

CHAPTER 1
GUAM AIR POLLUTION CONTROL

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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. Subsequently, all powers were transferred to the Guam Environmental Protection Agency through 10 GCA Chapter 45.

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The original publication was made on February 15, 1975.

§1101. Definitions. (a) *Act* means the Clean Air Act, 42 U.S.C.A. and all subsequent amendments.

(b) *Actual Emissions* shall mean the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(1) The 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 a particular date and is representative of normal operation. The Administrator may allow the use of a different time period that is more representative of normal source operation. Actual emissions will be calculated using the unit's actual operating hours, production rates and types of materials combusted, processed, or stored during the selected period.

(2) The source-specific allowable emissions for the unit may be presumed to be equivalent to the actual emissions of the unit.

(3) 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.

(c) *Administrator* shall mean the Administrator of

the Guam Environmental Protection Agency or his designee.

(d) *Agency* shall mean the Guam Environmental Protection Agency or designated employee thereof.

(e) *Air Contaminant* shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

(f) *Air Pollution* shall mean the presence in the ambient air of one or more contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, property, or interferes with the enjoyment of life or property.

(g) *Allowable Emissions* shall mean the most stringent of the following:

(1) Emission limitations in the applicable State Implementation Plan, or

(2) The applicable new source performance standards, National Emissions Standards for hazardous air pollutants, or existing source performance standards, or

(3) The emission rate agreed to by the owner or operator, including those with a future compliance date. Allowable emissions shall be calculated at the source's maximum rated capacity, unless the source is subject to permit conditions which are enforceable by the Administrator and which are federally enforceable which limit rate of operation, hours of operation, or the type of amount of materials combusted or processed.

(h) *Ambient Air* means the outdoor air or atmosphere, external to buildings, stacks, or exterior ducts, which surrounds the earth.

(i) *Annual Average Capacity Factor* shall mean the rate of the average load on a machine or equipment for the period of one (1) year (8760 hours) to the capacity rating of the machine or equipment.

(j) *Applicant* shall mean owner or designated representative.

(k) *Attainment Area* means an area so designated by the Administrator of the United States Environmental Protection Agency acting pursuant to Section 107 of the Act as amended, as having ambient air pollutant concentration equal to or less than national primary or secondary air quality standards for a particular pollutant or pollutants.

(l) *Baseline Area* means, with respect to an area designated as attainment (or any part thereof), which a new major source or major modification would construct or would have an air quality impact equal to or greater than 1 microgram per cubic meter (annual average) of sulfur dioxide or particulate matter emissions at the time a complete application for a Permit to construct is filed pursuant to Section 3.4. Boundaries of baseline areas redesignated as attainment shall not intersect nor shall be smaller than the area of impact of any major source or major modification which has filed a complete application for a Permit to Construct.

(m) *Baseline Date* means the earliest date after August 7, 1977 that a new major source or major modification submits a complete application for a Permit to Construct pursuant to §1106. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(1) The area in which the proposed major source or major modification would construct is designated as attainment for the pollutant on the date of its complete application under §1106; and

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

(n) *Best Available Control Technology (BACT)* shall mean an emission limitation based on the maximum reduction of a pollutant subject to these Standards and

Regulations which the Administrator, on a case-by-case basis, taking into account energy, environmental and economic impact and other costs, determines is achievable for a source, facility or modification through application of production processes or available methods, systems, and techniques, including cleaning or treatment or innovative fuel combination techniques for control of such pollution. If, due to technological or economic limitations on the application of measurement methodology, no emission limit is feasible, the application of BACT can require compliance with design, equipment, work practice or operational standards or any combination thereof. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall not be affected in any manner by so much of the stack height of any source as exceeds allowable design criteria. The preceding sentence shall not apply with respect to stack heights in existence before the date of enactment of the Clean Air Act Amendments of 1970. For purposes of BACT allowable design criteria means the stack height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). Such height shall not exceed two and a half times the height of such source unless the owner of the source demonstrates, after Notice and opportunity for public hearing, to the satisfaction of the Administrator that a greater height is necessary for the reason(s) cited in the preceding sentence. In no event shall application of BACT result in emissions of any pollutant, which will exceed the emissions allowed by any applicable new source performance standard.

(o) *Board* shall mean the Board of the Guam Environmental Protection Agency.

(p) *Bond* means a contract between the Director and an importer or consignee whereby the importer or consignee places one-half the value of the motor vehicle or motor vehicle engine as guarantee to the

Director that the importer or consignee will comply with the provisions of the Act.

(q) *Buffer Zone* shall mean the area surrounding a stationary source, access to which is effectively prohibited to persons other than employees of the stationary source, on the date of adoption of these regulations. The boundaries and areas outside the buffer zone shall be used for ambient air quality sampling.

(r) *Certificate of Conformity* means the certification given by U.S. Environmental Protection Agency after review of test results that a vehicle complies with the Act and also covers those new motor vehicles which confirm in material and design specifications to the test model and application produced during that model year.

