
- § 1214. Hearings.

§ 1201. Prohibition of Air Pollution.

No person, including any public body, shall engage in any activity which causes air pollution or causes or allows the

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emission of any regulated or hazardous air pollutant without first securing an approval in writing from the Administrator when required by these Standards and Regulations. The written approval from the Administrator shall not release any person from compliance with any other applicable statutes, local laws, regulations, or ordinances.

§ 1202. Conflicts in Rules.

In the event any federal or local laws, rules, or regulations are in conflict with the provisions of these Standards and Regulations, the most stringent requirement shall apply.

§ 1203. Certification.

Every application form, report, compliance plan, or compliance certification submitted pursuant to these Standards and Regulations shall contain certification by the responsible official. This certification and any other certification required pursuant to these Standards and Regulations shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

§ 1204. Sampling, Testing and Reporting Methods.

(a) All sampling and testing shall be made and the results calculated in accordance with the reference methods specified by USEPA, or by test procedures approved by the Administrator. All tests shall be made under the direction of persons knowledgeable in the field of air pollution control.

(b) GEPA may conduct tests of emissions of air pollutants from any source. Upon request of the Administrator, an owner or operator of an air pollution emission source may be required to conduct tests of emissions of air pollutants at the owner or operator's expense. The owner or operator of the air pollution emission source to be tested shall provide necessary ports in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of the emissions of air pollutants.

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(c) The Administrator may require the owner or operator of any air pollution emission source to maintain files on information concerning pertinent processes, material flow, fuels used, nature and amount and time periods or durations of emissions, or any other information as may be deemed necessary by the Administrator to determine whether the air pollution emission source complies with applicable emission limitations, NAAQS, Guam ambient air quality standards, or other provisions of these Standards and Regulations in a permanent form suitable for inspection or in a manner authorized by the Administrator.

(d) The information recorded shall be summarized and reported to the Administrator as specified in the permit and in accordance with any requirement of these Standards and Regulations. Recording periods shall be January 1 to June 30 and July 1 to December 31, or any other period specified by the Administrator, except the initial recording period shall commence on the date the Administrator issues the notification of the record keeping requirements. The Administrator may require the owner or operator to submit any reported summary to the USEPA Administrator.

(e) Information recorded by the owner or operator of an air pollution emission source and copies of the summarizing reports submitted to the Administrator shall be retained by the owner or operator for a specified time period from the date on which the information is recorded or the pertinent report is submitted. The specified time period shall be as required in § 1412(7)(H) or identified within an applicable requirement of the air pollution emission source.

(f) Owners or operators of air pollution emission sources shall correlate applicable emission limitations and other requirements within the report.

§ 1205. Air Quality Models.

(a) All required estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W, as amended.

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(b) Where an air quality impact model specified in 40 CFR Part 51 Appendix A of Appendix W, as amended, is inappropriate, the model may be modified or another model substituted on written request to the Administrator. The Administrator shall provide for publish notice, including the method by which a public hearing can be requested, and an opportunity for public comment, on all proposed modifications or substitutions of an air quality impact model. Written approval from the Administrator shall be obtained for any modification or substitution. Methods such as those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May 1978) may be used to determine the comparability of air quality models.

§ 1206. Operations of Monitoring Stations.

The USEPA monitoring requirements of 40 CFR Part 58, as amended, "Ambient Air Quality Surveillance," shall be met at a minimum during the operation of any monitoring stations required by the Administrator or these Standards and Regulations.

§ 1207. Public Access to Information.

(a) Except as provided in Subsection (b), the following information shall be considered public records and as such shall be available for public inspection pursuant to § 49114 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated unless access is restricted or closed by law:

- (1) All permit applications;
- (2) All supporting information for permit applications;
- (3) Compliance plans and schedules;
- (4) Reports and results associated with performance tests and continuous emission monitors;
- (5) Ambient air monitoring data and emissions inventory Data;
- (6) Certifications;

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(7) Any other information submitted to GEPA pursuant to the air pollution control permit program;

(8) Permits; and

(9) Public comments or testimonies received during any public comment period or public hearing.

(b) Any owner or operator of an existing or proposed air pollution emission source may request confidential treatment of specific information, including information concerning secret processes or methods of manufacture, by submitting a written request to the Administrator at the time of submission, and clearly identifying the specific information (requests) that is to be accorded confidential treatment. With respect to each item of confidential information, the owner or operator requesting that it be designated as confidential shall provide documentation concerning:

(1) How each item of information concerns secret processes, secret methods of manufacture, or is determined to be confidential pursuant to § 49114 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated;

(2) Who has access to each item of information;

(3) What steps have been taken to protect the secrecy of each item of information; and

(4) Why it is believed each item of information must be accorded confidential treatment and the anticipated prejudice should disclosure be made.

(c) Any information submitted to GEPA without a request for confidentiality in accordance with this section shall be considered a public record.

(d) Upon a satisfactory showing to the Administrator by any owner or operator that any records, reports, or information, or particular part thereof, other than emission data, to which the Administrator has access pursuant to these Standards and Regulations, contain information of a confidential nature, including information concerning secret processes or methods of

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manufacture, these records, reports, or information shall be kept confidential except that such records, reports, or information may be disclosed to other local and federal representatives concerned with carrying out these Standards and Regulations or when relevant in any proceeding pursuant to these Standards and Regulations. If required by USEPA, all records, reports, and information determined by the owner or operator to be confidential shall be submitted to USEPA. The contents of an air pollution control permit itself or emissions data shall not be entitled to confidentiality protection.

(e) Any person who has claimed confidentiality for records, reports, or other information and whose claim was denied by the Administrator may obtain administrative review and subsequent judicial review of the denial pursuant to the Administrative Adjudication Law. Records which are the subject of a judicial review shall not be released until the judicial review is complete and only if the court authorizes such release.

(f) All requests for public records shall be in writing, shall be addressed to the Administrator, and shall identify or describe the character of the requested record. Upon approval by the Administrator, the requested public record shall be available to the requester for inspection and copying during established office hours. The Administrator shall charge the requester a reasonable cost for reproduction of any public record, but not less than Twenty-five Cents (\$.25) per page, sheet or fraction thereof.

§ 1208. Reporting of Equipment Shutdown.

(a) In the case of shutdown of required air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the Administrator at least twenty-four (24) hours prior to the planned shutdown. The prior notice shall include:

- (1) Identification of the specific equipment to be taken out of service as well as its location and permit number;
- (2) The expected length of time that the air pollution control equipment will be out of service;

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(3) The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period;

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

(5) The reasons why it would be impossible or impractical to shut down the source operation during the maintenance period.

(b) The submittal of the notice shall not be a defense to an enforcement action.

§ 1209. Prompt Reporting of Deviations.

(a) Except for emergencies which result in noncompliance with any technology-based emission limitation pursuant to § 1417 for air pollution emission sources, in the event any emission unit, air pollution control equipment, or related equipment breaks down in such a manner as to cause the emission of air pollutants in violation of these Standards and Regulations or a permit, the owner or operator shall immediately notify GEPA of the failure or breakdown, unless the protection of personnel or public health or safety demands immediate attention to the failure or breakdown and makes such notification infeasible. In the latter case, the notice shall be provided as soon as practicable.

(b) The owner or operator shall provide the following information in writing within five (5) working days of the notification:

(1) Identification of emission points;

(2) Magnitude of the excess emissions;

(3) Time and duration of the excess emissions;

(4) Identity of the process or control equipment causing the excess emissions;

(5) Cause and nature of the excess emissions;

(6) Description of the steps taken to remedy the situation, prevent a recurrence, limit the excessive emissions,

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and assure that the breakdown does not interfere with the attainment and maintenance of the NAAQS and Guam ambient air quality standards;

(7) Documentation that the equipment or process was at all times maintained and operated in a manner consistent with good practice for minimizing emissions; and

(8) A statement that the excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(c) The submittal of the notice shall not be a defense to an enforcement action.

§ 1210. Prevention of Air Pollution Emergency Episodes.

(a) This section is designed to prevent the excessive buildup of air pollutants during air pollution episodes, thereby preventing the occurrence of any emergency due to the effects of these pollutants on the public health.

(b) Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Administrator determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the Administrator shall be guided by the criteria set forth in Subsections (c) to (g).

(c) If the national weather service issues an atmospheric stagnation advisory or if an equivalent local forecast of stagnant atmospheric conditions is issued, GEPA shall survey its monitoring stations to determine whether alert, warning, or emergency levels have occurred or are likely to occur.

(d) The alert level is that concentration of pollutants at which first stage control action is to begin. An alert shall be declared, health advisories issued, and source activities curtailed as ordered by the Administrator when any one of the following levels is reached:

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(1) SO₂ - 800 ug/m³ (0.3 ppm), twenty-four (24) hour average;

(2) PM₁₀ - 350 ug/m³, twenty-four (24) hour average;

(3) SO₂ and particulate matter combined - product of SO₂, in ug/m³, twenty-four (24) hour average and PM₁₀, in ug/m³, twenty-four (24) hour average equal to 65,000;

(4) CO - 17 mg/m³ (15 ppm), eight (8) hour average;

(5) Ozone - 400 ug/m³ (0.2 ppm), one (1) hour average;
or

(6) NO₂ - 1130 ug/m³ (0.6 ppm), one (1) hour average;
282 ug/m³ (0.15 ppm), twenty-four (24) hour average;

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

(e) The warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. A warning shall be declared, health advisories issued, and source activities curtailed or terminated as ordered by the Administrator when any one of the following levels is reached:

(1) SO₂ - 1,600 ug/m³ (0.6 ppm), twenty-four (24) hour average;

(2) PM₁₀ - 420 ug/m³, twenty-four (24) hour average;

(3) SO₂ and particulate matter combined - product of SO₂, in ug/m³, twenty-four-hour average and PM₁₀, ug/m³, twenty-four (24) hour average equal to 261,000;

(4) CO - 34 mg/m³ (30 ppm), eight (8) hour average;

(5) Ozone - 800 ug/m³ (0.4 ppm), one (1) hour average;
or

(6) NO₂ - 2,260 ug/m³ (1.2 ppm), one (1) hour average;
565 ug/m³ (0.3 ppm), twenty-four-hour average;

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

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(f) The emergency level indicates that air quality may have an impact on public health. An emergency shall be declared, health advisories issued, source activities terminated as ordered by the Administrator, and the public evacuated from the affected area if so recommended by the Administrator, civil defense, or the police department when the warning level for a pollutant has been exceeded and:

(1) The concentrations of the pollutant are continuing to increase;

(2) The Administrator determines that, because of meteorological conditions or other facts, the concentrations will continue to increase; or

(3) When one of the following levels is reached:

(A) SO₂ - 2,100 ug/m³ (0.8 ppm), twenty-four-hour average;

(B) PM₁₀ - 500 ug/m³, twenty-four hour average;

(C) SO₂ and PM₁₀ combined - product of SO₂, ug/m³, twenty-four-hour average and PM₁₀, ug/m³, twenty-four-hour average equal to 393,000;

(D) CO - 46 mg/m³ (40 ppm), eight-hour average;

(E) Ozone - 1,000 ug/m³ (0.5 ppm), one-hour average; or

(F) NO₂ - 3,000 ug/m³ (1.6 ppm), one-hour average; 750 ug/m³ (0.4 ppm), twenty-four-hour average.

(g) Once declared, any episode level reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At that time, the next lower episode level shall be assumed.

§ 1211. Variances.

(a) Variances and variance applications shall comply with § 49110 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated, except that no variance shall prevent or

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interfere with the maintenance or attainment of NAAQS. Any application for a variance shall include a calculation and description of any change in emissions and the expected ambient air quality concentrations.

(b) Under no circumstances shall a variance from any federal regulations or federally enforceable air pollution control permit terms or conditions be granted.

§ 1212. Penalties and Remedies.

Any person who violates any provision of these Standards and Regulations, any term or condition of a permit shall be subject to the penalties and remedies provided for in § 49115 and § 49116 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated

§ 1213. Severability.

If any provision of these Standards and Regulations or their application to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of these Standards and Regulations shall not be affected thereby.

§ 1214. Hearings.

Any person who received an order from the Administrator as authorized by the Air Pollution Control Act, or whose permit application is disapproved or denied by the Administrator, or is adversely affected by a decision of GEPA may have appeal or judicial review rights as provided for in § 49111 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated.

ARTICLE 3
GENERAL PROHIBITIONS AND STANDARDS

2011 COMPILER NOTE: Promulgated as §§ 1103-1103.13 which Compiler designated as Article 3 to harmoniously fit this chapter and renumbered to maintain the codification scheme of the GAR.

§ 1301. Applicability.

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- § 1302. Guam Ambient Air Quality Standards.
- § 1303. Visible Emissions.
- § 1304. Fugitive Dust.
- § 1305. Motor Vehicles – Importation.
- § 1306. Motor Vehicles - Emission Requirements.
- § 1307. Incineration.
- § 1308. Biomass Fuel Burning Boilers.
- § 1309. Process Industries.
- § 1310. Sulfur Oxides from Fuel Combustion.
- § 1311. Open Burning.
- § 1312. Control of Odors in Ambient Air.
- § 1313. Asbestos.

§ 1301. Applicability.

(a) All owners or operators of an air pollution emission sources and mobile sources are subject to the requirements of this Section, whether or not the source is required to obtain an air pollution control permit.

§ 1302. Guam Ambient Air Quality Standards.

(a) The following air quality standards are the maximum desirable levels of ambient air quality for Guam. The Guam primary ambient air quality standards define levels of air quality which the Administrators judges are necessary, with an adequate margin of safety, to protect the public health. Guam secondary ambient air quality standards define levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

(1) Sulfur dioxide.

(A) The Guam primary ambient air quality standards for sulfur dioxide are:

(i) 80 ug/m³ (0.03 ppm) - annual arithmetic mean; and

(ii) 365 ug/m³ (0.14 ppm) - maximum twenty-four (24) hour average concentration not to be exceeded more than once per year.

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(B) The Guam secondary ambient air quality standard for sulfur dioxide is:

(i) 1300 ug/m³ (0.5 ppm) - maximum three (3) hour average concentration not to be exceeded more than once per year.

(2) Particulate Matter. The Guam primary and secondary ambient air quality standards for particulate matter, measured as PM₁₀ are:

(A) 150 ug/m³ - maximum twenty four (24) hour average concentration not to be exceeded more than once per year; and

(B) 50 ug/m³ - annual arithmetic mean concentration.

(3) Carbon Monoxide. The Guam primary ambient air quality standards for carbon monoxide are:

(A) 10 mg/m³ (9 ppm) - maximum eight (8) hour average concentration not to be exceeded more than once per year;

(B) 40 mg/m³ (35 ppm) - maximum one (1) hour average concentration not to be exceeded more than once per year.

(4) Ozone. The Guam primary and secondary ambient air quality standards for Ozone is:

235 ug/m³ (0.12 ppm) - maximum 1-hour average concentration not to be exceeded more than once per year.

(5) Nitrogen Dioxide. The Guam primary and secondary ambient air quality standard for nitrogen dioxide is:

100 ug/m³ (0.053 ppm) - annual arithmetic mean concentration.

(6) Lead. The Guam primary and secondary ambient air quality standard for lead is:

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1.5 ug/m³ - maximum arithmetic mean averaged over a calendar quarter.

(b) The promulgation of these ambient air quality standards shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of Guam.

(c) All measurements of air quality are corrected to a reference temperature of 25 °C and to a reference pressure of 760 millimeters of mercury (1013.2 millibars).

(d) Measurements for Guam ambient air quality standards shall be determined using methods presented in 40 CFR Part 50, as amended, including the appropriate appendices, or any other method approved by the Administrator.

§ 1303. Visible Emissions.

(a) No person shall cause or permit the continuous emission of visible air pollutants of a density equal to or darker than twenty (20%) per cent opacity, except as provided in Subsections (b) and (c).

(b) Except as provided in Subsection (c), no person shall cause or permit the discharge into the atmosphere from any single source of emission, for a period aggregating not more than three (3) minutes in any sixty (60) minutes period, air pollutants of a density darker than sixty (60%) per cent opacity, except for operations specifically authorized by GEPA through a variance as provided in § 1211.

(c) Emissions of uncombined water, such as water vapor, are exempt from the provisions of Subsections (a) and (b), and do not constitute a violation of this Section.

§ 1304. Fugitive Dust.

(a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions. Examples of reasonable precautions are:

(1) Use of water or suitable chemicals for control of fugitive dust in the demolition of existing buildings or

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structures, construction and retrofitting operations, the grading of roads, or the clearing of land;

(2) Application of asphalt, water, or suitable chemicals on roads, material stockpiles, and other surfaces which may allow release of fugitive dust;

(3) Installation of appurtenances that provide an enclosure and ventilation for all crushing, aggregate screening, and conveying of material likely to become airborne;

(4) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Reasonable containment methods shall be employed during sandblasting, spray painting, or other similar operations;

(5) Covering all moving, open-bodied trucks transporting materials which may release fugitive dust;

(6) Conducting agricultural operations, such as tilling of land and the application of fertilizers, in such manner as to reasonably minimize fugitive dust;

(7) Maintenance and sealing of road-ways and parking lots so as to prevent the exposure of such surfaces to wind, water, or vehicular travel erosion; and

(8) Prompt removal of earth or other materials from paved streets which have been transported there by trucking, earth-moving equipment, erosion, or other means.

(b) Except for persons engaged in agricultural operations or persons who can demonstrate to the Administrator that the best practical operation or treatment is being implemented, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates.

§ 1305. Motor Vehicles - Importation.

(a) No person shall import any motor vehicle or motor vehicle engine into Guam, unless such motor vehicle or motor vehicle engine is in accordance with the Air Pollution Control Act as amended or is granted an exception under Subsection (i) or (n).

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(b) The importer or consignee shall declare to the Director in duplicate on EPA Form 3520-1, and submit a copy to GEPA and the Director, the following information:

(1) The name and address of the importer and the consignee;

(2) The make, model, and model year of the vehicle or engine;

(3) The vehicle identification numbers of such vehicle or the serial number of such engine (if not chassis mounted);

(4) The date of entry, the vessel or carrier of importation, the port or point of entry, and the entry number (where applicable); and

(5) A statement that the motor vehicle belongs to one of the categories of EPA Form 3520-1 or furnish to the Director a written exception under Subsections(i) or (n).