(s) *CFR* shall mean the Code of Federal Regulations.

(t) *Commence* means that an owner or operator has obtained all necessary preconstruction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of physical on-site construction of the source or facility, or

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

(u) *Complete* shall mean, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Administrator from requesting or accepting any additional information.

(v) *Complex Source* shall mean any stationary source, including buildings, structures, or facilities,

which affect air quality by indirect means, primarily by means of mobile source activity associated with them. For the purpose of these regulations *Complex Sources* shall be defined as, but not restricted to, the following:

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

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

(3) Drive-in facilities;

(4) Commercial buildings with over one hundred thousand (100,000) square feet of gross lease area;

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

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

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

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

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

(10) Planned Development Districts.

(w) *Construction* means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature or any physical change which would result in a change in actual emissions. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, construction of

permanent storage facilities, fabrication, erection, installation, demolition, or modification of an emissions unit. Construction shall also include any change in the method of operation of non-site activities which would result in a change in actual emissions, other than preparatory activities which mark the initiation of the change.

(x) *Criteria Pollutants* shall mean those regulated pollutants which include the following:

- (1) Sulfur dioxide
- (2) Total suspended particulates
- (3) Carbon monoxide
- (4) Nitrogen oxides
- (5) Ozone (volatile organic compounds)
- (6) Lead

(y) *Director* shall mean the Director of Commerce or his designee.

(z) *Emissions Unit* means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under these Standards and Regulations.

(aa) *Excess Emission* shall mean an emission rate which exceeds any applicable emission limitation prescribed by Chapters 2, 3, 7, 9, 10, 11, and 13 of these Standards and Regulations.

(bb) *Existing Source* shall mean those point and complex sources which emit air contaminants from equipment, machines, devices, articles, contrivances or facilities which are in existence on the effective date of these Standards and Regulations; except any point and complex source or their existing equipment, machines, devices, articles, contrivances or facilities which are modified after the effective date of these Standards and Regulations.

(cc) *Facility* shall mean an identifiable piece of process equipment and all associated equipment.

(dd) *Federal Land Manager* means with respect to any lands in the Territory of Guam, the Secretary of the Federal department with authority over such lands.

(ee) *Federally Enforceable* shall mean all limitations and conditions which are enforceable by the Administrator of the U.S. Environmental Protection Agency, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to these Standards Regulations, 40 CFR 51.18, or 51.24.

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

(gg) *Fugitive Dust* shall mean air-borne particulate matter emitted from any source other than a flue or stack.

(hh) *Fugitive Emissions* shall mean those emissions which could not reasonably be vented to the atmosphere through a stack or other functionally equivalent opening.

(ii) *Garbage* shall mean animal and vegetable matter such as that originating in homes, restaurants, and food service and processing establishments.

(jj) *Heavy Duty Vehicle* means any motor vehicle designed primarily for transportation of property and rated at more than 6000 pounds gross vehicle weight or design primarily for transportation of persons and having a capacity of more than 12 persons.

(kk) *Label* means a plastic or metal label welded, riveted, or otherwise permanently attached by the manufacturer in a readily visible position in the engine

compartment stating in the English language "This Vehicle Conforms to U.S.E.P.A. Regulations Applicable to 1974 Model Year New Motor Vehicle."

(ll) *Light Duty Motor Vehicle* means any motor vehicle primarily for transportation of property and rated at less than 6000 pounds gross vehicle weight or designed primarily for transportation of persons and having a capacity of less than 12 persons.

(mm) *Lowest Achievable Emission Rate (LAER)* shall mean an emission limitation based on the maximum reduction of a pollutant subject to these Standards and Regulations which the Administrator, consistent with the requirements of the Guam Air Pollution Control Act as amended, determines is achievable for a major source, or major modification. If, due to technological or economic limitations on the application of measurement methodology, no emission limit is feasible, the application of LAER can require compliance with design, equipment work practice or operational standards or any combination thereof. Permits issued without an enforceable numerical emission standard shall contain conditions which assure that the design characteristics or equipment will be properly maintained, so as to achieve the assumed degree of control. In no event shall application of LAER result in emissions of any pollutant from a proposed new or modified stationary source which will exceed the emissions allowed by the most stringent of the following:

(1) New source performance standards, or

(2) The most stringent emissions limitation contained in a State Implementation Plan adopted pursuant to Section 110 of the Clean Air Act for such class or category of sources, unless such limitation is demonstrated to be unachievable, or

(3) The most stringent emission limitation achieved in practice by such class or category of source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source.

For purposes of this definition sources shall be considered to be in the same class or category if it is feasible to transfer the pollution-control technology required to achieve a particular emission limitation from one type of source to another.

(nn) *Major Modification* shall mean any physical change in, or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(1) A modification will not be considered major or significant if quantifiable fugitive emissions must be included in calculations to reach amounts which are significant, regardless of the geographical location of the modification and regardless of the geographical area affected by the modification's emissions, except for modifications to the following sources:

- (A) Fossil-fueled steam electric plants of more than 250 million British Thermal Units 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 mill plants;
- (G) Primary aluminum ore reduction plants;
- (H) Primary copper smelters;
- (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) totalling more than 250 million British thermal units per hour heat input;

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

(X) Tacenite ore processing plants;

(Y) Glass fiber processing plants;

(Z) Charcoal production plants; and

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

(2) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(3) The following shall not be considered a physical change or a change in method of operation, unless previously limited by enforceable permit conditions:

(A) Routine maintenance, repair and replacement;

(B) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976;

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

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

(E) Use of an alternative fuel or raw material, if prior to January 6, 1976 the service or facility was capable of accommodating such fuel or material, subject to Federal permit conditions established after December 21, 1976;

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

(G) Change in ownership of the affected stationary source or facility.

(oo) *Major Source* means a source which emits or has the potential to emit 100 or 250 tons per year or more of any pollutant regulated under the Act including fugitive emissions unless otherwise specified.

(1) The one hundred (100) tons per year or more limitation for any particular pollutant shall be applicable regardless of geographical location of the source and regardless of the geographical area affected by the source's emissions of the pollutant, to those sources listed in (nn)(1)(A) through (AA).

(2) The one hundred (100) tons per year or more limitation for any particular pollutant shall be applicable to sources locating in nonattainment areas and to sources impacting nonattainment areas except for sources not listed in (nn)(1)(A) through (AA), fugitive emissions need not be included.

(3) The two hundred and fifty (250) ton per year or more limitation for any such pollutant shall be applicable to sources under all conditions not enumerated in Paragraph (1) above located in attainment areas.

(4) A source which emits or has the potential to emit five (5) tons or more of lead per year shall be considered to be a major source under this definition. The five (5) ton or more limitation for lead shall be applicable regardless of geographical area affected by the source's emissions of the pollutant.

(5) The one hundred (100) tons per year or more limitation for any particular pollutant shall be applicable to any physical changes that would occur at a source not otherwise qualifying under Paragraph (1), (2) or (3) as a major source if the change would constitute a 100 tons per year major source by itself.

(6) A major source that is major for volatile organic compounds shall be considered for zone.

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

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

(rr) *Model Year* means the manufacturer's annual production period which include January 1 of such calendar year provided, that if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(ss) *Modification* shall mean any physical change in, or change in method of operation of a source that would result in emissions increase of any pollutant or would result in the emission of any air pollutant not previously emitted, including the installation, alteration or deletion of air pollution control devices, except that the following shall not be considered a physical change or a change in method of operation.

(1) Routine maintenance, repair, and replacement;

(2) Change in ownership of the affected stationary source or facility.

(tt) *Motor Vehicle* means a self propelled vehicle capable of transporting a person or persons of any material or any permanently or temporarily affixed apparatus.

(uu) *Motor Vehicle Engine* means petroleum

powered engines to provide power to motor vehicles.

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

(ww) *Net Emissions Increase* shall mean the amount by which the sum of any increase in actual emissions from a physical change or change in operation and any other increases or decreases in actual emissions at the source that are contemporaneous with the major modification are otherwise creditable.

(1) An increase or decrease in actual emissions is contemporaneous with the increase from the major modification only if it occurs within five (5) years before the date that the increase from the particular change occurs.

(2) An increase or decrease in actual emissions is creditable only if it has not been included as a condition under an operating permit for the source under applicable regulations, which the permit is in effect when the increase in actual emissions occurs.

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

(4) A decrease in actual emissions from a stationary source 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 has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the change; and

(C) It is enforceable by the Agency and federally enforceable at and after the time that actual construction on the particular change begins.

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

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

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

(zz) *New Source* shall mean those point and complex sources including their equipment, machines, devices, articles, contrivances, or facilities built or installed or for which a binding agreement to construct or modify is entered into after the date on which these amended Standards and Regulations are promulgated and any point or complex source moved to another premise involving a change of address, or which is purchased and is to be operated by a new owner, or which is to be operated by a new lessee after the effective date of these regulations.

(aaa) *Non Chassis Mounted Engine* shall mean any motor vehicle engine not manufactured for the purpose of mounting on a motor vehicle chassis.

(bbb) *Non-Criteria Pollutants* shall mean those regulated pollutants under the Act which include the following:

(1) Asbestos

(2) Beryllium

- (3) Mercury
- (4) Vinyl chloride
- (5) Fluorides
- (6) Sulfuric acid mist
- (7) Total reduced sulfur (including H₂S)
- (8) Reduced sulfur compounds (including H₂S)
- (9) Hydrogen sulfide.

(ccc) *Nuisance* shall mean anything which is dangerous to life, injurious to health, or renders soil, air, water or food impure or unwholesome.

(ddd) *Odor* shall mean those qualities of matter which make it perceptible to the olfactory senses of man.

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

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

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

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

(iii) *Permit to Construct* shall mean those pre-construction permits or approvals required under Federal Air Quality Control Laws and these Standards and Regulations.