(c) No person shall import a 1968, 1969, or 1970 model year motor vehicle or motor vehicle engine without a certificate of conformity issued by the United States Department of Health, Education and Welfare, or by the USEPA or be granted an exception under Subsection (i) or (n).

(d) No person shall import a 1971 or subsequent year motor vehicle or motor vehicle engine without a certificate of conformity issued by USEPA and a certification label or be granted an exception under Subsection (i) or (n).

(e) The Director shall allow the importation of a motor vehicle or motor vehicle engine not covered by a certificate of conformity, if the motor vehicle or motor vehicle engine is being imported solely for the purpose of display and will not be sold or operated on Guam public streets or roads.

(f) The Director shall allow the importation of a motor vehicle or motor vehicle engine not covered by a certificate of conformity if the importer or consignee is a member of the armed forces of a foreign country, a member of the secretariat of a public international organization or a member of the personnel of a

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foreign government on assignment in Guam who come within a class of persons or whom free entry of motor vehicles has been authorized by the Department of State and the motor vehicle will not be sold.

(g) The Director shall allow the importation of a motor vehicle or motor vehicle engine not covered by a certificate of conformity if the importer or consignee is a nonresident of the United States importing such motor vehicle or motor vehicle engine for personal use for not more than one (1) year from date of entry, the motor vehicle or motor vehicle engine will not be sold and the motor vehicle or motor vehicle engine will be deported one year from date of entry.

(h) The Director shall allow the importation of a motor vehicle or motor vehicle engine intended solely for export provided the motor vehicle or motor vehicle engine is not allowed to leave the premises of the Port Authority of Guam.

(i) The following are not subject to the requirements of this Section:

- (1) Motor vehicles manufactured before 1968;
- (2) Non-chassis mounted engines to be used in light-duty vehicles;
- (3) The motor vehicles, or motor vehicle engines manufactured before January 1, 1970 for use in heavy-duty vehicles;
- (4) Light-duty vehicles not powered by gasoline (if diesel fueled, only for 1974 and earlier models);
- (5) Motorcycles manufactured before January 1, 1978;
- (6) Racing vehicles not to be operated on public streets or highways;
- (7) Motor vehicles which exhibit one of these features conflicting with safe highway use:
 - (A) No reverse gear (except motorcycles);
 - (B) No differential gear;

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- (C) Tracks instead of tires;
 - (D) Of an inordinate size;
 - (E) Cannot exceed a speed of twenty five (25) miles per hour over level paved surfaces, or
 - (F) Has armor or weaponry associated with military combat;
- (8) Vehicle eligible for one-time personal exemption provided the vehicle is:
- (A) The first nonconforming motor vehicle imported by the individual;
 - (B) Fully owned by the importer or consignee (not a business);
 - (C) Not for resale for two (2) years; and
 - (D) Five (5) year old or older.

Individuals immigrating to Guam are eligible for the one time personal exemption under the same conditions except no limit on age of the vehicle.

(j) The Administrator shall notify the Department of Revenue and Taxation in writing of any motor vehicle imported under the one-time personal exemption. The Department of Revenue and Taxation shall maintain a listing of vehicles imported under the provision of one-time personal exemption and not allow transfer of registration for two (2) years.

(k) The Director shall conditionally allow the importation of a motor vehicle or motor vehicle engine under bond for which an application for certification of conformity is pending before the USEPA Administrator provided that the importer or consignee submits a written request to the Administrator, stating:

- (1) Identification of the test motor vehicle or motor vehicle engine;
- (2) Identification of the location such vehicle will be stored (not on the premises of any dealer), and

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(3) The name of the person responsible for custody of the motor vehicle or motor vehicle engine.

(l) The Director shall allow the importation of a motor vehicle or motor vehicle engine, for which a certificate for conformity has been issued by USEPA, but the certification label is not mounted, provided that the importer or consignee submits documentation to the Administrator stating that the motor vehicle or motor vehicle engine year model belongs to a family of motor vehicles certified by USEPA and that the motor vehicle or motor vehicle engines equipped with the equipment required in the certification as verified by the Administrator.

(m) The Director shall conditionally allow the importation of a motor vehicle or motor vehicle engine for which a certificate of conformity has been issued by USEPA, but the motor vehicle is being imported from areas outside North America, (U.S., Mexico, and Canada) or from a country where unleaded gasoline is not widely distributed, under bond for the purpose of replacing the oxygen sensing device and the catalytic converter.

(n) The Director shall conditionally allow the importation of a motor vehicle or motor vehicle engine for which a certificate of conformity has not been issued by USEPA under bond for the purpose of making repairs to the motor vehicle or motor vehicle engine.

(o) The Director shall conditionally allow the importation of a motor vehicle or motor vehicle engine under bond, for which a certificate of conformity has been issued by USEPA but the equipment and certification label has not yet been installed, for the purpose of retrofitting the equipment required in certification, if the importer or consignee:

(1) Submits a written request to the Administrator stating:

(A) Identification of the location such vehicle will be stored (not on the premises of any dealer); and

(B) The name of the person responsible for custody of the motor vehicle or motor vehicle engine; and

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(2) Certifies the person will retrofit the motor vehicle or motor vehicle engine according to the instructions obtained from the manufacturer's U.S. representative.

(p) For conditional entry of motor vehicles under bond, the importer or consignee shall give a bond equal to but not less than one-half (1/2) the value of the motor vehicle or motor vehicle engine and that bond shall not be released to the importer or consignee until such time that the provisions of this Section are fulfilled and a written recommendation from the Administrator or his designee is obtained stating that the Director may release the bond.

(q) Release under bond. If entry is being made under bond, the entry shall be accepted only if the importer or consignee gives a bond equal to not less than one-half the value of the motor vehicle, containing the bond conditions set forth in this Section, for the production of a declaration from the Administrator that the vehicle is in conformity with Federal emission standards. Within ninety (90) days after such entry, or such additional period as the Director may allow for good cause shown, the importer or consignee shall deliver to the Director the prescribed declaration. If the declaration is not delivered within ninety (90) days of the date of entry or such additional period as may be allowed by the Director, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the Director those motor vehicles or motor vehicle engines which were released in accordance with this paragraph. In the event that any such motor vehicle or motor vehicle engine is not redelivered within five (5) working days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of the bond and the vehicle will be subject to confiscation by the Director.

(r) Merchandise refused entry. If a motor vehicle is denied entry under the provision of this Section, the Director shall refuse to release the merchandise for entry into Guam and shall give notice of such refusal to the importer.

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(s) Disposition of merchandise refused entry into Guam. Motor vehicles or motor vehicle engines denied entry under this Section or which are redelivered in accordance and which are not exported under supervision of the Director within ninety (90) days from the date of notice of refusal of admission or date of redelivery shall be disposed of under the Director, provided that any such disposition shall not result in an introduction to Guam of a motor vehicle or motor vehicle engine not covered by a certificate of conformity with Federal motor vehicle emission standards.

2023 NOTE: Subitem designations modified to adhere to the Compiler's general codification scheme pursuant to authority granted by 1 GCA § 1606.

§ 1306. Motor Vehicles - Emission Requirements.

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

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

(c) No person shall operate a gasoline-powered motor vehicle which emits visible smoke for a period of more than five (5) consecutive seconds while upon streets, roads, or highways.

(d) No person shall cause or permit the emission of visible air pollutants for diesel powered light-duty vehicles of a density equal to or darker than twenty per cent (20%) opacity for longer than five (5) consecutive seconds.

(e) Diesel powered heavy-duty vehicle emission requirements.

(1) No 1974 or subsequent model year diesel powered heavy-duty vehicle with a Federal peak smoke engine

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certification level of thirty five percent (35%) peak opacity or less operating on any roadway on Guam shall exceed forty percent (40%) peak smoke opacity when tested in accordance with this Section unless its engine is exempted under Subsections (3) or (4).

(2) No other diesel powered heavy duty vehicle operating on any roadway on Guam, including pre-1974 model-year vehicles shall exceed fifty five percent (55%) peak smoke opacity when tested in accordance with this Section unless its engine is exempted under Subsections (3) or (4).

(3) The Administrator shall exempt from the requirements of Subsections (1) and (2) any engine family that he determines exhibits idle test results greater than forty percent (40%) under Subsection (1) or fifty five percent (55%) under Subsection (2) when in good operating condition and adjusted to manufacturer's specifications. Such engine family(s) must comply with the technologically appropriate higher opacity standard determined by the Administrator from a review of the data obtained from engines in good operating condition and adjusted to manufacturer's specifications.

(4) The Administrator shall exempt from the requirements of Subsections (1) and (2) any 1991 and earlier model year diesel powered heavy duty vehicles equipped with carryover add-on after market turbocharger kits approved by GEPA, that he determines exhibit snap-idle test results greater than forty percent (40%) under Subsection (1) or Fifty-five (55%) percent under Subsection (2) when in good operating condition and adjusted to manufacturer's specifications. Such vehicles must comply with the technologically appropriate higher opacity standard determined by the Administrator from a review of the data obtained from engines in good operating condition and adjusted to manufacturer's specifications.

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(5) In the event that a 1974 or later model-year diesel powered heavy-duty vehicle engine identification cannot be obtained by the inspector in order to determine the Federal smoke certification level, the owner, within thirty (30) days of the inspection, shall provide GEPA with the engine identification information. If the owner fails to comply with this requirement, it is conclusively presumed for the purpose of compliance with this Section that the vehicle has a Federal peak smoke certification level equal to or less than thirty five percent (35%) peak smoke opacity and that the peak smoke opacity standard is forty percent (40%).

(6) The test procedures and smoke opacity measurement equipment shall comply with the standards and specifications of the Society of Automotive Engineers procedure J1667 "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles," Issued 1996-02, as updated, which is incorporated herein by reference.

(f) Responsibilities of drivers during test procedures.

(1) The driver of a diesel powered heavy-duty vehicle selected to undergo the inspection procedure shall do all of the following:

(A) Drive the vehicle to the inspection site upon direction of an officer;

(B) Perform the test procedure upon request by an inspector;

(C) Open the vehicle door so that the inspector can observe the driver depress the accelerator pedal;

(D) Permit an emission control system inspection upon the request of the inspector; and

(E) Sign the citation to acknowledge its receipt and the smoke test results to acknowledge performance of the test procedure.

(2) The inspector in performing the inspection procedure shall do all of the following:

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(A) If the driver refuses to submit to the inspection procedure, advise the driver that such refusal is a violation of these Standards and Regulations;

(B) Obtain engine identification information from a vehicle when tested pursuant to Subsection (e) to determine which opacity standard specified in Subsections (e)(1) and (e)(2) would apply;

(3) Issue a copy of the citation to the driver of a vehicle that fails the test procedure or the emission control system inspection; and

(4) Issue a warning to the owner of a diesel powered heavy-duty vehicle missing its emission control label that the engine serial or identification number must be provided to GEPA within thirty (30) days or it will be conclusively presumed that the vehicle has a certification level equal to or less than thirty five percent (35%) peak smoke opacity.

(g) For the purposes of Subsections (e) and (f), "inspector" and "officer" shall mean any authorized agent of the Administrator, including representatives of other government of Guam agencies, when an agreement is established between GEPA and the other agency which allows such authorizations.

(h) No person shall cause or permit the use of any motor vehicle which becomes mechanically deficient so as to cause the emission of visible air pollutants greater than allowed in this Section.

(i) Penalties.

(1) Penalties shall not exceed One Thousand Dollars (\$1,000.00) per day of violation.

(2) Failure to comply with this Section shall subject the owner to suspension or cancellation of the registration and inspection sticker for the vehicle by the Department of Revenue and Taxation.

(j) The violator can apply for waiver of prosecution by the Administrator, not to exceed forty five (45) days in duration. To

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be considered for a waiver, the violator shall immediately notify the Administrator of the deficiency, and provide a statement giving all pertinent facts, including the reason for the violation, the attempts made to correct the deficiency, any difficulties encountered when correcting the situation, and the estimated date of the correction of the deficiency.

§ 1307. Incineration.

(a) No person shall cause or permit the emissions of particulate matter to exceed 0.20 pounds per one hundred pounds (two grams per kilogram) of refuse charged from any incinerator.

(b) All required emission tests shall be conducted at the maximum burning capacity of the incinerator or at other capacities, as approved by the Administrator.

(c) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Administrator.

(d) For the purposes of this Section, the total of the capacities of all furnaces within one system shall be considered as the incineration capacity.

§ 1308. Biomass Fuel Burning Boilers.

No person shall cause or permit the emissions of particulate matter from each biomass burning boiler and its drier or driers in excess of 0.40 pounds per one hundred pounds of biomass as burned.

§ 1309. Process Industries.

(a) No person shall cause or permit the emission of particulate matter in any one hour from any stack or stacks, except for incinerators and biomass fuel burning boilers, in excess of the amount determined by the equation $E = 4.10 p^{0.67}$, where E = rate of emission in pounds per hour, and p = process weight rate in tons per hour, except that no rate of emissions shall exceed forty pounds per hour regardless of the process weight rate.

(b) Process weight per hour is the total weight of all materials introduced into any specific process that may cause any emission

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of particulate matter through any stack or stacks. Solid fuels charged shall be considered as part of the process weight, but liquid and gaseous fuels and combustion air shall not. For a cyclical or batch operation, the process weight per hour shall be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, including any time during which the equipment is idle. For a continuous operation, the process weight per hour shall be derived for a typical period of time by the number of hours of the period.

(c) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation, the interpretation that results in the minimum value for the allowable emission shall apply.

(d) For purposes of this Section, a process is any method, reaction, or operation whereby materials introduced into the process undergo physical or chemical change. A specific process is one which includes all of the equipment and facilities necessary for the completion of the transformation of the materials to produce a physical or chemical change. There may be several specific processes in series necessary to the manufacture of a product. However, where there are parallel series of specific processes, the similar parallel specific processes shall be considered as a single specific process.

§ 1310. Sulfur Oxides from Fuel Combustion.

(a) Effective July 13, 2023, no person shall burn fossil fuel containing in excess of 15 parts per million (ppm) or 0.0015% percent sulfur by weight except for fuel used in ocean-going vessels and the Cabras Units 1 and 2. Ocean-going vessels that supply electrical power for onshore use or consumption shall not burn fossil fuel for electrical generation containing in excess of 15 ppm or 0.0015%.

(b) Effective July 13, 2023, the Cabras Units 1 and 2 shall not burn any fossil fuel containing in excess of 2000 ppm or 0.2% of sulfur by weight.

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(c) Effective July 13, 2023, the sulfur content of all fuels used at Piti Units 7, 8 and 9 and Cabras Units 1 and 2 shall be tested by the current owner/operator. The fuel shall be tested by sampling and analyzing each shipment of fuel to be used at these Units, both before it leaves its location of origin (e.g., Singapore) and after it arrives at the Apra Harbor unloading dock on Guam. The test methods contained in ASTM D2880 shall be used in ascertaining the sulfur content of these fuels. Alternatively, the test methods contained in ASTM D5453 or ASTM D7039 shall be used in ascertaining the sulfur content of Diesel Fuel Oil No. 2 (Ultra Low Sulfur Diesel) and ASTM D4294 or ASTM D2622 shall be used in ascertaining the sulfur content of Residual Fuel Oil No. 6 (Low Sulfur Residual Fuel Oil). Records of the fuel sulfur content shall be maintained for at least five (5) years from the date of testing, in a form suitable for inspections.

(d) Effective July 13, 2023, for each day Cabras Units 1 and 2 are operated, the operator shall create and maintain for at least five (5) years, in a form suitable for inspections, a daily record showing the amount(s) (e.g., gallons) and type(s) of fuel (e.g., Low Sulfur Residual Fuel Oil or RFO) used to power Cabras Units 1 and 2.

(e) By October 31, 2024, the owner/operator of Cabras Units 1 and 2 shall permanently retire Cabras Units 1 and 2.

SOURCE: Added as part of the repeal and reenactment of the entire chapter, by rules submitted to the Legislature on March 4, 2005 and became effective June 4, 2005. Amended by P.L. 37-029:2 (July 12, 2023).

§ 1311. Open Burning.

(a) No person shall dispose of combustible material by open burning, or cause, suffer, allow, or permit open burning of combustible material within Guam, except as provided in Subsections (b) through (e).

(b) In areas where no public or commercial refuse collection service is available on the effective date of this regulation, open burning of refuse on residential premises, or refuse originating from dwelling units on premises, shall be allowed provided such

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burning does not violate any existing laws, standards, or regulations of Guam, until refuse collection becomes available.

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

(1) Fires purposely set for the purpose of prevention of a fire hazard which cannot be abated by any other means, provided that the Administrator received notification prior to the commencement of any burn, that the hazard is so declared by the fire department, forestry division, or any local or federal agency having jurisdiction, that a prescribed burning plan, if applicable, has been submitted to and approved by the jurisdictional agency prior to the commencement of any burn;

(2) Fires set for instruction in the method of fighting fires, provided that prior notice of any building, structure, or simulated aircraft set afire for training purposes is given to the Administrator;

(3) Fires for decorative, ceremonial and recreational purposes;

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

(5) Fires for prevention or control of disease or pests;

(6) Fires for the disposal of dangerous material, where there is no alternate method of disposal; and

(7) Fires for the burning of leaves, grass, weeds, wood which has not been painted with lead paint or treated with insecticides or pesticides, paper, and similar material on one's own premises, not exceeding four (4) family units and

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twenty-five (25) pounds per day, per unit, provided such burning is:

(A) Not within fifty (50) feet of any habitable building;

(B) Attended or supervised by an adult;

(C) Started and completed between 9:00 a.m. and 6:00 p.m. (and hour before sunset);

(D) Not in violation of the rules of other fire control agencies;

(E) Oils, rubber or other similar material which produce unreasonable amount of air pollutants may not be burned;

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

(G) The piles of material to be burned shall be of such size that the burning will be completed within the time designated in § 1311(c)(7)(C);

(H) The moisture content and composition of the material to be burned shall be favorable to good burning which will minimize air pollution; and

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

(8) Fires for agricultural operations, forest management, range improvements. (Not in the violation of Forestry Division of the Department of Agriculture and any other affected Agencies.)

(9) In the event of a declared state of emergency, open burning of vegetation shall be allowed at an authorized solid waste processing or disposal facility provided that an air curtain destructor is utilized.

(A) Any person intending to dispose of vegetation by open burning under Subsection (c) shall file a written

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request with the Administrator. The Administrator will evaluate the request for an air quality impact to determine whether the request should be granted. The request shall state the following:

(i) The name, address and telephone number of the person submitting the request;

(ii) The type of business or activity involved;

(iii) A description of the proposed open burning operations, including type, quantity and composition of vegetation to be burned;

(iv) The schedule of burning operations;

(v) The exact location where opening burning will be conducted to dispose of vegetation;

(vi) Reasons why no method other than open burning can be used for disposal of vegetation; and

(vii) Evidence that the proposed open burning has been approved by the fire department, forestry division, or any local or federal agency having jurisdiction, that the prescribed burning plan, if applicable, has been submitted to and approved by the jurisdictional agency prior to the commencement of any burning of vegetation.

(B) Nothing in this Subsection shall exempt the applicant from obtaining an air pollution control permit, as applicable, under Article 4.

(d) Subsection (c) shall not exempt any activity from the application of any rules or requirements in any other section of this Chapter.

(e) Nothing in this Section shall be construed to prohibit or make unlawful the construction and use of barbecue pits, grills, or outdoor fire places for the preparation of food for human consumption, nor shall any permit from the Administrator be required therefore.

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§ 1312. Control of Odors in Ambient Air.

(a) No person shall discharge or cause to be discharged into the atmosphere from any source whatsoever, such quantities of odorous emissions which is injurious to health, or is indecent or offensive to the senses, which affects at the same time an entire community or neighborhood, or any considerable number of persons, so as to unduly interfere with the comfortable enjoyment of life or property of such community, neighborhood or persons. It is a creation of a condition which causes injury to the public welfare.

(b) An odor occurrence shall be deemed a violation when a complaint is received by the Administrator and the Administrator is able to detect the odor. This detection must be verified by the Department of Public Health, Environmental Health Section for a person to be found in violation of Subsection (a).

(c) The odor of growing vegetation, and chemical fertilizers and insecticides when used properly, or when persons can demonstrate to the Administrator that the best practical operation or treatment is being implemented, shall not be considered objectionable for the purposes of this Section.

§ 1313. Asbestos.

(a) The national emission standard for asbestos, 40 CFR Part 61 Subpart M, as amended, is hereby incorporated by reference as amended in Subsections (b) through (d).

(b) Word and phrase substitutions:

(1) "Administrator" means the Administrator of the Guam Environmental Protection Agency or an authorized agent, officer, or inspector, except in 40 CFR Part 61 §§ 150(a)(4), 152(b)(3), and 154(d), as amended.

(2) "Local, state or EPA Regional Office" means GEPA.

(3) "Local, state or EPA Regional Office responsible for administering the asbestos NESHAP program" means GEPA.

(c) 40 CFR § 61.145 shall be amended as follows:

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(1) 40 CFR § 61.145(a) shall read: "In a facility being demolished or renovated on Guam (except for facilities as described in (a)(3) of this Section, regardless of type (nonfriable or friable) or quantity of the asbestos containing material, all of the requirements of paragraphs (b) and (c) of this Section, and as amended, shall apply."

(2) 40 CFR § 61.145(a)(4)(v) shall be added and read: "For a facility being renovated and the total amount of RACM is less than paragraph (a)(4)(i) through (iv) of this Section, only the notification requirements of paragraph (b) of § 61.145 as amended shall apply."

(3) 40 CFR § 61.145(a)(4)(vi) shall be added and read: "For any renovation or demolition of asbestos not defined as RACM, including any nonfriable asbestos, the Administrator should be notified informed at least five (5) working days before the start date of the abatement work, and the notification should be followed by a written notification which should include all of the requirements of § 61.145(b)(4) and (5), and the estimated amount and type of asbestos that is determined not to be RACM."

(4) 40 CFR § 61.145(b)(6) shall be added and read: "An Asbestos Removal and Control Procedure Plan must be prepared and submitted to GEPA to show compliance with 40 CFR § 61.145(c)."

(5) 40 CFR § 61.145(b)(7) shall be added and read: "The Asbestos Notification and Renovation required in paragraph (b)(5) and the Control Procedure Plan required in paragraph (b)(6) of this Section must be prepared and submitted to GEPA. A copy of the Notification and the Control Procedure Plan must also be submitted concurrently to the Department of Labor, Guam Occupational Safety and Health Office (Guam OSH) for all asbestos removal projects involving Government of Guam agencies."

(6) 40 CFR § 61.145(b)(8) shall be added and read: "GEPA will not approve any Asbestos Removal or Demolition Notification and Control Procedure Plan

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submitted as required in Subsection (b)(7) for any government of Guam project or building without Guam OSH's concurrence."

(d) 40 CFR § 61.150 shall be amended as follows:

(1) 40 CFR § 61.150(d)(2) shall read "For all off-site disposal, provide a copy of the ACWM shipment record described in paragraph (d)(1) of this Section, to the disposal site owner or operators and to GEPA upon shipment by the contractor to an USEPA-approved landfill. In addition, a signed waste shipment record acknowledging receipt of the asbestos waste by the designated disposal facility must be furnished to GEPA within ten (10) working days of receipt of acknowledgment."

(2) 40 CFR § 61.150(d)(3) shall read "Whenever a copy of the asbestos waste shipment record, signed by the owner or operator of the designated disposal facility, is not received by the waste generator within forty-five (45) days of the date the waste was accepted by the initial transporter, the asbestos waste generator must contact the initial transporter and/or the owner or operator of the designated disposal facility to determine the status of the waste shipment."

(e) The Asbestos Hazard Emergency Response Act. The regulations for asbestos containing material in schools, 40 CFR § 763.80 through § 763.99, as amended, and all accompanying appendices and references are hereby incorporated by reference as amended in this Subsection (f).

(f) In 40 CFR § 763.85, asbestos containing material shall include friable and nonfriable asbestos containing building material.

(g) Asbestos Training:

(1) No person shall conduct any training on Guam under the Asbestos Hazard Emergency Response Act (AHERA) Model Accreditation Plan (MAP) unless the training is an approved AHERA Certified Training Provider in accordance to 40 CFR Part 763, Subpart E, Appendix C.

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(2) Any person proposing to conduct any AHERA training on Guam must notify GEPA and provide adequate documentation verifying qualifications to conduct training under the AHERA program and the MAP Plan.

2023 NOTE: Subitem designations modified to adhere to the Compiler's general codification scheme pursuant to authority granted by 1 GCA § 1606.

ARTICLE 4
PERMIT PROGRAM REGULATIONS

2011 COMPILER NOTE: Promulgated as §§ 1104-1104.26 which Compiler designated as Article 4 to harmoniously fit this chapter and renumbered to maintain the codification scheme of the GAR.

- § 1401. Definitions.
- § 1402. Applicability.
- § 1403. General Conditions for Considering Applications.
- § 1404. Holding and Transfer of Permit.
- § 1405. Cancellation of an Air Pollution Control Permit.
- § 1406. Air Pollution Control Permit Application.
- § 1407. Duty to Supplement or Correct Permit Applications.
- § 1408. Compliance Plan.
- § 1409. Compliance Certification of Air Pollution Emission Sources.
- § 1410. Transition Period and Deadlines to Submit First Applications.
- § 1411. Permit Term.
- § 1412. Permit Content.
- § 1413. Inspections.
- § 1414. Federally-Enforceable Permit Terms and Conditions.
- § 1415. Transmission of Information to USEPA.
- § 1416. USEPA Oversight.
- § 1417. Emergency Provision.
- § 1418. Permit Termination, Suspension, Reopening, and Amendment.
- § 1419. Public Participation.

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- § 1420. Administrative Permit Amendment.
- § 1421. General Fee Provisions.
- § 1422. Air Pollution Control Special Fund.
- § 1423. Application Fees for Air Pollution Emission Sources.
- § 1424. Annual Fees for Air Pollution Emission Sources.
- § 1425. Penalties and Remedies.
- § 1426. Permit Compliance.

§ 1401. Definitions.

As used in this Section:

(a) "Administrative Permit Amendment" is a permit revision that:

- (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;
- (3) Requires more frequent monitoring or reporting by the permittee;
- (4) Consolidates the terms and conditions of two (2) or more air pollution control permits into one (1) air pollution control permit for a facility;
- (5) Allows for a change in ownership or operational control of a source where GEPA 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 permittees has been submitted to the Administrator.;
- (6) Incorporates applicable requirements for any insignificant activity listed in section 1402, provided the activity is not by itself subject to Articles 5, 6 or 7, does not cause a source to become a major source, and does not cause the source to become subject to Articles 5, 6 or 7.

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(b) "AP-42" means the most recent edition, supplements, and appendices of USEPA's Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources.

(c) "Applicable requirement" is defined as follows.

(1) If an air pollution emission source is a federal oversight source, "applicable requirement" means all of the following as they apply to emissions units in the air pollution emission source (including requirements that have been promulgated or approved by USEPA through rulemaking at the time of issuance but have future-effective compliance dates):

(A) Any standard or other requirement provided for in the applicable state implementation plan approved or promulgated by USEPA, including any revision to that plan promulgated in 40 CFR Part 52, as amended;

(B) Any term or conditions of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including Parts C or D, of the Clean Air Act;

(C) Any standard or other requirement under § 111 of the Clean Air Act, including § 111(d);

(D) Any standard or other requirement under § 112 of the Clean Air Act, including any requirement concerning accident prevention under § 112(r)(7) of the Act;

(E) Any requirements established pursuant to § 504(b) or § 114(a)(3) of the Clean Air Act;

(F) Any standard or other requirement governing solid waste incineration, under § 129 of the Clean Air Act;

(G) Any standard or other requirement for consumer and commercial products, under § 183(e) of the Clean Air Act;

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(H) Any standard or other requirement for tank vessels under § 183(f) of the Clean Air Act;

(I) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under § 328 of the Clean Air Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Clean Air Act, unless the USEPA Administrator has determined that such requirements need not be contained in an air pollution control permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Clean Air Act, but only as it would apply to temporary sources pursuant to § 504(e) of the Clean Air Act.

(2) For all other air pollution emission sources, "applicable requirement" shall mean all of the following as they apply to emissions units in the air pollution emission source:

(A) Any NAAQS or Guam ambient air quality standard;

(B) The application of best available control technology to control those pollutants subject to any NAAQS or Guam ambient air quality standard, but only as best available control technology would apply to new or proposed air pollution emission sources and modifications to air pollution emission sources that have the potential to emit or increase emissions above significant amounts considering any limitations, enforceable by the Administrator, on the air pollution emission source to emit a pollutant; and

(C) Any standard or other requirement provided in these Standards and Regulations.

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(d) “Federal oversight source” means an air pollution emission source that is:

(1) A major source;

(2) Subject to standards of performance for air pollution emission sources as established in Article 6; or

(3) Subject to an emission standard or other requirement for hazardous air pollutants pursuant to § 112 of the Clean Air Act or Article 7, with the exception of those sources solely subject to regulations or requirements pursuant to § 112(r) of the Clean Air Act.

(e) “Insignificant Activity” means any air pollution emission activity or equipment that can be classified as an insignificant activity - Type I or an insignificant activity - Type II.

(f) "Insignificant Activity- Type I" means any of the following:

(1) Any emission activity or equipment with potential emissions of less than 2.0 tpy of each air pollutant (excluding HAPs) and less than 0.5 tpy of each hazardous air pollutant;

(2) Any storage tank, reservoir, or other container of capacity equal to or less than forty (40,000) thousand gallons storing volatile organic compounds, except those storage tanks, reservoirs, or other containers subject to any standard or other requirement pursuant to §§ 111 and 112 of the Clean Air Act;

(3) Other than smoke house generators, fuel burning equipment with a heat input capacity less than one (1,000,000) million BTU per hour, except where the total heat input capacity of all individually exempted equipment exceeds five (5,000,000) million BTU per hour when operated within the facility and controlled by a single owner or operator;

(4) Steam generators, steam superheaters, water boilers, or water heaters, which have a heat input capacity of less than five million BTU per hour, and are fired exclusively with

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natural, synthetic, or liquefied petroleum gas, or any combination of these;

(5) Kilns used for firing ceramic ware heated exclusively by natural gas, electricity, liquid petroleum gas, or any combination of these and have a heat input capacity of ten million BTU per hour or less;

(6) Standby generators that are used exclusively to provide electricity, standby sewage pump drives, and other emergency equipment all of which are used only during power outages, emergency equipment maintenance and testing, and are fired exclusively by natural or synthetic gas; or liquefied petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel oil No. 1D or No. 2D, with a heat input capacity not exceeding 350,000 BTU/hr;

(7) Paint spray booths, except for paint spray booths subject to any standard or other requirement pursuant to Section 112(d) of the Act;

(8) Welding booths (if there are more than five (5) at the facility); and

(9) Portable diesel or gasoline fired industrial equipment less than two hundred horsepower in size which are used during power outages or intermittently for maintenance and repair purposes (if there are more than five at the facility).

(g) "Insignificant Activity - Type II" means any of the following:

(1) Welding booths (if there are five or less at the facility);

(2) Portable diesel or gasoline fired industrial equipment less than two hundred horsepower in size which are used during power outages or intermittently for maintenance and repair purposes (if there are five (5) or less at the facility);

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(3) Hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or work, provided reasonable precautions are taken to prevent particulate matter from becoming airborne. Reasonable precautions include the use of dust collection systems, dust barriers, or containment systems;

(4) Laboratory equipment used exclusively for chemical and physical analyses;

(5) Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents, or thinners are used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents;

(6) Closed tumblers used for cleaning or deburring metal products without abrasive blasting, and pen tumblers with batch capacity of one thousand pounds or less;

(7) Ocean-going vessels, except for ocean-going vessels subject to any standard or other requirement for the control of air pollution from outer continental shelf sources pursuant to 40 CFR Part 55, as amended;

(8) Fire water system pumps dedicated for fire-fighting and to maintain fire water system pressure, and fired exclusively by natural or synthetic; or liquefied petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel No. 1D or No. 2D;

(9) Smoke generating systems used exclusively for training in government or certified fire fighting training facilities;

(10) Mobile internal combustion engines;

(11) Diesel fired portable ground support equipment exclusively to start aircraft or provide temporary power to aircraft prior to start-up;

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(12) Fuel burning equipment which is used in a private dwelling or for space heating, other than internal combustion engines, boilers or hot furnaces;

(13) Ovens, stoves, or grills used solely for the purpose of preparing food for human consumption operated in private dwellings, restaurants, or stores;

(14) Stacks or vents to prevent escape of sewer gasses through plumbing traps into the interiors of structures;

(15) Air conditioning or ventilation systems not designed to remove air pollutants generated by or released from equipment, and that do not involve the open release or venting of CFC's into the atmosphere; and

(16) Woodworking shops with a sawdust collection system; and

(17) Plant maintenance and upkeep activities (e.g., grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), including equipment used to conduct these activities, provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and are not otherwise subject to applicable requirement triggering a permit modification.

(h) "Major Source" means an air pollution emission source, or a group of air pollution emission sources that are located on one or more contiguous properties or adjacent properties, and are under common control or command of the same person or persons under common control, belonging to a single major industrial grouping (i.e., all have the same two-digit Standard Industrial Classification Code or other nationally recognized and approved standard industrial classification code) and that emits or has the potential to emit, considering enforceable controls:

(1) Any hazardous air pollutant, except radionuclides, in the aggregate of ten tons per year or more including fugitive emissions, or twenty-five tons per year or more of any

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combination including fugitive emissions, or such lesser quantity as the USEPA Administrator may establish by rule;

(2) One hundred tons per year or more of any air pollutant subject to regulation under the Clean Air Act or these Standards and Regulations. Fugitive emissions from the air pollution emission source shall be considered in determining whether the source is major, if it belongs to one of the following categories of air pollution emission sources:

- (A) Coal cleaning plants (with thermal dryers);
- (B) Kraft pulp mills;
- (C) Portland cement plants;
- (D) Primary zinc smelters;
- (E) Iron and steel mills;
- (F) Primary aluminum ore reduction plants;
- (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (I) Hydrofluoric, sulfuric or nitric acid plants;
- (J) Petroleum refineries;
- (K) Lime plants;
- (L) Phosphate rock processing plants;
- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;

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(T) Chemical process plants;

(U) Fossil fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input;

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

(W) Taconite ore processing plants;

(X) Glass fiber processing plants;

(Y) Charcoal production plants;

(Z) Fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input; and

(AA) All other air pollution emission source categories regulated by a standard promulgated pursuant to Section 111 or 112 of the Clean Air Act, but only with respect to those air pollutants that have been regulated for that category; or

(3) For radionuclides, major source shall have the meaning specified by the USEPA Administrator by rule.

(4) In nonattainment areas, a major stationary source as defined in part D of Title I of the Clean Air Act, including:

(A) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate,” 50 tpy or more in areas classified as “serious,” 25 tpy or more in areas classified as “severe,” and 10 tpy or more in areas classified as “extreme”; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the USEPA Administrator has made a finding, under section 182(f)(1) or (2) of the Clean Air Act, that requirements under section 182(f) of the Act do not apply;

(B) For ozone transport regions established pursuant to section 184 of the Clean Air Act, sources

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with the potential to emit 50 tpy or more of volatile organic compounds;

(C) For carbon monoxide nonattainment areas:

(i) That are classified as “serious” and

(ii) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(D) For particulate matter (PM-10) nonattainment areas classified as “serious,” sources with the potential to emit 70 tpy or more of PM-10.

(i) “Minor Modification” means a modification that does not qualify as an Administrative Amendment and also does not qualify as a Significant Modification, as defined by these regulations.

(j) “Minor Source” means any air pollution emission source that is below the threshold for a major source.

(k) “Modification” means a physical change in or change in the method of operation of an air pollution emission source which requires a change to a permit. Routine maintenance, repair and replacement shall not be considered a modification.

(l) “Non-federal oversight source” means any air pollution emission source that is not a federal oversight source.

(m) “Pollution prevention” means the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source.

(n) “Significant modification” means a modification of a federal oversight source which:

(1) Increases the emissions of any air pollutant above the permitted emission limits;

(2) Results in significant increase in emissions of any air pollutant;

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(3) Violates an applicable requirement;

(4) Involves significant changes to existing monitoring requirements or a relaxation or significant change to existing reporting or record keeping requirements in the permit. Any change to the existing monitoring, reporting, or record keeping requirements that reduces the enforceability of the permit is considered a significant change;

(5) Requires or changes a case-by-case determination of an emission limitation or other standard, or a visibility or increment analysis;

(6) Is a modification pursuant to any provision of Title I of the Clean Air Act;

(7) Seeks to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(A) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act; and

(B) An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act.