(jjj) *Person* means any natural person, partnership or unincorporated association of natural persons, trusts, corporations or other types of private legal entities and public entities including the United States of America and the Government of Guam and any agency thereof.

(kkk) *Point Source* shall mean any source which emits air contaminants through a stack of chimney or from processing, handling, or storage of materials.

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

(mmm) *Process Industries* shall mean industries which involve physical and chemical changes of the material as it passes through the different process units or operation stages, as a result of which air contaminants may be emitted to the atmosphere. Process industries include but are not limited to rock processing industries, feed mills, petroleum refining, Portland cement plants, concrete batching plant, asphaltic concrete batching plants, and concrete block plants.

(nnn) *Refuse* shall mean any combustible waste material, trade waste, or garbage containing carbon in a free or combined state.

(ooo) *Ringelmann Chart* shall mean the chart, published and described in the U.S. Bureau of Mines

information Circular 8333.

(ppp) *Road* shall mean any public or private access or easement used for motor vehicle travel.

(qqq) *Seal* shall mean to protect a surface so that it is secure from erosion.

(rrr) *Secondary Emissions* shall mean these emissions which occur as a result of construction or operation of a major source or major modification, but are not emitted by the major source or major modification. Secondary emissions must be specific, well defined, quantifiable, and impact the same general areas the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(1) Emissions from ships coming to the new or modified stationary source; and

(2) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of construction or operation of a major source of major modification.

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

(ttt) *Significant or Significance* means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates in:

(1) Non-attainment areas:

Pollutant and Emissions Rate	
Carbon monoxide:	100 tons per year (TPY)
Nitrogen oxides:	40 TPY
Sulfur dioxide:	40 TPY
Particulate matter:	25 TPY
Ozone:	40 TPY of volatile Organic compounds
Lead:	0.6 TPY

(2) Attainment area:

Pollutant and Emissions Rate

Carbon monoxide:	100 tons per year (TPY)
Nitrogen oxides:	40 TPY
Sulfur dioxide:	40 TPY
Particulate matter:	25 TPY
Ozone:	40 TPY of volatile organic compounds
Lead:	0.6 TPY
Asbestos:	0.007 PTY
Beryllium:	0.0004 TPY
Mercury:	0.1 TPY
Vinyl Chloride:	1 TPY
Fluorides:	3 TPY
Sulfuric acid mist:	7 TPY
Total reduced sulfur (including H ₂ S):	10 TPY
Hydrogen sulfide:	10 TPY

(3) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a pollutant in an attainment area, subject to regulation under the Act that Paragraph (b) does not list the emission rate.

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

(vvv) *Source* shall mean all pollutant emitting activities of any building, structure, device or other article (or combination thereof) which belong to the same industrial grouping and are located on one or more contiguous or adjacent properties, and which is owned or operated by the same person (or by persons under common control). 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.

(www) *Stack or Chimney* shall mean any flue, conduit, or duct arranged to conduct emissions.

(xxx) *Standards and Regulations* shall mean the Guam Air Pollution Control Standards and Regulations or applicable Federal Standards and Regulations.

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

(zzz) *Stationary Source* shall mean any building, structure, or facility which emits or may emit any air pollutant subject to regulation under the Act. A stationary source may contain one or more facilities.

(aaaa) *Unclassified Area* shall mean an area which the Administrator of the United States Environmental Protection Agency, because of a lack of adequate data, is unable to classify as an attainment or non-attainment area for a specific pollutant. For the purposes of this Chapter, unclassified areas are to be treated as attainment areas.

§1102 Ambient Air Quality Standards. (a) The following air quality standards are the desirable levels of ambient air quality for the Territory of Guam. Based on present knowledge, these levels are not expected to produce health hazards or impairment, injury to agricultural crops and livestock, damage to or deterioration of property, and hazards to air and ground transportation, or in any manner, interfere with the protection of the public welfare.

(b) Ambient Air Quality Standards*

Pollutant	Level Not To Exceed	****Remarks
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Sulfur Oxides	60 micrograms/mn (0.02 ppm)	a		
	**24.35 micrograms/mn (0.12 ppm)	b		
	1,300 micrograms/mn (0.5 ppm)	e		
	650 micrograms/mn (0.25 ppm)	g		
Particulate Matter			6	0
micrograms/mn		c		
	150 micrograms/mn	b		
	***24.30 micrograms/mn	d		
Carbon Monoxide			1	0
milligrams/mn (9 ppm)		d		
	40 milligrams/mn (35 ppm)	e		
Photochemical				
Oxidants	160 micrograms/mn (0.08 ppm)	e		
Hydrocarbons			1	6
micrograms/mn (0.24 ppm)		f		0
Nitrogen Oxides			1	6
micrograms/mn (0.05 ppm)		a		0

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

**National Primary Standard

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

****REMARKS

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

(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 (1,013.2 millibar).

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

(e) Attainment Areas; Classification and Standards.

(1) Designation and classification of attainment areas.

(A) All attainment areas or parts thereof shall be classified as either Class I, Class II or Class III.

(B) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size may be designated as Class I or Class II.