(o) "Temporary Source" means a source that is intended to be operated at multiple locations for a designated period of time at each location. The operation of the source shall be temporary and involve at least one change of location during the term of the temporary source permit. Temporary sources that do not operate within a 12-month period are not required to be moved.

(p) "Transition period" means the three years following the effective date of these Standards and Regulations.

§ 1402. Applicability.

(a) Except as provided in § 1410, and Subsections (b) and (c) of this Section, no person may begin or continue construction,

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reconstruction, modification, relocation, or operation of an air pollution emission source without first obtaining a valid air pollution control permit from the Administrator.

(b) An air pollution emission source which is a non-federal oversight source is exempt from the requirements of Subsection (a) if it is a minor source and it is included in at least one of the following categories:

(1) Gasoline service stations; or

(2) Sources consisting only of Insignificant activities - type I and Insignificant activities - type II.

(c) All sources and source categories that would be required to obtain an air pollution control permit solely because they are subject to the "Standards for Demolition and Renovation" pursuant to the "National Emission Standard for Asbestos," 40 CFR § 61.145, as amended, must comply with the requirements of § 1313.

(d) The air pollution control permit shall remain valid past the expiration date and the air pollution emission source shall not be in violation for failing to have an air pollution control permit, until the Administrator has issued or denied the renewal of the air pollution control permit, provided:

(1) A timely and complete renewal application has been submitted, and the owner or operator acts consistently with the permit previously granted, and the application on which it was based, and all plans, specifications, and other information submitted as part of the application; and

(2) The owner or operator has submitted to the Administrator within the specified deadlines, all requested additional information deemed necessary to evaluate or take final action on the renewal application as described in § 1406.

(e) The air pollution control permit shall not constitute, nor be construed an approval of the design of the air pollution emission source. The permit shall be issued in accordance with these Standards and Regulations and it is the responsibility of the applicant to ensure compliance with all applicable requirements in

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the construction and operation of any air pollution emission source.

(f) An owner or operator of an air pollution source that is not subject to the requirements of this Section, and that becomes subject to the requirements of this Section because of a new or amended regulation in this Section, or because the source becomes a federal oversight source, shall submit a complete and timely air pollution control permit application. For purposes of this Subsection, “timely” means within six months after the effective date of the new or amended regulation or such other time as approved by the Administrator. The owner or operator of the source may continue to construct or operate and shall not be in violation for failing to have a air pollution control permit only if the owner or operator has submitted to the Administrator a complete and timely air pollution control permit application, and any additional information necessary for the processing of the application, including additional information required pursuant to section 1406.

§ 1403. General Conditions for Considering Applications.

(a) The Administrator shall approve an application for an air pollution control permit if the applicant can show to the satisfaction of the Administrator that all applicable provisions of these Standards and Regulations will be complied with, including, as applicable:

(1) The maintenance and attainment of any NAAQS and any Guam ambient air quality standard;

(2) General prohibitions and standards pursuant to Article 3;

(3) Requirements for air pollution emission sources pursuant to Article 4;

(4) Applicable Standards of Performance for New Stationary Sources (40 CFR Part 60, as amended), National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61, as amended), or any other federal standard or other requirement established pursuant to the Clean Air Act.

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(5) Special preconstruction requirements pursuant to Article 5;

(6) Applicable standards of performance for air pollution emission sources pursuant to Article 6; and

(7) Requirements for hazardous air pollutant sources pursuant to Article 7.

(b) Any air pollution control permit, including permit renewals, and permit amendments for modifications may be issued only if all of the following conditions are met:

(1) The owner or operator has submitted a complete air pollution control permit application and has submitted all additional information requested by the Administrator;

(2) The Administrator has provided an opportunity for all applicable public participation requirements pursuant to § 1419;

(3) The permit provides for compliance with all applicable requirements and contains applicable terms and conditions pursuant to § 1412; and

(4) All applicable requirements for transmission of information to USEPA and USEPA oversight have been satisfied pursuant to § 1415 and § 1416.

§ 1404. Holding and Transfer of Permit.

(a) Each air pollution control permit, or a copy thereof, shall be maintained at or near the air pollution emission source for which the permit was issued and shall be made available for inspection upon the Administrator's request.

(b) No person shall willfully deface, alter, forge, counterfeit, or falsify an air pollution control permit.

(c) All air pollution control permits issued pursuant to these Standards and Regulations shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another.

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(d) All air pollution control permits issued pursuant to these Standards and Regulations shall not be transferable, whether by operation of law or otherwise, from one person to another without the approval of the Administrator. A request for transfer from one person to another shall be made on a permit transfer application form furnished by the Administrator.

§ 1405. Cancellation of an Air Pollution Control Permit.

(a) Within thirty (30) days of permanent discontinuance of the construction, modification, relocation, or operation of any permitted air pollution emission source, the discontinuance shall be reported in writing to the Administrator by a responsible official of the source.

(b) If construction authorized by an air pollution control permit is not commenced within eighteen (18) months after the air pollution control permit takes effect, is discontinued for a period of eighteen (18) months or more, or is not completed within a reasonable time, the air pollution control permit shall become invalid with respect to the authorized construction.

(c) Subsection (b) shall not apply to phased construction projects. Instead, each phase shall commence construction within eighteen (18) months of the projected and approved commencement dates in the permit.

(d) The Administrator may extend the specified periods upon a satisfactory showing that an extension is justified.

§ 1406. Air Pollution Control Permit Application.

(a) Except as stated in Subsection (b), applications for air pollution control permits shall be submitted to the Administrator on forms or format furnished or approved by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application and to determine the fee requirements specified in § 1421 through § 1424.

(b) For air pollution emission sources required to obtain a federal operating permit under the provisions of 40 CFR Part 71, as amended, owners and operators may submit a copy of the

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federal permit application to the Administrator in place of forms furnished by the Administrator. The owner or operator must include with the application a form to calculate annual fees pursuant to § 1423(l). All signatures required on the application forms must be original signatures.

(c) Applications for initial air pollution control permits shall include the following information:

(1) Identifying information about the air pollution emission source, including name, address, and phone number of:

(A) The company (or plant if different than the company),

(B) The owner and owner's agent,

(C) The plant site manager or other contact, and

(D) The person responsible for record keeping, and the location where required records will be kept;

(2) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; and a description of all processes and products by Standard Industrial Classification Code, and, if requested, a detailed description of reasonably anticipated alternative operating scenarios;

(3) Maximum emission rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants for which the source is major from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;

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(4) Identification and description of all points of emissions as required in (e) of this Section, in sufficient detail to establish the applicability of requirements of these Standards and Regulations, the Air Pollution Control Act, and the Clean Air Act. Information on stack parameters and any stack height limitations developed pursuant to § 123 of the Clean Air Act shall also be provided;

(5) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source, and to the extent of available information, an estimate of emissions before and after controls;

(6) Current operational limitations or work practices, or for air pollution emission sources that have not yet begun operations, such limitations or practices which the owner or operator of the source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;

(7) All calculations and assumptions on which the information in paragraphs (2), (4), (5), and (6) is based;

(8) A copy of all current air pollution permits issued by GEPA or USEPA;

(9) A compliance plan pursuant to § 1408 and compliance certification in accordance with § 1409;

(10) Citation and description of all applicable requirements, a description of or reference to any applicable test method for determining compliance with each applicable requirement, and an explanation of all proposed exemptions from any applicable requirement;

(11) For new air pollution emission sources or significant modifications subject to the requirements of Article 5, all analyses, assessments, monitoring, and other application requirements of Article 5;

(12) For proposed new sources or modifications to existing sources:

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(i) A description of the modification, identifying all proposed changes to the source operations, work practices, equipment design, source emissions, or any monitoring, recordkeeping, and reporting procedures;

(ii) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules and capacities to the extent needed to determine or regulate emissions of any proposed addition or modification of any source or emissions; specifications and drawings showing the design of the source and plant layout; a detailed description of all processes and products by Standard Industrial Classification Code and source category or categories affected by the proposed modification; and reasonably anticipated alternative operating scenarios;

(iii) Maximum emissions rates, including fugitive emissions, of all regulated and hazardous air pollutants and all air pollutants from each new or modified emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emissions calculations and assumptions shall also be provided;

(iv) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the source or modification, and to the extent of available information, an estimate of maximum and expected emissions before and after controls, technical information on the design, operation, size, estimated control efficiency, manufacturer's name, address, contact

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information, and relevant specifications and drawings;

(v) The identification of any new applicable requirements that will apply if the minor modification occurs;

(vi) The suggested changes to permit terms or conditions;

(vii) The owner or operator may reference information contained in a previous application submittal, provided such referenced information has been certified as being current and still applicable;

(viii) A detailed schedule for construction of the source or modification;

(ix) For new major sources and significant modifications which increase the emissions of any air pollutant or result in the emission of any air pollutant not previously emitted, an assessment of the ambient air quality impact of the new source or significant modification, with the inclusion of any available background air quality data. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS;

(x) An explanation of all proposed exemptions from any applicable requirement; and

(xi) A list of any new insignificant activities-Type I;

(13) At the request of the Administrator, the following information must also be submitted:

(i) A risk assessment of the air quality related impacts caused by the source or significant modification to the surrounding environment;

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(ii) Results of source emission testing, ambient air quality monitoring, or both;

(iii) Information on other available control technologies;

(iv) Other information deemed necessary to make a decision on the application or needed to implement and enforce other applicable requirements of the Clean Air Act or these Standards and Regulations, or to determine the applicability of such requirements; and

(v) An assessment of the ambient air quality impact of the air pollution emission source. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS; and

(14) A certification by a responsible official of truth, accuracy, and completeness of all submitted documents.

(d) Applications for renewals of air pollution control permits are subject to the same requirements as an initial application including all requirements of Subsection (c). If the source is a federal oversight source, applications for renewal shall be submitted six (6) to eighteen (18) months prior to permit expiration. For all other air pollution emission sources, applications are due sixty (60) days prior to permit expiration. Late applications shall be subject to penalties pursuant to § 1425. Applicants shall submit a statement certifying whether any changes have been made in the design or operation of the source as proposed in the initial and any subsequent permit applications. If changes have occurred or are being proposed, the applicant shall provide a description of those changes such as work practices, operations, equipment design, and monitoring procedures, including the affected applicable requirements associated with the changes and the corresponding information to determine the applicability of all applicable requirements. If the application for renewal has not been approved or denied in the time specified in Subsection (j), the air pollution control permit and all its terms and

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conditions shall remain in effect and not expire until the application for renewal has been approved or denied, provided the applicant has submitted any additional information within the reasonable deadline specified by the Administrator.

(e) Insignificant activities at a federal oversight source:

(1) Insignificant activities - Type I shall be listed in the air pollution control permit application. Insignificant activities - Type II need not be listed at all in the air pollution control permit application.

(2) The Administrator may request additional information on any air pollution emission source or insignificant activity to determine the applicability of, or to impose any applicable requirement, or to determine the fee requirements specified in § 1424.

(f) Applications for modifications of air pollution control permits are subject to the same requirements as an initial application including all requirements of Subsection (c). Applicants shall submit a description of the modification, identifying all proposed changes, including any changes to the source operations, work practices, equipment design, source emissions, or any monitoring, record keeping, and reporting procedures. Each change from the permit application for the existing air pollution control permit shall be identified on the application for the permit modification.

(g) The Administrator shall not continue to act upon or consider an incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

(1) All information required or requested pursuant to Subsections (a) through (f) has been submitted;

(2) All documents requiring certification have been certified pursuant to § 1203;

(3) All applicable fees pursuant to § 1421 through § 1424 have been submitted; and

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(4) The Administrator has certified that the application is complete.

(h) The Administrator shall notify the applicant in writing whether the application is complete within sixty (60) days of receipt of the application. Unless the Administrator requests additional information or notifies the applicant of incompleteness within sixty (60) days after receipt of an application, the application shall be deemed complete.

(i) During the processing of an application that has been determined or deemed complete, if the Administrator determines that additional information is necessary to evaluate or take final action on the application, the Administrator may request such information in writing and set a reasonable deadline for a response.

(j) Timeline for approval:

(1) For federal oversight sources, unless issuance is objected to by USEPA pursuant to § 1416, the Administrator shall approve, or deny an application for an air pollution control permit within Twelve (12) months after receipt of a complete application for a new source or significant modification; within six (6) months after receipt of a complete application for an existing source; and within ninety (90) days after receipt of a complete application for a non-significant modification.

(2) For all other air pollution emission sources, the Administrator shall approve, conditionally approve, or deny an application for a air pollution control permit within six (6) months after receipt of a complete application for a new source, and within sixty (60) days after receipt of a complete application for an existing source or modification.

(k) An air pollution control permit for a new source or a significant modification shall be approved only if the Administrator determines that the construction and operation of the new source or significant modification will be in compliance with all applicable requirements.

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(l) Temporary source permit applications:

(1) An owner or operator of a temporary source may apply for a temporary source air pollution control permit. The owner or operator of the temporary source shall certify its intention to operate at various locations with the same equipment and similar operational methods.

(2) The application and issuance of a temporary source permit is subject to the same procedures and requirements for an initial application and issuance of an air pollution control permit, including requirements of this Section. The initial location of the source shall be specified.

§ 1407. Duty to Supplement or Correct Permit Applications.

Any applicant for an air pollution control permit who fails to submit any relevant facts or who has submitted incorrect information in any permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to the release of the draft permit.

§ 1408. Compliance Plan.

(a) A compliance plan shall be submitted with each permit application, temporary source application, application for renewal, and application for a modification, and at such other times as requested by the Administrator.

(b) The owner or operator of an air pollution emission source shall submit to the Administrator for approval a compliance plan which includes at a minimum the following information:

(1) A description of the compliance status of the existing air pollution emission source or proposed source with respect to all the applicable requirements; and

(2) The following statement or description and compliance schedule, as applicable:

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(A) For applicable requirements with which the source is in compliance, a statement that the source is in compliance and will continue to comply with such requirements;

(B) For applicable requirements which become applicable during the permit term, a statement that the source on a timely basis will meet all such applicable requirements. The statement shall include documentation on the proposed method the owner or operator plans to initiate to obtain compliance; and a compliance schedule demonstrating that the source will meet such applicable requirement by the date specified in the applicable requirement. A detailed schedule shall be provided if required by the applicable requirement; or

(C) For applicable requirements with which the source is not in compliance, a narrative description of how the source will expeditiously achieve compliance with all such applicable requirements; and a detailed compliance schedule containing specific milestones of remedial measures to obtain compliance, allowing for an enforceable sequence of actions. The schedule shall supplement and shall not sanction noncompliance with the applicable requirements on which the schedule is based.

(c) A progress report certified pursuant to § 1203 shall be submitted to the Administrator no less frequently than annually and shall include:

(1) Dates for achieving the activities, milestones, or compliance, and dates when such activities, milestones, or compliance were achieved; and

(2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

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§ 1409. Compliance Certification of Air Pollution Emission Sources.

(a) A compliance certification shall be submitted with each initial permit application, and at such other times as requested by the Administrator. The responsible official of an emissions source shall submit to the Administrator a compliance certification which includes at a minimum the following information:

(1) A detailed description of the methods to be used in determining compliance with all applicable requirements, including any monitoring, record keeping, and reporting requirement and test methods;

(2) A schedule for submission of compliance certifications during the permit term; and

(3) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements, including the requirements of § 114 (a)(3) of the Clean Air Act or any applicable monitoring and analysis provisions of § 504 (b) of the Clean Air Act.

(4) Certified in accordance with § 1203

(5) A compliance plan as described in § 1408.

(b) During the permit term, the responsible official of an air pollution emission source shall also submit to the Administrator annually, or more frequently as set by any applicable requirement or permit condition, a compliance certification which includes at a minimum the following information:

(1) The identification of each term or condition of the permit that is the basis of the certification;

(2) The compliance status;

(3) Whether compliance was continuous or intermittent;

(4) The methods used for determining the compliance status of the source currently and over the reporting period;

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(5) Any additional information indicating the sources's compliance status with any applicable enhanced monitoring and compliance certification including the requirements of § 114 (a)(3) of the Clean Air Act or any applicable monitoring and analysis provisions of § 504(b) of the Clean Air Act;

(6) A revised compliance plan; and

(7) Any additional information as required by the administrator including information to determine compliance.

(c) The compliance certification may reference information contained in a previous compliance certification submittal to the Administrator, provided such referenced information has been certified as being current and still applicable.

§ 1410. Transition Period and Deadlines to Submit First Applications.

(a) During the transition period, all owners or operators of existing air pollution emission sources shall submit to the Administrator a complete initial air pollution control permit application according to the submission schedule in Appendix A.

(1) During the transition period, all existing air pollution emission sources with air pollution control permits shall remain valid past the expiration date until a new air pollution control permit is issued.

(2) During the transition period, all owners or operators of air pollution emission sources who have been operating, or has begun construction of an air pollution source without a valid air pollution control permit, shall submit to the Administrator a request to continue construction, modification, relocation, or operation within One Hundred Twenty (120) days from the effective date of these Standards and Regulations. The request must include initial start date of construction, modification, relocation, or operation, and justification for continuance, and show good faith effort to comply with (a) of this Section. The request must be submitted and signed by a Responsible Official and certified

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in accordance to § 1203. Such approval shall not be construed as an approval for an air pollution control permit.

(3) During the transition period, all owners or operators who have applied for air pollution control permits before the effective date of these Standards and Regulations, but have not received air pollution control permits shall submit to the Administrator a request to continue construction, modification, relocation, or operation within sixty (60) days from the effective date of these Standards and Regulations. The request must include initial start date of construction, modification, relocation, or operation, and justification for continuance, and show good faith effort to comply with (a) of this Section. The request must be submitted and signed by a Responsible Official and certified in accordance to § 1203. Such approval shall not be construed as an approval for an air pollution control permit.

(4) During the transition period, all owners or operators of new or proposed air pollution emission sources who have not previously applied for an air pollution control permit shall submit to the Administrator a complete and timely air pollution control permit application. An air pollution control permit must be obtained prior to commencement of construction, modification, relocation, or operation.

(b) The written request for an extension shall be submitted at least thirty (30) days prior to the required submission date and shall include the following information:

(1) Justification for the extension, including a showing that reasonable effort and resources have been and are being utilized in the preparation of the application;

(2) Description of the problems being encountered and the reasons for any delays in meeting the application submittal deadline;

(3) The current status of the air pollution control permit application; and

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(4) The projected completion date of the air pollution control permit application.

(c) If the Administrator disapproves an extension for initial application submittal, the owner or operator shall meet the scheduled submission date. Under no circumstances shall the deadline for submitting an initial air pollution control permit application be extended twelve months from the effective date of these Standards and Regulations.

(d) All air pollution control permit applications, compliance plans, compliance certifications, and filing fees shall be submitted in accordance with §§ 1406, 1408, 1409 and 1421 through 1424.

§ 1411. Permit Term.

An air pollution control permit shall be issued or renewed for a fixed term of five years unless the owner or operator of the air pollution emission source requests a shorter term, or the Administrator determines that a shorter term is warranted.

§ 1412. Permit Content.

(a) The Administrator shall consider and incorporate the following elements in all air pollution control permits, as applicable:

(1) Emission limitations and standards, to include insignificant activities identified in the permit application (e.g. for an initial permit, a minor or significant modification, or permit renewal), including operational requirements and limitations to assure compliance with all applicable requirements at the time of permit issuance;

(2) Requirements regarding fugitive emissions regardless of whether the source category in question is included in the list of sources contained in the definition of "major source";

(3) The origin of and authority for each term or condition and any differences in form as compared to the applicable requirement upon which the term or condition is based;

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(4) Permit term pursuant to § 1411;

(5) Requirements for the installation of devices, at the expense of the owner or operator, for the measurement or analysis of source emissions or ambient concentration of air pollutants;

(6) The requirement for source emissions tests or alternative methodology to determine compliance with the terms and conditions of the air pollution control permit, and applicable requirements. Source emission tests conducted or alternative methodology used shall be at the expense of the owner or operator; and

(7) All monitoring and related record keeping and reporting requirements to assure compliance with all terms and conditions of the permit. Each air pollution control permit shall address the following with respect to monitoring, record keeping, and reporting:

(A) All reporting, emissions monitoring and analysis procedures, or test methods, required pursuant to the applicable requirements, including any procedures or methods promulgated pursuant to § 114(a)(3) or § 504(b) of the Clean Air Act;

(B) If the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, periodic monitoring or record keeping sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit. Use of terms, test methods, units, statistical conventions used for these requirements shall be consistent with applicable requirements;

(C) Monitoring results expressed in units, averaging periods, and other statistical conventions consistent with the applicable requirements;

(D) Requirements concerning the use, maintenance, and installation of monitoring equipment. The installation, operation, and maintenance of the

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monitoring equipment shall be at the expense of the owner or operator;

(E) Appropriate monitoring methods;

(F) Monitoring records including:

(i) Place as defined in the permit, date, and time of sampling or measurement;

(ii) Dates the analyses were performed;

(iii) The name and address of the company or entity that performed the analyses;

(iv) Analytical techniques or methods used;

(v) Analyses results; and

(vi) Operating conditions during the time of sampling or measurement;

(G) Other records including support information, such as calibration and maintenance record, original strip chart recordings or computer printouts for continuous monitoring instrumentation, and all other reports required by the Administrator;

(H) A requirement for the 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 all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit;

(I) A requirement for submission of reports of any required monitoring at least every six (6) months. Deviations from the permit requirements shall be clearly identified and addressed in these reports;

(J) A requirement for prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit,

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the probable cause of such deviations, and any corrective actions or preventive measures taken. The term "prompt" shall be delineated on a permit-by-permit basis in relation to the degree and type of deviation likely to occur and the applicable requirements; and

(K) Provisions for the owner or operator to annually report in writing, emissions of hazardous air pollutants;

(8) Pollution prevention audits and the implementation of pollution prevention measures to ensure that emissions are reduced or eliminated when feasible;

(9) General provisions including:

(A) A statement that the owner or operator shall comply with all the terms and conditions of the air pollution control permit and that any permit noncompliance constitutes a violation of these Standards and Regulations and, for all federally enforceable terms or conditions, the Clean Air Act, and is grounds for enforcement action, permit termination, suspension, reopening, or amendment, or for denial of a permit renewal application;

(B) A Severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit;

(C) A statement 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 to maintain compliance with the terms and conditions of the permit;

(D) A statement that the permit may be terminated, suspended, reopened, or amended for cause pursuant to § 1418. The filing of a request by the permittee for a permit termination, suspension, reopening, or amendment, or of a notification of planned changes or

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anticipated noncompliance does not stay any permit condition;

(E) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;

(F) A provision that, if construction is not commenced, continued or completed in accordance with § 1405 the air pollution control permit for the subject emission unit shall become invalid;

(G) A provision that the owner or operator shall notify the Administrator in writing of the anticipated date of initial start-up for each emission unit of a new air pollution emission source or significant modification not more than sixty (60) days or less than thirty (30) days prior to such date. The Administrator shall also be notified in writing of the actual date of construction commencement and start-up within fifteen (15) days after these dates;

(H) A statement that the owner or operator shall furnish in a timely manner any information or record requested in writing by GEPA to determine whether cause exists for terminating, suspending, reopening, or amending the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit. For information claimed to be confidential, the Administrator may require the permittee to furnish such records not only to GEPA but also directly to USEPA with a claim of confidentiality;

(I) A requirement that a copy of applicable correspondence or records submitted to GEPA be provided to USEPA pursuant to § 1415,

(J) A provision for the designation of confidentiality of any records pursuant to § 1207;

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(K) A requirement that the owner or operator shall submit fees in accordance with § 1421 through § 1424;

(L) Certification requirements pursuant to § 1203;

(M) A requirement that the owner or operator allow the Administrator or an authorized representative, upon presentation of credentials or other documents required by law:

(i) To enter the owner or operator's premises where a source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit and inspect at reasonable times all facilities, equipment, including monitoring and air pollution control equipment, practices, operations, or records covered under the terms and conditions of the permit and request copies of records or copy records required by the permit; and

(ii) To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements;

(N) A requirement pursuant to Sections 1208 and 1209 for reporting of equipment shutdown and malfunction;

(10) Compliance plan and compliance certification submittal requirements pursuant to §§ 1408 and 1409;

(11) Any other provision to assure compliance with all applicable requirements; and

(12) Any other provision the Administrator imposes to further limit the construction and operation of the source. These conditions may include restrictions, control requirements, or performance standards normally reserved for air pollution emission sources with larger capacities than the air pollution emission source being permitted. In determining whether to impose more restrictive conditions, the Administrator shall consider the relevant circumstances

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of each individual case, including the availability of a reasonable control technology, cleaner fuels, or a less polluting operating process; the consideration of the existing air quality and the resulting degradation; the protection of the public health, welfare and safety; and any information, assumptions, limitations, or statements made in conjunction with a permit application.;

(13) Terms and conditions for reasonably anticipated alternative operating scenarios identified by the source in the air pollution control permit application as approved by the Administrator. Such terms and conditions shall include:

(A) A requirement that the owner or operator, contemporaneously with making a change from one operating scenario to another, record in a log at the permitted facility the scenario under which it is operating and, if required by the Administrator, submit written notification to the Administrator; and

(B) Provisions to ensure that the terms and conditions under each alternative scenario meet all applicable requirements.

(14) Temporary source permit:

(A) Upon issuance of a temporary air pollution control permit, the owner or operator shall submit in writing all succeeding location changes to the Administrator for approval at least thirty (30) days or such lesser time as designated and approved by the Administrator, prior to the change in location. The owner or operator shall submit sufficient information to enable the Administrator to assess the air quality impact the temporary source may have at the new location. Information submitted shall include:

(i) Name, address, and phone number of:

(aa) The company (or plant if different than the company),

(bb) The owner and owner's agent,

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- (cc) The plant site manager or other contact;
 - (ii) Temporary source permit identification number and expiration date;
 - (iii) Location map of the new temporary location, identifying the surrounding commercial, industrial, and residential developments;
 - (iv) Projected dates of operation at the new location;
 - (v) Identification of any other air pollution source at the new location; and
 - (vi) Certification that no modification will be made to the equipment and operational methods will remain similar as permitted under the temporary source permit at the new location.
- (B) The Administrator shall not continue to act upon or consider a location change request, unless the following have been submitted:
- (i) All required information as identified in subsection (A)
 - (ii) Any additional information as requested by the Administrator; and
 - (iii) Any applicable fee.
- (C) Prior to any relocation, the Administrator shall approve, conditionally approve, or deny in writing each location change. If the Administrator denies a location change, the applicant may appeal the decision pursuant to Section 49111 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated.
- (D) With the exception of the initial location, if a source remains in any one location for longer than twelve (12) consecutive months, the Administrator may

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request an ambient air quality impact assessment of the source.

(E) At each of the authorized locations, the owner or operator shall operate in accordance with the temporary source permit and all applicable requirements.

2023 NOTE: Subitem designations modified to adhere to the Compiler's general codification scheme pursuant to authority granted by 1 GCA § 1606.

§ 1413. Inspections.

(a) Every source required to obtain a permit pursuant to these Standards and Regulations shall be subject to regular inspections for compliance with all applicable requirements, these rules, and the terms and conditions of an emissions permit. Such inspections shall be conducted by any duly authorized officer, employee or representative of GEPA and shall take place at any reasonable time. No person shall refuse entry or access to any authorized representatives of GEPA who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection.

(b) Inspections may include emission testing, monitoring, sampling and on-site inspections of facilities, equipment, practices, operations, or records required to be maintained according to the terms and conditions of an owner or operator's permit. Emission sources found to be in violation of an applicable requirement, these Standards and Regulations, on any terms and conditions of a stationary air pollution source permit shall immediately take all appropriate actions to achieve compliance and shall be subject to all enforcement penalties and remedies provided by these Standards and Regulations.

§ 1414. Federally-Enforceable Permit Terms and Conditions.

Terms and conditions included in an air pollution control permit, including any provision designed to limit a source's potential to emit, are federally enforceable unless such terms, conditions, or requirements are specifically designated as not

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federally enforceable. Those terms and conditions left undesignated shall become federally enforceable upon permit issuance provided the USEPA Administrator does not object during the forty-five (45) day review pursuant to § 1416. The permittee can petition USEPA to consider undesignated terms and conditions as not federally enforceable.

§ 1415. Transmission of Information to the USEPA.

(a) If the air pollution emission source is a federal oversight source:

(1) The Administrator shall submit to the USEPA Administrator a copy of each proposed air pollution control permit and each final air pollution control permit, including administrative permit amendments,

(2) The owner or operator shall simultaneously submit to the USEPA Administrator a copy of all air pollution control permit applications, including any application for renewal and amendments reflecting modifications submitted to the Administrator,

(3) By agreement with the USEPA Administrator or pursuant to federal regulation, the Administrator may waive the requirements of this Section, or submit summaries for specific categories of non- major air pollution emission sources.

(b) For all other air pollution emission sources, the Administrator may at any time require the owner or operator to submit to the USEPA Administrator a copy of any permit applications, including applications for permit renewal and permit amendment, compliance plan, compliance certification, or records required to be kept under the permit.

(c) GEPA shall maintain records on all air pollution control permit applications, compliance plans, proposed and final permits, and other relevant information for a minimum of five (5) years.

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§ 1416. USEPA Oversight.

(a) This Section applies if the air pollution emission source is a federal oversight source;

(1) The Administrator shall not issue an air pollution control permit, permit renewal, or permit amendment for a significant modification, if the USEPA Administrator objects to its issuance in writing within forty-five (45) days of receipt of the proposed air pollution control permit and all necessary supporting information.

(2) The Administrator shall submit to the USEPA Administrator an amended proposed air pollution control permit within one hundred eighty (180) days after receipt of any written objection from the USEPA Administrator. If objections are not resolved within the one hundred eighty (180) days, USEPA shall issue the air pollution control permit under 40 CFR Part 71.

§ 1417. Emergency Provision.

(a) An emergency constitutes an affirmative defense to any action brought for noncompliance with any technology-based emission limitation, if it can be demonstrated to the Administrator through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An emergency occurred and the owner or operator of the air pollution emission source can identify the cause or causes of the emergency;

(2) The permitted facility was at the time being properly operated;

(3) During the period of the emergency, the owner or operator of the air pollution emission source took all reasonable steps to minimize levels of emission that exceeded the emission limitations or other requirements in the air pollution control permit; and

(4) The owner or operator of the air pollution emission source submitted notice of the emergency to the

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Administrator within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emission, and corrective actions taken. Such notice shall satisfy the prompt reporting of deviations pursuant to § 1209.

(b) In any proceedings for enforcement action, the owner or operator of the air pollution emission source seeking to establish the occurrence of an emergency has the burden of proof.

(c) This emergency provision is in addition to any emergency or upset provision in any applicable requirement.

§ 1418. Permit Termination, Suspension, Reopening, and Amendment.

(a) The Administrator, on the Administrator's own motion or on the petition of any person for cause, may terminate, suspend, reopen, or amend any permit if, after affording the permittee an opportunity for a hearing in accordance with § 1214 or § 49111 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated the Administrator determines that:

(1) The permit contains a material mistake made in establishing the emissions limitations or other requirements of the permit;

(2) Permit action is required to assure compliance with the requirements of the Clean Air Act; the Air Pollution Control Act, or these Standards and Regulations;

(3) Permit action is required to address additional requirements of the Clean Air Act; the Air Pollution Control Act, or these Standards and Regulations;

(4) There is a violation of any condition of the permit;

(5) The permit was obtained by misrepresentation or failure to disclose fully all relevant facts;

(6) The source is not constructed or operated in accordance with the application for the air pollution control

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permit and any information submitted as part of the application;

(7) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(8) More frequent monitoring or reporting by the permittee is required; or

(9) Such is in the public interest, as determined pursuant to § 49107(d) of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated.

(b) The Administrator shall reopen and amend an air pollution control permit if the Administrator determines that any one of the following circumstances exists:

(1) Additional applicable requirements pursuant to the Clean Air Act or these Standards and Regulations become applicable to a major air pollution emission source with a remaining permit term of three (3) or more years. Such permit reopening shall be completed not later than eighteen (18) months after promulgation or adoption of the applicable requirement. No such permit reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the expiration date of the original permit or any of its terms and conditions has been extended pursuant to § 1406;

(2) 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; or

(3) The permit must be terminated, suspended, or amended to assure compliance with the applicable requirements.

(c) Procedures to reopen and amend an air pollution control permit shall be the same as procedures which apply to initial permit issuance in accordance with § 1406 and shall affect only

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

(d) The Administrator shall provide written notification to the permittee on the reopening of the permit indicating the basis for reopening at least thirty (30) days prior to the reopening date, except that the Administrator may provide a shorter time period if it is determined that immediate action on the reopening of the permit is required to prevent an imminent peril to public health and safety or the environment.

(e) If requested by the Administrator, the owner or operator of an air pollution emission source shall submit a permit application or information related to the basis of the permit reopening or those provisions affected by the reopening within thirty (30) days of receipt of the permit reopening notice. An extension for the application submittal may be granted by the Administrator if the owner or operator can provide adequate written justification for such an extension.

(f) Upon program approval, if the USEPA Administrator notifies the Administrator of any cause to terminate, suspend, reopen, or amend a permit issued to a federal oversight source, the Administrator shall not issue an air pollution control permit, permit renewal, or permit amendment for a significant modification. The administrator shall submit to USEPA Administrator a proposed determination of termination, suspension, reopening or an amended proposed air pollution control permit as appropriate within one hundred eighty (180) days of receipt of such written notification, or within such other times as required by the USEPA. If objections are not resolved within the one hundred eighty (180) days, USEPA shall issue the air pollution control permit under 40 CFR Part 71.

§ 1419. Public Participation.

(a) If the air pollution emission source is a federal oversight source, the Administrator shall provide for public notice, including an opportunity for public comment and the method by which a public hearing can be requested, on all draft initial permits and permits for significant modifications. Any person requesting

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a public hearing shall do so during the public comment period. Any request from a person for a public hearing shall indicate the interest of the person filing the request and the reasons why a public hearing is warranted. Such hearings shall be held in accordance with the Administrative Adjudication Law.

(b) Procedures for public notice, public comment periods, and public hearings shall be as follows:

(1) The Administrator shall make available for public inspection in at least one location:

(A) Information on the subject matter;

(B) Information submitted by the applicant, except for confidential information pursuant to § 1207;

(C) GEPA's analysis and proposed action; and

(D) Other information and documents determined to be appropriate by GEPA;

(2) Notification of a public hearing shall be given at least thirty (30) days in advance of the hearing date;

(3) A public comment period shall be no less than thirty (30) days following the date of the public notice for federal oversight sources. During the public comment period, interested persons may submit to GEPA written comments on:

(A) The subject matter;

(B) The application;

(C) GEPA's analysis

(D) The proposed actions; and

(E) Other considerations as determined to be appropriate by GEPA;

(4) Notification of a public comment period or a public hearing shall be made:

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(A) By publication in a newspaper of general circulation which is printed and issued at least twice weekly;

(B) To persons on a mailing list developed by the Administrator, including those who request in writing to be on the list; and

(C) If necessary by other means to assure adequate notice to the affected public;

(5) Notice of public comment and public hearing shall identify:

(A) The affected facility;

(B) The name and address of the permittee;

(C) The name and address of the agency of the permitting authority processing the permit;

(D) The activities involved in the permit action;

(E) The emissions change involved in any permit modification;

(F) The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, all relevant supporting materials including any compliance plan, and monitoring and compliance certification reports, and all other material available to GEPA that are relevant to the permit decision, except for information that is determined to be confidential;

(G) A brief description of the comment procedures;

(H) The time and place of any hearing that may be held, including a statement of procedures to request a hearing if one has not already been scheduled; and

(I) The availability of the information listed in Paragraph (1), and the location and times the information will be available for inspection; and

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(6) The Administrator shall maintain a record of the commentors and the issues raised during the public participation process and shall provide this information to USEPA upon request.

§ 1420. Administrative Permit Amendment.

(a) The Administrator, on the Administrator's sole motion or upon written request from the owner or operator of an air pollution emission source, may issue an administrative permit amendment.

(b) Except for a request to consolidate two (2) or more air pollution control permits into one or to change ownership or operation control, an owner or operator requesting an administrative permit amendment may make the requested change immediately upon submittal of the request.