(C) All other areas shall be Class II areas unless redesignated under Paragraphs (D) or (E).

(D) The Board may redesignate areas that are Class I or Class II, provided that:

(i) At least one public hearing is held in or near the area affected;

(ii) Federal Land Managers, where land may be affected by the proposed redesignation are notified at least thirty (30) days prior to the public hearing;

(iii) A discussion of the reasons for the proposed redesignation including a description and analysis of health, environmental, economic, social and energy effects of the proposed redesignation is prepared by the Administrator or his designee and is available for public inspection at least thirty (30) days prior to the hearing and Notice announcing the hearing contains appropriate notification of the availability of such discussion;

(iv) In redesignating any area under this Section, with respect to which any Federal Land Manager is submitted written comments and recommendations, the Administrator or his designee shall publish a list of any inconsistency between such

redesignation and such recommendations, together with the reasons for making such redesignation against the recommendation of the Federal land Manager;

(v) The proposed redesignation is based on the record which must reflect the basis for the proposed redesignation, including in the area the social, environmental health, energy and economic effects and testimony submitted at the public hearing;

(vi) The Agency has consulted with the elected leadership of local municipalities in the area covered by the proposed redesignation.

(E) The Board may redesignate Class III areas, if:

(i) Such redesignation meets the requirements of Paragraph (D) of this Section;

(ii) Such redesignation has been approved after consultation with the appropriate committee of the Legislature;

(iii) Such redesignation will not cause or contribute to concentrations of any air pollutant which exceeds any maximum allowable increase or maximum allowable concentration permitted under the classification of any area;

(2) Limitation of pollutants in classified attainment areas.

(A) Areas designated as Class I, II, or III shall be limited to the following increases in air pollutant concentrations occurring over the baseline concentration, provided that for any period other than the annual period the applicable maximum allowable increase may be exceeded only once per year at any one location.

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CLASS I

Maximum Allowable Increase	
	(Micrograms per cubic meter)
Particulate Matter:	Annual geometric mean 5 24-hour maximum 10
Sulfur Dioxide:	Annual arithmetic mean 2 24-hour maximum 5 3-hour maximum 25

CLASS II

Particulate Matter:	Annual geometric mean 19 24-hour maximum 37
Sulfur Dioxide:	Annual arithmetic mean 20 24-hour maximum 91 3-hour maximum 512

CLASS III

Particulate Matter:	Annual geometric mean 37 24-hour maximum 75
Sulfur Dioxide:	Annual arithmetic mean 40 24-hour maximum 182 3-hour maximum 700

(B) The maximum allowable concentration of any air pollutant in any area to which the preceding paragraph applies shall not exceed a concentration permitted under Standards and Regulations contained in this Chapter.

(C) The following concentrations shall not be considered for purposes of determining compliance with the maximum allowable increases in ambient concentrations of pollutants:

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

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

(iii) Concentrations attributable to the temporary increase in emissions of sulfur dioxide or particulate matter from stationary sources which are affected by approved plan revisions.

(D) No exception taken with respect to a source under Paragraph (C)(i) shall apply more than (5) years after the effective date of the order referred to.

(E) No exception taken with respect to a source under Paragraph (C)(iii) shall apply more than two years after the effective date of the approved plan revision nor shall such exception be renewable.

(F) For the purposes of this Section, "Baseline Concentration" means, with respect to a particular pollutant, the ambient concentration levels of that pollutant which exist in the baseline area at the time of the first application for a Permit to Construct issued pursuant to §1106 in an attainment area, based on Territorial air quality data and on such monitoring data as the permit

applicant is required to submit. A baseline concentration is determined for each pollutant for which a baseline date has already been established and shall include the actual emissions representative of sources in existence on the applicable baseline date.

(G) Emissions of sulfur dioxide and particulate matter from any major source or as the result of any major modification on which construction commenced after January 6, 1975 shall not be included in the baseline and shall be counted against the maximum allowable increases in pollutant concentration established under this Section.

§1103. Permit To Construct. (a) The construction, installation, modification of any stationary source of air pollution shall be prohibited by any person unless such person first obtains a Permit to Construct from the Administrator as to the location and design of such stationary source to comply with applicable regulations and ambient air quality standards.

(b) With respect to new major sources to be constructed or existing sources to undergo major modification:

(1) The requirements of §1104 through §1106 and §1108 shall apply in non-attainment areas with respect to criteria pollutants which a new source has the potential to emit in major amounts, or which the modification increases, in an amount exceeding the applicable significance level of that pollutant(s) for which the area is designated as non-attainment.

(2) The requirements of §1107 through §1108 shall apply in attainment areas with respect to all criteria and non-criteria and pollutants which a new source has the potential to emit in major amounts, or which the modification increases, in an amount exceeding the applicable significance level when a new source or modification is major for any pollutant(s) for which the area is designated as attainment.