(c) Within sixty (60) days of receipt of a written request for an administrative permit amendment, the Administrator shall take final action on the request and may amend the permit without providing notice to the public provided the Administrator designates any such permit amendments as having been made pursuant to this Section.

(d) For federal oversight sources, GEPA shall submit a copy of the administrative permit amendment to USEPA.

§ 1421. General Fee Provisions.

(a) Every applicant for an air pollution control permit shall pay application fees as set forth in § 1423.

(b) Every owner or operator of an air pollution emission source shall pay annual fees as set forth in § 1424.

(c) All application and annual fees collected pursuant to these Standards and Regulations shall be used to supplement the Air Pollution Control Special Fund pursuant to § 1422.

(d) All application and annual fees for air pollution emission sources required by this Section shall be submitted by check or money order made payable to Treasurer of Guam c/o Air Pollution Control Special Fund, and are not refundable.

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(e) Checks returned for any reason shall be considered a failure to pay. Returned checks are subject to an additional Fifty Dollars (\$50.00) handling charge. If a returned check results in a late payment, the owner or operator shall be assessed a late payment penalty in accordance with § 1425.

§ 1422. Air Pollution Control Special Fund.

(a) All permit application fees, annual emission fees, fines, penalties, bail forfeitures, and other funds collected or received into the Air Pollution Control Special Fund shall be used solely for the costs of administration and implementation of the Act; for providing staff and resources to: assist permit applicants with the application process, review and act upon permit applications, write permits, implement and enforce permit conditions including legal support, prepare guidance and rules, prepare emission inventories, monitor air quality, inspect facilities to ensure compliance and offer assistance with pollution prevention alternatives, provide technical assistance to permittees, administer the fund, and any other duties needed to administer the Act.

(b) The Administrator shall maintain independent records and accounts of all revenues and expenditures of the Air Pollution Control Special Fund.

(c) By July 1 of each year the Administrator shall determine what base rate shall be used to calculate annual fees for the following calendar year pursuant to § 1424(f). The base rate shall be set such that projected revenues generated from annual fees shall equal the total projected program cost minus the total projected revenues from all revenue sources except for annual fees (i.e., application fees, penalties, etc.) for that year. The base rate shall be calculated in dollars per ton of pollutant and shall be rounded up to the next whole dollar.

(d) If the Administrator determines that the base rate for the following calendar year must be raised by more than One Dollar (\$1.00) per ton of pollutant above the current year's base rate, or if the base rate shall be raised above Eight Dollars (\$8.00) the Administrator shall provide for public notice, including the method by which a public hearing can be requested, and an

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opportunity for public comment. The applicable procedural requirements of § 1419 shall be used for public notice, public comment periods, and public hearings.

§ 1423. Application Fees for Air Pollution Emission Sources.

(a) Application fees shall be submitted with the air pollution control permit application and shall not be refunded or applied to any subsequent application. No air pollution control permit application shall be deemed complete unless the application fee is paid in full.

(b) If an air pollution emission source can be categorized under two (2) or more types of sources listed in the fee schedule of Subsection (c), the owner or operator of that source shall pay the highest application fee that is applicable to the source.

(c) The fee schedule for filing an air pollution control permit application shall be as follows:

(1) Sources subject to the requirements of Article 5:

(A) Initial permit for an existing Major PSD source ¹ :	\$1,000
(B) Initial permit for an existing Major NAA source ¹ :	\$1,000
(C) Initial permit for a new PSD source ¹ :	\$3,000
(D) Initial permit for a new NAA source ¹ :	\$3,750
(E) Non-Significant Modification:	\$ 500
(F) Significant Modification:	\$1,000
(G) Administrative permit amendment	\$1,000
(H) Permit Renewal:	\$1,000

¹ As defined in Section 5.

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(2) Sources subject to the requirements of Article 6,

(A) and are major sources:

- | | |
|---|---------|
| (i) Initial permit for an existing air pollution emission source: | \$1,000 |
| (ii) Initial permit for a new air pollution emission source: | \$1,500 |
| (iii) Permit Renewal: | \$1,000 |
| (iv) Administrative permit amendment: | \$ 100 |
| (v) Non-Significant Modification: | \$ 500 |
| (vi) Significant Modification: | \$1,000 |

(B) and are not major sources:

- | | |
|---|--------|
| (i) Initial permit for an existing air pollution emission source: | \$ 500 |
| (ii) Initial permit for a new air pollution emission source | \$ 750 |
| (iii) Permit Renewal: | \$ 500 |
| (iv) Administrative permit amendment | \$ 100 |
| (v) Non-Significant Modification | \$ 250 |
| (vi) Significant Modification | \$ 500 |

(3) Sources subject to the requirements of Article 7,

(A) and are major sources of hazardous air pollutants,

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(i)	Initial permit for an existing air pollution emission source:	\$1,000
(ii)	Initial permit for a new air pollution emission source	\$3,750
(iii)	Permit Renewal:	\$1,000
(iv)	Administrative permit amendment	\$ 100
(v)	Non-Significant Modification	\$ 750
(vi)	Significant Modification	\$3,750
 (B) and are not major sources of hazardous air pollutants,		
(i)	Initial permit for an existing air pollution emission source:	\$ 200
(ii)	Initial permit for a new air pollution emission source	\$ 300
(iii)	Permit Renewal:	\$ 200
(iv)	Administrative permit amendment	\$ 25
(v)	Non-Significant Modification	\$ 100
(vi)	Significant Modification	\$ 300
 (4) All other major sources:		
(A)	Initial permit for an existing air pollution emission source:	\$1,000
(B)	Initial permit for a new air pollution emission source	\$1,500
(C)	Permit Renewal:	\$1,000

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(D) Administrative permit amendment \$ 100

(E) Non-Significant Modification \$ 750

(F) Significant Modification \$1,000

(5) All other non-major sources:

(A) Initial permit for an existing air pollution emission source: \$ 100

(B) Initial permit for a new air pollution emission source \$ 150

(C) Permit Renewal: \$ 100

(D) Administrative permit amendment \$ 50

(E) Modification \$ 100

(d) If a modification changes the classification of an air pollution emission source, the application fee shall equal the higher of the following:

(1) The fee for a modification of an air pollution emission source in the original category of the modified source (i.e. the category prior to the modification); and

(2) The fee for an initial permit for a new air pollution emission source in the category of the modified source after the modification.

(e) Application fees for an administrative permit amendment shall be assessed only if the administrative change is requested by the owner or operator of the air pollution emission source.

2011 COMPILER NOTE: Subsection (c)(2)(A)(1-6) renumbered subsections (c)(2)(A)(i-vi), respectively, to maintain numbering scheme of the GARR.

§ 1424. Annual Fees for Air Pollution Emission Sources.

(a) Annual fees shall be paid in full within sixty (60) days after the end of each calendar year and within thirty (30) days after the permanent discontinuance of the air pollution emission source.

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(b) The Administrator, upon written request from the owner or operator of an air pollution emission source, may extend the annual fee submittal deadline if the Administrator determines that reasonable justification exists for the extension. The written request for an extension shall be submitted at least fifteen (15) days prior to the required submission due date, and include the following information:

- (1) Justification for the extension, including a showing that reasonable effort and resources have been and are being utilized in the calculation of annual emissions and the corresponding annual fee as calculated pursuant to this Section;
- (2) Description of the problems being encountered and reasons for any delays in meeting the annual fee deadline;
- (3) The current status of emission calculations; and
- (4) The projected date of submitting the annual fee.

If the Administrator disapproves an extension for the annual fee submittal, the owner or operator shall pay the required annual fees within thirty (30) days of receipt of the disapproval notification or the original submittal deadline, whichever is later. If the Administrator approves an extension for the annual fee submittal, the owner or operator shall pay the required annual fees by the extended approved date. Any part of the annual fee that is not paid within the required time shall at once be assessed the late penalty fee pursuant to § 1425.

(c) Except as provided in Subsection (m), annual fees due within sixty (60) days after the end of each calendar year shall be based upon the calculated tons of regulated air pollutants emitted during the prior calendar year in which the annual fees are due.

(d) Except as provided in Subsection (m), annual fees due within thirty (30) days after the permanent discontinuance of the air pollution emission source shall be based upon the calculated tons of regulated air pollutants emitted after the last calendar year for which annual fees were paid.

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(e) Annual fees shall be assessed for each ton of regulated air pollutant emitted by an air pollution emission source except for:

- (1) Carbon monoxide emissions;
- (2) Fugitive emission if fugitive emission is not included in the applicable requirements;
- (3) Emissions from insignificant activities - Type I and insignificant activities Type II; and
- (4) Emissions from sources located on residential premises.

(f) The dollar per ton charge for each regulated air pollutant emitted by air pollution emission sources shall be as follows:

- (1) For hazardous air pollutants the rate per ton shall equal ten (10) times the base rate;
- (2) For the first four thousand (4,000) tons of non-hazardous air pollutants emitted per year the rate shall equal the base rate; and
- (3) For non-hazardous air pollutants emitted in excess of four thousand (4,000) tons per year the rate shall equal one half of the base rate.

(g) For the calendar year 1999 the base rate shall be Six Dollars (\$6.00) per ton. For federal oversight sources, the minimum annual fee shall be Five Hundred Dollars (\$500.00) for each valid air pollution control permit held during the prior calendar year, or Forty Two Dollars (\$42.00) per month for any fraction of the year the permit is valid after the last calendar year for which annual fees were paid. For non-federal oversight sources the minimum annual fee shall be One Hundred Dollars (\$100.00) for each valid air pollution control permit held during the prior calendar year, or Eight Dollars (\$8.00) per month for any fraction of the year the permit is valid after the last calendar year for which annual fees were paid. For years after calendar year 1999, the rate shall be determined by the Administrator pursuant to § 1422(c). The submittal of annual fees shall begin in calendar

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year 2000 for all regulated air pollutants emitted during calendar year 1999.

(h) The calculated emissions in tons per year shall be determined by using the following parameters:

(1) An emission factor derived from the allowable emission rate;

(2) The actual production, operating hours, amount of materials processed or stored, or fuel usage of the air pollution emission source during the prior calendar year the annual fees are due, as applicable; and

(3) If not already considered in the allowable emission rate, a percentage reduction factor based upon the efficiency of the air pollution control equipment. Other operating parameters of the air pollution emission source may be used in the fee calculation if approved by the Administrator.

(i) The allowable emission rate referenced in Subsection (h)(1) is based upon the emission rate specified in an air pollution control permit or applicable requirement. If the allowable emission rate is not specified in the air pollution control permit or applicable requirement, the appropriate AP-42 air pollutant emission factor shall be used to determine the calculated emissions in tons per year.

(j) The parameters referenced in Subsection (h)(2) shall be based upon verifiable documentation presented by the owner or operator of the air pollution emission source. If an owner or operator of an air pollution emission source cannot provide verifiable documentation on the parameters referenced in Subsection (h)(2), the maximum allowable production, operating hours, amount of material processed or stored, or fuel usage shall be used in calculating the total annual tonnage of regulated air pollutants emitted from the air pollution emission source. Any fraction of a ton calculated shall be rounded up to the next whole ton to obtain the annual tonnage of each regulated air pollutant subject to annual fees. Emissions of any pollutant calculated at levels between 0.1 and 1.0 ton shall be rounded up to one ton.

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Emissions of any pollutant calculated at less than 0.1 ton shall not be subject to fees.

(k) The percentage reduction factor referenced in Subsection (h)(3) shall be based upon the percentage reduction provided by AP-42 or an applicable requirement. The Administrator shall establish the appropriate percentage reduction factor, and may adjust the reduction factor based on actual performance of the air pollution control equipment.

(l) Annual fees shall be calculated on fee worksheets furnished by the Administrator. If a fee worksheet is not provided for a particular air pollution emission source, the owner or operator of an air pollution emission source shall provide the worksheet, showing the method, assumptions, emission factors, and calculations used to obtain the calculated emission in tons per year, for each regulated air pollutant emitted.

(m) The annual fee for air pollution emission sources required by USEPA to obtain a federal operating permit under the provisions of 40 CFR Part 71, as amended, shall be reduced by the annual fee amount owed to the federal government. If the annual amount owed to the federal government exceeds the annual fee calculated in Subsections (e) through (l), no annual fee shall be due to GEPA.

§ 1425. Penalties and Remedies.

(a) Any person who violates any provision of these Standards and Regulations, or any term or condition of a permit shall be subject to the penalties and remedies provided for in § 49115 and § 49116 of Chapter 49, Part 2, Division 2, Part 1 of Title 10 of the Guam Code Annotated.

(b) If any part of the annual fee is not paid within thirty (30) days after the due date, a late payment penalty of five per cent (5%) of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each calendar month during which any part of the annual fee or any prior accrued late payment penalty remains unpaid, an additional late payment penalty of five

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per cent (5%) of the then unpaid balance shall accrue and be added thereto.

(c) If any annual fee, including the late payment penalty required by these Standards and Regulations is not paid in full within thirty (30) days after the due date, the Administrator may terminate or suspend any or all of the owner or operator's air pollution control permits, after affording the opportunity for a hearing in accordance with § 1419 or § 1214.

(d) If any application for permit renewal is submitted after the due date, a late penalty of ten per cent (10%) of the permit application fee shall at once accrue and be added thereto. Thereafter, after every twenty (20) day period during which any part of the application fee or any prior accrued late payment penalty remains unpaid, an additional late payment penalty of ten per cent (10%) of the then unpaid balance shall accrue and be added thereto.

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

§ 1426. Permit Compliance.

A person shall not violate a permit condition or term in an operating permit that has been issued under an EPA approved alternative operating permit program adopted by Guam pursuant to the exemption authorized in 40 CFR Part 69.13.

ARTICLE 5
SPECIAL PRECONSTRUCTION REQUIREMENTS

2011 COMPILER NOTE: Promulgated as §§ 1105-1105.6 which Compiler designated as Article 5 to harmoniously fit this chapter and renumbered to maintain the codification scheme of the GAR.

§ 1501. Definitions.

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- § 1502. Source Applicability.
- § 1503. PSD Review.
- § 1504. NAA Review.
- § 1505. NAA Offset Standards.
- § 1506. Other Nonattainment Area Air Pollution Emission Sources.

§ 1501. Definitions.

For purposes of this Section, the following definitions apply, unless clearly designated otherwise:

(a) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Administrator 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. The Administrator may presume that source specific allowable emissions for the unit are equivalent to the actual emissions of the unit. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(b) "Baseline" means the total of all emissions from air pollution emission sources and mobile sources in a non-attainment area, including all proposed sources which have obtained air pollution control permits. The baseline is the regulatory emissions limit in effect when a completed air pollution control permit application subject to this Section is submitted.

The emission rate for each source (used to calculate the baseline) shall be the potential emission rate taking into

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account all applicable emissions limitations. When emission limitations for a NAA pollutant allow greater emission than the potential emission rate of the source, the emission rate for a source shall be the potential emission rate. When actual emissions for a NAA pollutant are less than allowable emissions under the Guam implementation plan or any federally enforceable permit conditions, the emission rate shall be the actual emission rate.

(c) "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 installation of building supports and foundations, laying underground pipework, and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(d) "Lowest achievable emission rate" means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of the air pollution emission source, unless the owner or operator of the proposed air pollution emission 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 air pollution emission sources. This limitation, when applied to a modification, means the lowest achievable emission rate for the new or modified emissions units within an air pollution emission source. In no event shall the application of the term permit a proposed new or modified air pollution emission source to emit any pollutant in excess of the amount allowable under an

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applicable standard of performance pursuant to Article 6.

(e) "Major NAA modification" means any physical change in or change in the method of operation of a major NAA source that would result in a significant net emissions increase of any pollutant subject to regulations approved pursuant to the Clean Air Act or these Standards and Regulations. Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. 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 an order pursuant to §§ 2(a) and 2(b) of the federal 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 regulation pursuant to § 125 of the Clean Air 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 an air pollution emission source which:

(A) The source was capable of accommodating before July 1, 1979, unless such change would be prohibited pursuant to any federally enforceable permit condition which was established after January 1, 1979, pursuant to 40 CFR § 52.21, as amended, or under regulations approved pursuant to 40 CFR Part 51 Subpart I, as amended, or 40 CFR § 51.166, as amended; or

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(B) The source is approved to use under any permit issued under regulations approved pursuant to 40 CFR Part 51 Subpart I, as amended;

(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 July 1, 1979, pursuant to 40 CFR § 52.21, as amended, or under regulations approved pursuant to 40 CFR Part 51 Subpart I, as amended, or 40 CFR § 51.166, as amended; or

(7) Any change in ownership of an air pollution emission source.

(f) "Major NAA source" means, with respect to air pollution emission sources located in nonattainment areas:

(1) Any air pollution emission sources which emits, or has the potential to emit, one hundred (100) tons per year or more of any pollutant subject to regulation approved pursuant to the Clean Air Act or these Standards and Regulations;

(2) Any physical change that would occur at an air pollution emission source not otherwise qualifying under this definition as a major NAA source, if the changes would constitute a major NAA source by itself. A major NAA source that is major for volatile organic compounds shall be considered major for ozone. The fugitive emissions of an air pollution emission source shall not be included in determining whether the source is a major NAA source, unless the source belongs to one of the following categories of air pollution emission sources:

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

(B) Kraft pulp mills;

(C) Portland cement plants;

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- (D) Primary zinc smelters;
- (E) Iron and steel mills;
- (F) Primary aluminum ore reduction plants;
- (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (I) Hydrofluoric, sulfuric, or nitric acid plants;
- (J) Petroleum refineries;
- (K) Lime plants;
- (L) Phosphate rock processing plants;
- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants;
- (U) Fossil fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input;
- (V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (W) Taconite ore processing plants;
- (X) Glass fiber processing plants;
- (Y) Charcoal production plants;
- (Z) Fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input; or

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(AA) Any other air pollution emission source category which, as of August 7, 1980, is being regulated pursuant to §§ 111 or 112 of the Clean Air Act.

(g) "Major PSD modification" means any physical change in or change in the method of operation of a major PSD source that would result in a significant net emissions increase of any pollutant subject to regulations approved pursuant to the Clean Air Act or these Standards and Regulations. Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. 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 an order pursuant to §§ 2(a) and 2(b) of the Federal 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 regulation pursuant to § 125 of the Clean Air 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 an air pollution emission source which:

(A) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited pursuant to any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR § 52.21, as amended, or to regulations approved pursuant to 40 CFR Part 51 Subpart I, as amended, or 40 CFR § 51.166, as amended; or

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(B) The source is approved to use under any permit issued pursuant to 40 CFR § 52.21, as amended, or regulations approved pursuant to 40 CFR § 51.166, as amended;

(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, as amended, or regulations approved pursuant to 40 CFR Part 51 Subpart I, as amended, or 40 CFR § 51.166, as amended; or

(7) Any change in ownership of an air pollution emission source.

(h) "Major PSD source" means, (a) with respect to air pollution emission sources which are not located in nonattainment areas:

(1) Any of the following air pollution emission sources which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation approved pursuant to the Clean Air Act or these Standards and Regulations:

(A) Fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input;

(B) Coal Cleaning plants (with thermal dryers);

(C) Kraft pulp mills;

(D) Portland cement plants;

(E) Primary zinc smelters;

(F) Iron and steel mills;

(G) Primary aluminum ore reduction plants;

(H) Primary copper smelters;

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(I) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(J) Hydrofluoric, sulfuric, and nitric acid plants;

(K) Petroleum refineries;

(L) Lime plants;

(M) Phosphate rock processing plants;

(N) Coke oven batteries;

(O) Sulfur recovery plants;

(P) Carbon black plants (furnace process);

(Q) Primary lead smelters;

(R) Fuel conversion plants;

(S) Sintering plants;

(T) Secondary metal production plants;

(U) Chemical process plants;

(V) Fossil fuel boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input;

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

(X) Taconite ore processing plants;

(Y) Glass fiber processing plants; and

(Z) Charcoal production plants;

(2) Notwithstanding the air pollution emission source size specified in (1) of this definition, any air pollution emission source which emits, or has the potential to emit 250 tons per year or more of any air pollutant subject to regulation approved pursuant to the Clean Air Act or these Standards and Regulations; or

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(3) Any physical change that would occur at an air pollution emission source not otherwise qualifying under this definition as a major PSD source, if the changes would constitute a major PSD source by itself.

(i) A major PSD source that is major for volatile organic compounds shall be considered major for ozone.

(j) The fugitive emissions of an air pollution emission source shall not be included in determining whether the source is a major PSD source, unless the source belongs to one of the following categories of air pollution emission sources:

- (1) Coal cleaning plants (with thermal dryers);
- (2) Kraft pulp mills;
- (3) Portland cement plants;
- (4) Primary zinc smelters;
- (5) Iron and steel mills;
- (6) Primary aluminum ore reduction plants;
- (7) Primary copper smelters;
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) Hydrofluoric, sulfuric, or nitric acid plants;
- (10) Petroleum refineries;
- (11) Lime plants;
- (12) Phosphate rock processing plants;
- (13) Coke oven batteries;
- (14) Sulfur recovery plants;
- (15) Carbon black plants (furnace process);
- (16) Primary lead smelters;
- (17) Fuel conversion plants;

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(18) Sintering plants;

(19) Secondary metal production plants;

(20) Chemical process plants;

(21) Fossil fuel boilers (or combination thereof) totaling more than 250 BTU per hour heat input;

(22) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand (300,000) barrels;

(23) Taconite ore processing plants;

(24) Glass fiber processing plants;

(25) Charcoal production plants;

(26) Fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input; and

(27) Any other air pollution emission source category which, as of August 7, 1980, is being regulated pursuant to §§ 111 or 112 of the Clean Air Act.

(k) "NAA" means nonattainment area.

(l) "NAA pollutant" means the pollutant for which a national ambient air quality standard or a Guam ambient air quality standard is exceeded.

(m) "NAA source" means any major NAA source or major NAA modification.

(n) "Net emissions increase" means

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

(A) Any increase in actual emissions from a particular physical change or change in method of operation at an air pollution emission source; and

(B) Any other increases and decreases in actual emissions at the source that are

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contemporaneous with the particular change and are otherwise creditable.

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(A) The date five (5) years before construction of the particular change commences; and

(B) The date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if the Administrator has not relied on it in issuing a permit for the source pursuant to these Standards and Regulations, 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. 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 federally enforceable at and after the time that actual construction on the particular change begins; and

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

(5) 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

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requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.

(o) "Nonattainment Area" means an area designated in 40 CFR Part 81, as amended, as exceeding a NAAQS, or an area in which the Guam ambient air quality standards are exceeded.

(p) "PSD Source" means any major PSD source or major PSD modification.

(q) "Reasonable further Progress" shall mean the annual emission increment reduction of the applicable air pollutant which is sufficient in the judgment of the Administrator for attainment of the applicable air quality standards by the date required under § 172 of the Clean Air Act. Reasonable further progress is based upon the actual emissions of sources located within the designated non-attainment area and shall be deemed to have occurred when the construction of a NAA source together with the offset will result in a net air quality benefit.

2023 NOTE: Subitem designations modified to adhere to the Compiler's general codification scheme pursuant to authority granted by 1 GCA § 1606.

2011 COMPILER NOTE: Subsections (l)(a) through (e) renumbered subsections (l)(1) through (5) to maintain numbering scheme of the GARR.

§ 1502. Source Applicability.

(a) The preconstruction review requirements of this Section are additional requirements for considering an application for an air pollution control permit required by Article 4.

(b) No air pollution emission source or modification to which the requirements of this Section apply shall begin actual construction without an air pollution control permit which states that the air pollution emission source or modification would meet the requirements of this Section.

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(c) The requirements of § 1503 shall apply to any PSD source with respect to each pollutant that it would emit that is subject to regulation pursuant to the Clean Air Act.

(d) The requirements of §§ 1504 and 1505 shall apply to any NAA source with respect to each pollutant that it would emit that is subject to regulation pursuant to the Clean Air Act.

(e) The requirements of § 1506 shall apply to any air pollution emission source that emits an NAA pollutant in a nonattainment area and is not a NAA source.

§ 1503. PSD Review.

(a) The provisions of 40 CFR Part § 52.21 (b) through (w), as amended, are hereby incorporated into these Standards and Regulations, unless designated otherwise in this Section, to ensure the prevention of significant deterioration of air quality in areas not designated as non-attainment areas.

(b) At such times that GEPA is delegated the authority to conduct source reviews pursuant to 40 CFR § 52.21 (u), as amended, all applicable PSD sources will apply to GEPA to ensure compliance with the source review requirements of 40 CFR § 52.21 (i) through (r), as amended.

(c) At such times that GEPA is not delegated the authority to conduct source reviews pursuant to 40 CFR § 52.21 (u), as amended, all applicable PSD sources shall apply to USEPA in accordance with the provisions of 40 CFR § 52.21 (i) through (r), as amended. A copy of the application shall be sent concurrently to GEPA. In addition, sources are also required to obtain a permit in accordance to Article 4.

§ 1504. NAA Review.

(a) Except as provided in Subsections (c) through (e), no air pollution control permit shall be issued to an owner or operator proposing to construct a NAA source unless:

(1) The NAA source will meet an emission limitation which is the lowest achievable emission rate for that source and that NAA pollutant;

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(2) The owner or operator of the NAA source certifies that all existing major sources owned or operated by that person in Guam are in compliance with all terms and conditions contained in air pollution control permits of each of the sources;

(3) The owner or operator demonstrates that emission reductions for the NAA pollutant from the existing sources in the allowable offset area of the NAA source (whether or not under the same ownership) meet the requirements in § 1505;

(4) The owner or operator demonstrates that emissions will not cause concentrations of the NAA pollutant to exceed the applicable increase over the baseline concentration as defined and established for any attainment area;

(5) There are no federal or GEPA rules that would otherwise prohibit construction of the NAA source in nonattainment area.

(b) Except as provided in Subsection (e), no air pollution control permit shall be issued to an owner or operator proposing to construct a NAA source when the NAA pollutant is a volatile organic compound or carbon monoxide (or both) unless:

(1) The owner or operator performs an analysis of alternative sites, sizes, production processes and environmental control techniques for such NAA source; and

(2) The Administrator determines that the analysis demonstrates that the benefits of the NAA source outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(c) The requirements of Subsection (a)(3) shall not apply to emissions of a NAA pollutant if the owner or operator can demonstrate that the emissions from the NAA source are temporary in nature, including but not limited to, those from a pilot plant, a portable facility, or construction, and notice is given to the Administrator at least ten (10) working days prior to relocation of such NAA source identifying the proposed new

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location and the probable duration of such operation at such location.

(d) New resource recovery projects burning municipal solid waste and sources compelled to undergo a major NAA modification by Federal law shall be exempt from the requirements of Subsection (a)(3), if such source demonstrates that:

(1) The owner or operator made the best efforts to meet the requirements of Subsection (a)(3), and such efforts were unsuccessful;

(2) All available emission offsets have been or will be secured; and

(3) The owner or operator will continue to seek offsets and apply them when they become available.

(e) The Administrator, at his sole discretion, may exempt an NAA source from some or all of the requirements of Subsections (a) and (b), if there are no federal prohibitions from such action or USEPA has issued a waiver from all federal requirements that would otherwise prohibit such action. In such cases the Administrator may determine if the requirements of § 1503 should be used in place of the requirements of this Section.

§ 1505. NAA Offset Standards.

(a) Increased emissions from a NAA source subject to this Section must be offset by the reductions in the emissions of each NAA pollutant for which the air pollution emission source is classified as a major NAA source. Such offset may be obtained by reductions in emissions from the NAA source or from any other air pollution emission source or mobile source in the allowable offset area. The offsets must be in effect and legally enforceable by the time the NAA source commences operation.

(b) An offset will not be sufficient unless total emissions for the NAA pollutant in the allowable offset area after the NAA source commences operation will be less than the baseline of the total emission for the NAA pollutant and such reductions are sufficient to satisfy the Administrator that emissions from the

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NAA source together with the offset will result in reasonable further progress for the NAA pollutant in the allowable offset area.

(c) Only emission offsets for the same NAA pollutant will be allowed.

(d) The emission offsets must be effective for the useful life of the NAA source.

(e) For the purposes of this Section, "net air quality benefit" shall mean that during similar time periods:

(1) A reduction in the number of violations of the applicable ambient air standard within the allowable offset areas has occurred, or

(2) The average of ambient concentrations within the allowable offset area following implementation of the offsets will be less than the average of the ambient concentration within the allowable offset area without the offsets.

(f) For an existing fuel combustion source, offset credit shall be based on the allowable emissions in accordance with these Standards and Regulations for the type of fuel being burned at the time the air pollution control permit is filed. Reduced emissions from an existing source caused by a change to a cleaner fuel may be used to offset emissions from the NAA source provided the fuel change will occur prior to commencement of operation of the NAA source. The air pollution control permit shall require the installation and use of an alternative control measure which will achieve the same degree of emission reduction should the source switch back to a less clean fuel at some later date. In the event a source can demonstrate that it has secured an adequate long-term supply of the new cleaner fuel, an air pollution control permit pursuant to Article 4 shall not require the installation and use of an alternative control measure.

(g) Offsets shall be made on either a pounds per hour, pounds per day, or tons per year basis, whichever is applicable, when all facilities involved in the emission offset calculations are operating at maximum expected or allowed production rate, except as

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otherwise provided in Section (f), utilizing the type of fuel burned at the time the air pollution control permit application is filed.

(h) Offsets that exceed the requirements for reasonable further progress toward attainment may be "banked" (saved to provide offsets for a source seeking a permit in the future). An existing source that reduces its own emissions may bank resulting reductions beyond those required by this Section, even if more of the offsets are applied immediately to an air pollution control permit. Written verification is necessary for the existing source to claim credit for the banked reductions.

(i) A NAA source may be credited with an emission offset (which may include banked emissions) by shutting down an existing source or permanently curtailing production or operating hours below actual baseline levels provided that the work force to be affected has been notified of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the air pollution control permit application is filed may generally not be used for offset credit unless the shutdown or curtailed production occurred after August 7, 1977, or less than one year prior to the date of application, whichever is earlier, and the proposed air pollution emission source is a replacement for the shutdown or curtailment.

(j) The allowable offset area shall refer to the geographical area where sources are located in which emissions are sought for purposes of offsetting emission from NAA sources. For the pollutants sulfur dioxide, particulate, and carbon monoxide, the allowable offset area shall be any area where national or Guam ambient air quality standards for these pollutants are violated and in which significant levels are exceeded due to emissions from such new major source or major modification. The allowable offset area shall be determined by atmospheric simulation modeling. If emission offsets are obtained from a source on the same premises or in the immediate vicinity of the new major source or major modification, and the pollutants are emitted from substantially the same effective stack height, atmospheric simulation modeling shall not be required. The allowable offset

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area for all other pollutants shall be non- attainment areas for those pollutants.

(k) An emissions reduction may only be used to offset emissions if the reduced level of emissions is federally enforceable and legally enforceable by the Administrator. It will be considered legally enforceable by the Administrator if it is included as a condition in the air pollution control permit issued to the air pollution control permit where emission reductions are used to offset emissions from the proposed NAA source, or in the case of reductions from sources controlled by the applicant, is included as a condition of the air pollution control permit, or is adopted as part of these Standards and Regulations.

(l) Credit for an emissions reduction can be claimed to the extent that it has not already been included as a condition in an air pollution control permit or in demonstrating attainment or reasonable further progress under this Section.

(m) An offset required by this Section may include reductions that result from Territorial or federal measures to reduce emissions from a source in existence in amount sufficient to offset emissions from a NAA source.

§ 1506. Other Nonattainment Area Air Pollution Emission Sources.

No air pollution control permit shall be issued to an owner or operator proposing to construct an air pollution emission source other than a NAA source that would emit a NAA pollutant in a nonattainment area unless:

(a) There are no federal or GEPA rules that would otherwise prohibit construction of the air pollution emission source in a nonattainment area, and

(b) The Administrator is satisfied that emissions from the air pollution emission source will not impede reasonable further progress toward attainment of the applicable air quality standards by the date required under § 172 of the Clean Air Act.

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2011 COMPILER NOTE: Subsections (1) through (2) renumbered subsections (a) through (b), respectively, to maintain numbering scheme of the GAR.

ARTICLE 6
STANDARDS OF PERFORMANCE FOR AIR POLLUTION
EMISSION SOURCES

2011 COMPILER NOTE: Promulgated as §§ 1106-1106.2 which Compiler designated as Article 6 to harmoniously fit this chapter and renumbered to maintain the codification scheme of the GAR.

- § 1601. Source Applicability.
- § 1602. New Source Performance Standards.

§ 1601. Source Applicability.

(a) The standards of performance requirements of this Section are additional requirements for considering an application for an air pollution control permit required by Article 4.

(b) No air pollution emission source or modification to which the requirements of this Section apply shall begin or continue construction, reconstruction, modification, relocation, or operation without an air pollution control permit which states that the air pollution emission source or modification would meet the requirements of this Section.

§ 1602. New Source Performance Standards.

(a) Each owner or operator of an air pollution emission source shall comply with all applicable requirements of 40 CFR Part 60, as amended, entitled "Standards of Performance for New Stationary Sources", and is incorporated herein by reference, unless clearly designated otherwise.

(b) At such times that USEPA requires owners and operators of solid waste incinerators subject to the permitting requirements of § 129(e) of the Clean Air Act to apply for and obtain federal operating permits under the provisions of 40 CFR Part 71, as amended, a copy of the federal permit application shall be sent

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concurrently to GEPA. In addition, sources are also required to obtain an air pollution control permit in accordance to Article 4.

ARTICLE 7
HAZARDOUS AIR POLLUTANT SOURCES

2011 COMPILER NOTE: Promulgated as §§ 1107-1107.3 which Compiler designated as Article 7 to harmoniously fit this chapter and renumbered to maintain the codification scheme of the GAR.

- § 1701. Definitions.
- § 1702. List of Hazardous Air Pollutants.
- § 1703. Applicability.

§ 1701. Definitions.

As used in this Section:

(a) "Area source" means any air pollution emission source of hazardous air pollutants that is not a major source but shall not include motor vehicles or nonroad vehicles subject to regulation approved pursuant to Title II of the Clean Air Act.

(b) "CAS" means Chemical Abstract Service.

(c) "Category" means any category of major sources and area sources of hazardous air pollutants listed pursuant to § 112(c) of the Clean Air Act.

(d) "Major source" means an air pollution emission source, or a group of air pollution emission sources that are located on one or more contiguous properties or adjacent properties, and are under common control of the same person or command or persons under common control, belonging to a single major industrial grouping (i.e., all have the same two-digit Standard Industrial Classification Code) and that emits or has the potential to emit, considering controls any hazardous air pollutant, except radionuclides, in the aggregate of ten (10) tons per year or more including fugitive emissions, or twenty-five (25) tons per year or more of any

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combination including fugitive emissions. For radionuclides, major source shall have the meaning specified by the USEPA Administrator by rule.

(e) "Modification" means any physical change in, or change in the method of operation of, a major source of hazardous air pollutants, which results in an increase of actual emissions of any hazardous air pollutant, or the emission of any hazardous air pollutant not previously emitted; except that upon promulgation of any standard or other requirements pursuant to § 112(g) of the Clean Air Act that establishes a de minimis amount, "modification" applies only to:

(1) An increase of actual emissions of any hazardous air pollutant by more than the de minimis amount; or

(2) The emission of any hazardous air pollutant not previously emitted by more than the de minimis amount.

§ 1702. List of Hazardous Air Pollutants.