(c) No Permit to Construct shall be issued to a

person unless that person can demonstrate to the Administrator that:

(1) The information submitted within the application for a Permit to Construct shows that the source described in the application can meet the requirements of §1112(a) or (b) (Standards of Approval, Conditional Approval or Denial of Permit Applications);

(2) The person complied with all applicable provisions of §1104 through §1108; and

(3) The source will not exceed the applicable standards for hazardous air pollutants.

(d) The application for a Permit to Construct shall be made on forms prescribed by the Administrator and shall be signed by the applicant. An application shall contain, at a minimum, the information required under §1111 (Permit Applications). In addition, the application shall contain such information or data as is necessary to demonstrate compliance with Paragraph (c) of this Section.

(e) The requirements of §1106 and §1107 shall not apply with respect to any pollutant if the person proposing to commence construction of a new major source or a major modification to a source can demonstrate to the Administrator that no net increase in emission of such pollutants would occur at the source, taking into account all emission increases and decreases at the source which would accompany the construction or major modification.

(f) The air impact analysis required to be conducted in connection with filing for a Permit to Construct shall initially consider a geographical area of sufficient radius as determined by the Administrator from the new major source's or major modification's point of greatest emissions. The Administrator shall have the right at anytime to request an enlargement of the geographical area for which an air quality impact analysis is to be performed by giving the person applying for the Permit to Construct written Notice thereof, specifying

the enlarged radius to be considered.

(g) The Administrator may require the applicant to provide additional information or to provide and maintain such facilities or perform such air impact modeling procedures as are necessary to secure information that will disclose the nature, extent, quantity or effects of air contaminants discharged into the atmosphere from the major source or facility described in the application.

(h) A Permit to Construct shall remain in effect until the Operating Permit for a stationary source is granted; the Operating Permit for a source is amended to reflect the installation of air pollution control equipment; or the Permit to Construct is cancelled.

§1104. Permit To Construct In Non-Attainment Areas. (a) Except as provided in Paragraphs (c) and (d) within this Section, no Permit to Construct shall be issued to a person proposing to construct a new major source or make a major modification to a source located in any nonattainment area for the pollutant(s) for which the source is classified as a major source or the modification is classified as a major modification if the stationary source or modification would locate anywhere in the designated non- attainment area, unless:

(1) The person demonstrates that the new major source or the major modification will meet an emission limitation which is the lowest emission rate (LAER) for that source or facility for that specific pollutant(s).

(2) The person certifies that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with such person) in the Territory are in compliance with all conditions contained in operating or conditional permits of each of the sources.

(3) The person demonstrates that emissions reductions for the specific pollutant(s) from existing sources in the allowable offset area of the new major source or major modification (whether or not under the same ownership) meet the offset requirements under §1105 (OFFSET STANDARDS).

(4) The person demonstrates that emissions will not cause concentrations for a specific pollutant to exceed the applicable increase over baseline concentration established in §1102(e) in any attainment area.

(b) No Permit to Construct shall be issued to a person proposing to construct a new major source for volatile organic compounds or carbon monoxide (or both) or make a major modification for volatile organic compounds or carbon monoxide (or both) to a source located within a non-attainment area for photochemical oxidants or carbon monoxide (or both), unless:

(1) The person performs an analysis of alternative sites, sizes, production processes and environmental control techniques for such new major source or major modification; and

(2) The Administrator determines that the analysis demonstrates that the benefits of the new major source or major modification outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(c) The requirements of (a)(3) above shall not apply to emissions of a specified pollutant if the person applying for a Permit to Construct under this Section can demonstrate that the pollutant emissions from the new major source or major modification 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) days prior to relocation of such new major source or major modification identifying the proposed new location and the probable duration of operation at such location.

(d) New resource recovery projects burning municipal solid waste and sources compelled to undergo a major modification by Federal law shall be exempt from the requirements of Paragraph (a)(3), if such source can demonstrate that:

(1) It made the best efforts to meet the

requirements of Paragraph (a)(3), and such efforts were unsuccessful;

(2) All available emission offsets have been or will be secured; and

(3) It will continue to seek offsets and apply them when they become available.

§1105. Offset Standards. (a) Increased emissions by a new major source or a major modification subject to this Section must be offset by the reductions in the emissions of each pollutant for which the area has been designated as nonattainment and for which the source is classified as a major source or the modification of the source is classified as a major modification. Such offset may be obtained by reductions in emissions from the major source (including but not limited to non-major stationary sources, mobile sources, non-point sources and major sources) in the allowable offset area. The offsets must be in effect and legally enforceable by the time the new source or modification will commence operation.

(b) An offset will not be sufficient unless total emissions for the particular pollutant for which the offset is required in the allowable offset area after the new major source or major modification commences operation will be less than the baseline of the total emissions for that pollutant and such reductions are sufficient to satisfy the Administrator that emissions from the new major source or major modification together with the offset will result in reasonable further progress for that pollutant in the allowable offset area.

(1) Only emission offsets for the same specific pollutant will be allowed (e.g. Sulfur Dioxide increase may not be offset against Total Suspended Particulate reductions.)

(2) The emissions offsets must be effective for the useful life of the new or modified facility.