The following are hazardous air pollutants:

	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(a)	75070	Acetaldehyde
(b)	60355	Acetamide
(c)	75058	Acetonitrile
(d)	98862	Acetophenone
(e)	53963	2-Acetylaminofluorene
(f)	107028	Acrolein
(g)	79061	Acrylamide
(h)	79107	Acrylic acid
(i)	107131	Acrylonitrile

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(j)	107051	Allyl chloride
(k)	92671	4-Aminobiphenyl
(l)	62533	Aniline
(m)	90040	o-Anisidine
(n)	1332214	Asbestos
(o)	71432	Benzene (including benzene from gasoline)
(p)	92875	Benzidine
(q)	98077	Benzotrichloride
(r)	100447	Benzyl chloride
(s)	92524	Biphenyl
(t)	117817	Bis(2-ethylhexyl) phthalate (DEHP)
(u)	542881	Bis(chloromethyl)ether
(v)	75252	Bromoform
(w)	106990	1,3-Butadiene
(x)	156627	Calcium cyanamide
(y)	133062	Captan
(z)	63252	Carbaryl
(aa)	75150	Carbon disulfide
(bb)	56235	Carbon tetrachloride
(cc)	463581	Carbonyl sulfide
(dd)	120809	Catechol
(ee)	133904	Chloramben
(ff)	57749	Chlordane

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(gg)	7782505	Chlorine
(hh)	79118	Chloroacetic acid
(ii)	532274	2-Chloroacetophenone
(jj)	108907	Chlorobenzene
(kk)	510156	Chlorobenzilate
(ll)	67663	Chloroform
(mm)	107302	Chloromethyl methyl ether
(nn)	126998	Chloroprene
(oo)	1319773	Cresols/Cresylic acid (isomers and mixture)
(pp)	95487	o-Cresol
(qq)	108394	m-Cresol
(rr)	106445	p-Cresol
(ss)	98828	Cumene
(tt)	94757	2,4-D (2,4- Dichlorophenoxyacetic acid, including salts and esters)
(uu)	72559	DDE (1,1-dichloro-2,2-bis(p- chlorophenyl) ethylene)
(vv)	334883	Diazomethane
(ww)	132649	Dibenzofuran
(xx)	96128	1,2-Dibromo-3-chloropropane
(yy)	84742	Dibutylphthalate
(zz)	106467	1,4-Dichlorobenzene
(aaa)	91941	3,3-Dichlorobenzidine

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(bbb)	111444	Dichloroethyl ether (Bis(2-chloroethyl)-ether)
(ccc)	542756	1,3-Dichloropropene
(ddd)	62737	Dichlorvos
(eee)	111422	Diethanolamine
(fff)	121697	N,N-Dimethylaniline
(ggg)	64675	Diethyl sulfate
(hhh)	119904	3,3'-Dimethoxybenzidine
(iii)	60117	Dimethyl aminoazobenzene
(jjj)	119937	3,3'-Dimethylbenzidine
(kkk)	79447	Dimethylcarbamoyl chloride
(lll)	68122	N,N-Dimethylformamide
(mmm)	57147	1,1-Dimethylhydrazine
(nnn)	131113	Dimethyl phthalate
(ooo)	77781	Dimethyl sulfate
(ppp)	0	4,6-Dinitro-o-cresol, and salts
(qqq)	51285	2,4-Dinitrophenol
(rrr)	121142	2,4-Dinitrotoluene
(sss)	123911	1,4-Dioxane (1,4-Diethyleneoxide)
(ttt)	122667	1,2-Diphenylhydrazine
(uuu)	106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
(vvv)	106887	1,2-Epoxybutane
(www)	140885	Ethyl acrylate

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(xxx)	100414	Ethylbenzene
(yyy)	51796	Ethyl carbamate (Urethane)
(zzz)	75003	Ethyl chloride (Chloroethane)
(aaaa)	106934	Ethylene dibromide (Dibromoethane)
(bbbb)	107062	Ethylene dichloride (1,2- Dichloroethane)
(cccc)	107211	Ethylene glycol
(dddd)	151564	Ethyleneimine (Aziridine)
(eeee)	75218	Ethylene oxide
(ffff)	96457	Ethylene thiourea
(gggg)	75343	Ethylidene dichloride (1,1- Dichloroethane)
(hhhh)	50000	Formaldehyde
(iiii)	76448	Heptachlor
(jjjj)	118741	Hexachlorobenzene
(kkkk)	87683	Hexachlorobutadiene
(llll)	58899	1,2,3,4,5,6- Hexachlorocyclohexane (all stereo isomers, including lindane)
(mmmm)	77474	Hexachlorocyclopentadiene
(nnnn)	67721	Hexachloroethane
(oooo)	822060	Hexamethylene-1,6-diisocyanate
(pppp)	680319	Hexamethylphosphoramide
(qqqq)	110543	Hexane
(rrrr)	302012	Hydrazine

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(ssss)	7647010	Hydrochloric acid (Hydrogen chloride) (gas only)
(tttt)	7664393	Hydrogen fluoride (Hydrofluoric acid)
(uuuu)	7783065	Hydrogen sulfide
(vvvv)	123319	Hydroquinone
(wwww)	78591	Isophorone
(xxxx)	108316	Maleic anhydride
(yyyy)	67561	Methanol
(zzzz)	72435	Methoxychlor
(aaaa)	74839	Methyl bromide (Bromomethane)
(bbbb)	74873	Methyl chloride (Chloromethane)
(cccc)	71556	Methyl chloroform (1,1,1-Trichloroethane)
(dddd)	78933	Methyl ethyl ketone (2-Butanone)
(eeee)	60344	Methylhydrazine
(ffff)	74884	Methyl iodide (Iodomethane)
(gggg)	108101	Methyl isobutyl ketone (Hexone)
(hhhh)	624839	Methyl isocyanate
(iiii)	80626	Methyl methacrylate
(jjjj)	1634044	Methyl tert-butyl ether
(kkkk)	101144	4,4'-Methylene bis(2-chloroaniline)
(llll)	75092	Methylene chloride (Dichloromethane)

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(mmmmm)	101688	4,4' Methylenediphenyl diisocyanate (MDI)
(nnnnn)	101779	4,4'-Methylenedianiline
(ooooo)	91203	Naphthalene
(ppppp)	98953	Nitrobenzene
(qqqqq)	92933	4-Nitrobiphenyl
(rrrrr)	100027	4-Nitrophenol
(sssss)	79469	2-Nitropropane
(ttttt)	684935	N-Nitroso-N-methylurea
(uuuuu)	62759	N-Nitrosodimethylamine
(vvvvv)	59892	N-Nitrosomorpholine
(wwwww)	56382	Parathion
(xxxxx)	82688	Pentachloronitrobenzene (Quintobenzene)
(yyyyy)	87865	Pentachlorophenol
(zzzzz)	108952	Phenol
(aaaaa)	106503	p-Phenylenediamine
(bbbbb)	75445	Phosgene
(ccccc)	7803512	Phosphine
(ddddd)	7723140	Phosphorus
(eeeeee)	85449	Phthalic anhydride
(ffffff)	1336363	Polychlorinated biphenyls (Aroclors)
(ggggg)	1120714	1,3-Propane sultone
(hhhhh)	57578	beta-Propiolactone

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(iiiiii)	123386	Propionaldehyde
(jjjjjj)	114261	Propoxur (Baygon)
(kkkkkk)	78875	Propylene dichloride (1,2-Dichloropropane)
(llllll)	75569	Propylene oxide
(mmmmmm)	75558	1,2-Propylenimine (2-Methyl aziridine)
(nnnnnn)	91225	Quinoline
(oooooo)	106514	Quinone
(pppppp)	100425	Styrene
(qqqqqq)	96093	Styrene oxide
(rrrrrr)	1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
(ssssss)	79345	1,1,2,2-Tetrachloroethane
(tttttt)	127184	Tetrachloroethylene
(uuuuuu)	7550450	(Perchloroethylene)
(vvvvvv)	108883	Titanium tetrachloride
(wwwwww)	95807	Toluene
(xxxxxx)	584849	2,4-Toluenediamine
(yyyyyy)	95534	2,4-Toluene diisocyanate
(zzzzzz)	8001352	o-Toluidine
(aaaaaa)	120821	Toxaphene (chlorinated camphene)
(bbbbbb)	79005	1,2,4-Trichlorobenzene
(cccccc)	79016	1,1,2-Trichloroethane

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	CAS	
	<u>Number</u>	<u>Chemical Name</u>
(ddddddd)	95954	Trichloroethylene
(eeeeeee)	88062	2,4,5-Trichlorophenol
(ffffff)	121448	2,4,6-Trichlorophenol
(ggggggg)	1582098	Triethylamine
(hhhhhhh)	540841	Trifluralin
(iiiiiii)	108054	2,2,4-Trimethylpentane
(jjjjjjj)	593602	Vinyl acetate
(kkkkkkk)	75014	Vinyl bromide
(lllllll)	75354	Vinyl chloride
(mmmmmm m)	1330207	Vinylidene chloride (1,1-Dichloroethylene)
(nnnnnnn)	95476	Xylenes (isomers and mixture)
(ooooooo)	108383	o-Xylene
(ppppppp)	106423	m-Xylene
(qqqqqqq)	0	p-Xylene
(rrrrrrr)	0	Antimony Compounds Arsenic Compounds (inorganic including Arsine)
(sssssss)	0	Beryllium Compounds
(ttttttt)	0	Cadmium Compounds
(uuuuuuu)	0	Chromium Compounds
(vvvvvvv)	0	Cobalt Compounds
(wwwwwww)	0	Coke Oven Emissions
(xxxxxxx)	0	Cyanide Compounds ¹

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	CAS	
	Number	Chemical Name
(yyyyyyy)	0	Glycol ethers ²
(zzzzzzz)	0	Lead Compounds
(aaaaaaa)	0	Manganese Compounds
(bbbbbbb)	0	Mercury Compounds
(ccccccc)	0	Fine mineral fibers ³
(ddddddd)	0	Nickel Compounds
(eeeeeee)	0	Polycyclic Organic Matter ⁴
(fffffff)	0	Radionuclides (including radon) Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies:

Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., Antimony, arsenic, etc.) as part of that chemical's infrastructure.

¹ X'CN where X = H' or any other group where a formal dissociation may occur. For example, KCN or Ca(CN)₂.

² Includes moni- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH₂CH₂)_n-OR' where: or

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure:

R-(OCH₂CH)_n-OH. Polymers are excluded from the glycol category.

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³ Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter one micrometer or less.

⁴ Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100° C.

⁵ A type of atom which spontaneously undergoes radioactive decay.

2011 COMPILER NOTE: Subsections (1) through (188) renumbered subsections (a) through (fffff), respectively, to maintain numbering scheme of the GAR.

§ 1703. Applicability.

(a) The provisions of this Section are applicable to any air pollution emission source which emits or has the potential to emit any hazardous air pollutant. No air pollution emission source or modification to which the requirements of this Section apply shall begin or continue construction, reconstruction, modification, relocation, or operation without an air pollution control permit which states that the air pollution emission source or modification would meet the requirements of this Section.

(b) Except as provided in Subsection (e), each owner or operator of an air pollution emission source shall comply with all applicable requirements of 40 CFR Part 61, as amended, entitled "National Emission Standards for Hazardous Air Pollutants," and is hereby incorporated by reference except as amended in Subsection (d).

(c) Each owner or operator of an air pollution emission source shall comply with all applicable requirements of 40 CFR Part 63, as amended, entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories." and is incorporated herein by reference.

(d) Word and phrase substitutions for 40 CFR Part 61, as amended:

"Administrator" means the Administrator of GEPA or an authorized agent, officer, or inspector, except in 40 CFR Part 61 §§ 150(a)(4), 152(b)(3), and 154(d), as amended.

"U.S. Environmental Protection Agency" means USEPA.

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(e) The national emission standard for asbestos, 40 CFR Part 61 Subpart M, as amended, is not included in the requirements of this Section. Asbestos requirements are specified in § 1313.

(f) At such times that USEPA requires owners and operators of major sources of hazardous air pollutants to apply for and obtain federal operating permits under the provisions of 40 CFR Part 71, as amended, a copy of the federal permit application shall be sent concurrently to GEPA. In addition, sources are also required to obtain an air pollution control permit in accordance to Article 4.

**APPENDIX A TO § 1410. TRANSITION PERIOD AND DEADLINES
TO SUBMIT FIRST APPLICATIONS.**

Permit Type:	Number of Months from the Effective Date of these Standards and Regulations
Major Sources/	6 months
PSD/NAA	10 months
NSPS Sources	10 months
NESHAP Sources	12 months
All others	

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

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

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

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- § 1801.3. Emission Calculation Requirements to Determine New Source Review (NSR) Applicability.
- § 1801.4. Major Sources with Plant-Wide Applicability Limitations.
- § 1801.5. Projects That Rely on a Projected Actual Emissions Test.
- § 1801.6. Secondary Emissions.
- § 1801.7. Stationary Sources.
- § 1801.8. Environmental Protection Agency Determination.
- § 1802. Definitions.
- § 1803. Application Requirements.
- § 1803.1. Application Submittal.
- § 1803.2. Application Content.
- § 1803.3. Lowest Achievable Emission Rate (LAER).
- § 1803.4. Certification of Compliance.
- § 1803.5. Analysis of Alternatives.
- § 1803.6. Application Fees.
- § 1804. Emissions Offsets.
- § 1804.1. Offset Requirements.
- § 1804.2. Timing.
- § 1804.3. Quantity.
- § 1804.4. Emission Reduction Requirements.
- § 1804.5. Restrictions on Trading Pollutants.
- § 1805. Administrative Requirements.
- § 1805.1. Ambient Air Quality Standards.
- § 1805.2. Air Quality Models.
- § 1805.3. Stack Height Procedures.
- § 1806. Nonattainment Major New Source Review (NSR) Permit-Decision.
- § 1806.1. Preliminary Decision.
- § 1806.2. Nonattainment Major New Source Review (NSR) Permit-Preliminary Decision Requirements.
- § 1806.3. Nonattainment Major New Source Review (NSR) Permit Contents.
- § 1806.4. Nonattainment Major New Source Review (NSR) Permit-Final Decision.
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- § 1807. Source Obligations.
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- § 1807.4. Relaxation in Enforceable Limitations.
- § 1808. Public Participation.
- § 1809. Plant-Wide Applicability Limits (PAL).
- § 1810. Invalidation.
- § 1811. Effective Date for Referenced Federal Regulations.

§ 1801. Applicability Procedures.

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

§ 1801.1. Preconstruction Review Requirements.

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

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

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

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

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

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

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

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

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

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

(1) Except as otherwise provided in § 1801.4, a project is a major modification for a nonattainment pollutant if it causes two (2) types of emissions increases: a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

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

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added or modified as part of the project, according to Subsections (3) through (5) of this Section. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source is contained in the definition of *net emissions increase*. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(3) Actual-to-Projected-Actual Applicability Test for Projects that Only Involve Existing Emissions Units. A significant emissions increase of a nonattainment pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.

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

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

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

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

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

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

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

(a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(1) a description of the project;

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

(3) a description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the *Projected Actual Emissions*, the amount of emissions excluded under paragraph (B)(3) of the definition of *projected actual emissions* [40 CFR 51.165(a)(xxviii)(A)], and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing emissions unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in Subsection

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(a) of this Section to the GEPA Administrator. The owner or operator shall be subject to the requirements of other GEPA rules and regulations and other applicable requirements.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that are emitted by any emissions unit identified in Subsection (a)(2) of this Section; and calculate and maintain a record of the annual emissions, in tons per year (tpy), on a calendar year basis as long as the emission unit is in operation and has not been decommissioned.

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

(e) If the emissions unit is an existing emissions unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the GEPA Administrator if the annual emissions, in tpy, from the project identified in Subsection (a)(2) of this Section exceed the baseline actual emissions by a significant amount for that regulated NSR pollutant, and if such emissions differ from the Projected Actual Emissions (prior to exclusion of the amount of emissions specified under paragraph (B)(3) of the definition of *Projected Actual Emissions* [40 CFR 51.165(a)(xxviii)(A)], as documented and maintained pursuant to Subsection (a)(3) of this Section. Such report shall be submitted to the GEPA Administrator within sixty (60) days after the end of such year. The report shall contain the following:

- (1) the name, address, and telephone number of the major stationary source;
- (2) the annual emissions, as calculated pursuant to Subsection (c) of this Section; and

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

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

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

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

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

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

§ 1801.6. Secondary Emissions.

Secondary emissions shall not be considered in determining whether a stationary source would qualify as a major stationary source. If a stationary source is subject to this rule on the basis of

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

§ 1801.7. Stationary Sources.

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

§ 1801.8. Environmental Protection Agency Determination.

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

§ 1802. Definitions.

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

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

(b) The following definitions shall also apply:

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

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belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel, unless the vessel is ported for electrical generation for on-shore use or consumption. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the federally-approved Guam SIP;

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

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

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

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

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

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

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

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§ 1803. Application Requirements.

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

§ 1803.1. Application Submittal.

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

§ 1803.2. Application Content.

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

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

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

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

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

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

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

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

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

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

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§ 1803.3. Lowest Achievable Emission Rate (LAER).

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

§ 1803.4. Certification of Compliance.

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

§ 1803.5. Analysis of Alternatives.

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

§ 1803.6. Application Fees.

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

§ 1804. Emissions Offsets.

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

§ 1804.1. Offset Requirements.

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

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

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

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

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

§ 1804.2. Timing.

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

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

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

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§ 1804.3. Quantity.

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

(a) The unit of measure for offsets, emission reductions, and internal emission reductions shall be tpy. All calculations and transactions shall use emission rate values rounded to the nearest one one-hundredth (0.01) tpy.

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

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

(1) When the offset requirement is triggered by the construction of a new major stationary source, the amount of increased emissions shall be the sum of the potential to emit of all emissions units.

(2) When the offset requirement is triggered by a major modification of an existing major stationary source, the amount of increased emissions shall be the sum of the differences between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

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

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

§ 1804.4. Emission Reduction Requirements.

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

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

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

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

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

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

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

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

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

§ 1804.5. Restrictions on Trading Pollutants.

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

§ 1805. Administrative Requirements.

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

§ 1805.1. Ambient Air Quality Standards.

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

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

§ 1805.2. Air Quality Models.

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

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

§ 1805.3. Stack Height Procedures.

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

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

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the demonstration study and provide opportunity for a public hearing.

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

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

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

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

§ 1806.1. Preliminary Decision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1806.5. Ongoing Permit Requirements.

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

§ 1806.6. Technology Clearinghouse.

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

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

§ 1807. Source Obligations.

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

§ 1807.1. Enforcement.

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

§ 1807.2. Termination.

Approval to construct shall terminate if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The GEPA Administrator may extend the eighteen (18)-month period upon a satisfactory showing of good cause why an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

§ 1807.3. Compliance.

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under Guam or federal law.

§ 1807.4. Relaxation in Enforceable Limitations.

At such time that a particular stationary source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the stationary source or modification to emit a

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

§ 1808. Public Participation.

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

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

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

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

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

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

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

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

§ 1810. Invalidation.

If any provision of this rule or the application of such provision to any person or circumstance is held invalid, the remainder of this rule or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

§ 1811. Effective Date for Referenced Federal Regulations.

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