(c) For purposes of this Section, "reasonable further progress" shall mean annual emissions

increment reduction of the applicable air pollutant which are sufficient in the judgment of the Administrator for attainment of the applicable air quality standards by the date required under Section 172 of the 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 new major source or major modification together with the offset will result in a net air quality benefit.

(1) For the purposes of this Section, "net air quality benefit" shall mean that during similar time periods:

(i) A reduction in the number of violations of the applicable ambient air quality standard within the allowable offset areas has occurred, or

(ii) 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.

(d) Baseline further defined:

(1) For the purpose of this Section, the baseline of total emissions from sources in existence or sources which have obtained a Permit to Construction (regardless of whether or not such sources are in actual operation at the time that the Permit to Construct is filed) will be the regulatory emissions limitations in effect when the completed application is filed as well as all emission limitations included as conditions on permits (or if no emissions limitations are applicable to a source seeking offsets, then the actual or expected emissions).

(2) Where emission limitations for a particular pollutant allow greater emissions than the potential emission rate of the source for that pollutant, the baseline shall be the potential emission rate at the time the permit application is filed.

(3) Where actual emissions for a particular pollutant are less than allowable emissions under the

state implementation plan or any federally enforceable permit condition, the baseline shall be the actual emissions.

(e) For an existing fuel combustion source, offset credit shall be based on the allowable emissions in accordance with the Standards and Regulations for the type of fuel being burned at the time the application to construct is filed. Reduced emissions from an existing source caused by a change to a cleaner fuel may be used to offset emissions from the new major source or major modification provided the fuel change will occur prior to start-up of the new major source or major modification. A permit issued pursuant to §1104 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, a permit issued pursuant to §1104 shall not required the installation and use of an alternative control measure.

(f) Offsets shall be made on either 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 otherwise provided in Paragraph (e), utilizing the type of fuel burned at the time the permit application is filed.

(g) 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). Likewise, an existing source that reduces its own emissions may Bank any resulting reductions beyond those required by regulations, even if prior to the date of application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment.

(h) A new major source of major modification may be credited with an emission offset (which may include "Banked" emission reductions) 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 new source 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 new source is a replacement for the shutdown or curtailment.

(i) The allowable offset area shall refer to the geographical area in which are located sources for which emissions are sought for purposes of offsetting emissions from new major sources at major modifications. For the pollutants sulfur dioxide, particulates and carbon monoxide, the allowable offset area shall be any area where ambient air quality standards for these pollutants are violated and in which significance 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 area for all other pollutants shall be nonattainment areas for those pollutants.

(j) 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 operating permit issued to the source where emissions are used to offset emissions from the new major source or major modification, or in the case or reductions from sources controlled by the applicant, is included as a condition of the Permit to Construct, or is adopted as part of these Standards and Regulations.

(k) Credit for an emissions reduction can be claimed to the extent that it has not been included as a

condition in an operating permit or in demonstrating attainment or reasonable further progress under this Chapter.

(l) An offset required by this Chapter may include reductions that result from Territorial or Federal measures to reduce emissions from sources in existence in an amount sufficient to offset emissions from a new major or source or major modification.

§1106. Permit To Construct In Attainment Areas.

(a) Except as provided in Paragraphs (d) through (e) below, no Permit to Construct shall be issued to a person proposing to construct a new major source or make a major modification in any attainment area for the pollutant(s) for which the sources is classified as a major source or the modification is classified as a major modification unless:

(1) The person demonstrates that the new major source or major modification will meet each applicable emissions limitation which is the Best Available Control Technology (BACT) for;

(A) Each pollutant having the potential to be emitted in significant amounts from the new major stationary source; or

(B) Each pollutant which would be a significant net emissions increase from the major modification of the source or each proposed emission unit as a result of a physical change or change in the method of operation of the Unit.

(2) The person applying for the permit performs air impact analysis and monitoring as specified in Section 3.5 (Air Quality Impact Analysis and Monitoring Requirements) in an area affected by each pollutant having the potential to be emitted in a significant amount from a major source or each pollutant which would be a significant net emissions increased from the major modification. Such analysis must demonstrate that allowable emission increases from the proposed major source or major modification, in conjunction with all other application emission increases or reductions (including secondary emissions):

(A) Would not exceed the applicable increase over baseline concentration established in §1102 for each attainment area; and

(B) Would not contribute to an increase in ambient concentrations for each such pollutant in excess of the significance level for such pollutant where ambient air quality standards are being violated.

(b) If the air impact analysis required by (a)(2) above demonstrates that the proposed new major source or major modification will cause an increase in ambient concentrations for any pollutant in excess of the significance level for such pollutant in any area for that pollutant specified in (a)(2)(ii) above, then the person applying for a Permit to Construct under this Section, and only if such person is not otherwise exempted pursuant to §1104, must meet the requirements of §1104(a)(1) and (a)(2). The new major source or major modification shall also comply with the offset requirements in §1104(a)(3) to the extent necessary to reduce its emissions below the applicable significance level in the non-attainment area where these levels would otherwise be exceeded.

(c) The requirements of (a)(2) above shall only apply to emissions from an identifiable flume or emission point.

(d) The requirements of (a)(2) above shall not apply with respect to a particular pollutant if that person applying for a Permit to Construct from this Section can demonstrate that:

(1) The increase in allowable emissions of that pollutant would not significantly impact any Class I area and any area where an applicable Class increment is known to be violated, or

(2) The emissions of the pollutant are from a portable stationary source which has previously completed the requirements of Paragraph (a), if:

(A) The source proposed to relocate and emissions of the source at the new location would

be temporary;

(B) The emission of the source would not exceed its allowable emissions;

(C) The emissions from the source would not impact any Class I and no area where an applicable increment is known to be violated; and

(D) Reasonable notice is given not less than ten (10) days in advance of relocation of the portable stationary source.

(e) The requirements of (a)(2) above shall not apply to a proposed major source or major modification with respect to monitoring if the pollutant emissions increase from the new major source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

(1) Carbon monoxide-575 ug/mn, 8-hour average.

Nitrogen dioxide-14 ug/mn, annual average.

Total suspended particulate-10 ug/mn, 24-hour average.

Sulfur dioxide-13 ug/mn, 24-hour average

Ozone.

Lead-0.1 ug/mn, 24-hour average.

Mercury-0.25 ug/mn, 24-hour average.

Beryllium-0.0005 ug/mn, 24-hour average.

Fluorides-0.25 ug/mn, 24-hour average.

Vinyl chloride-15 ug/mn, 24-hour average.

Total reduced sulfur-10 ug/mn, 1-hour average.

Hydrogen sulfide-0.04 ug/mn, 1-hour average.

(2) No air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds is subject to ambient air impact analysis including gather in of ambient air quality data.

(f) Special rules applicable to Federal Land Managers:

(1) Notwithstanding any other provision of this Section, a Federal Land Manager may present to the Administrator a demonstration that the emissions attributed to such new major source or major modification to a source in existence will have significant adverse impact on visibility or other specifically defined air quality related values of any Class I area designated in §1102(e), regardless that the change in air quality resulting from emissions attributable to such new major source or major modification to a source in existence will not cause or contribute to concentrations which exceed the maximum allowable increases for Class I area. If the Administrator concurs with such demonstrations, the permit shall be denied.

(2) For the purposes of this Paragraph, "significant" means any emission rate or any net emissions increase associated with a major source or major modification which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 g/mn (24-hour average).

(3) If the owner or operator of a proposed new major source or a source in existence for which major modification is proposed demonstrates to the Federal Land Manager that the emissions attributable to such major source or major modification will have no significant adverse impact on the visibility or other specifically defined air quality related values of such areas and the Federal Land Manager so certifies to the Administrator, the Administrator may issue a permit notwithstanding that the change in air quality resulting from emissions attributable to such new major source or major modification will cause or contribute to concentrations which exceed the maximum allowable increases for a Class I area. Such a permit shall require that such new major source or major modification comply with such emission limitations as may be necessary to assure that emissions will not cause increases in ambient concentrations greater than the following maximum allowable increases over baseline concentrations for such pollutants:

Maximum Allowable

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Increase	(Micrograms per cubic
meter)	
Particular matter:	Annual geometric mean-
19	24-hour maximum
37	
Sulfur Dioxide:	Annual arithmetic mean-
20	24-hour maximum
91	3-hour maximum
325	

§1107. Air Quality Impact Analysis And Monitoring Requirements. (a) The air quality impact analysis required by Section 3.4, shall include at the discretion of the Administrator, any or all of the following:

(1) A description of the nature, location, design, capacity and typical operating schedule of the proposed new major source or major modification including specifications and drawings showing the design and plant layout.

(2) A schedule of construction of the new major source or major modification.

(3) A detailed description as to what system of emission reduction is planned for the proposed new major source or major modification, emission estimates, and any other information necessary to determine that emission limitations will be met.

(4) An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the proposed new major source or major modification and general commercial, residential, industrial and other growth associated with the major source or modification.

(5) An analysis of air quality monitoring data as is necessary to assess ambient air quality in an area affected by emission of any pollutant(s) for which no National Ambient Air Quality Standard exists.

(6) An analysis of continuous air quality monitoring data for any pollutant for which the source is a new major source or the modification of the facility is classified as a major modification and for which an ambient air quality standard exists, except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year (not less than four months) or another representative year would be adequate to determine that the new major source or major modification would not cause or contribute to a violation of an air quality standard contained in Chapter Two.

(7) The air quality impact of the proposed major source or major modification including meteorological and topographical data necessary to make such estimates.

(8) Information on the air quality impacts of growth associated with the proposed major source major modification as well as the nature and extent of general commercial, residential, industrial and other growth which has occurred in the area affected by the source's emissions since August 7, 1977.

(b) The person applying for a Permit to Construct under §1106 to which this Section applies, after construction of the new major source or major modification shall conduct such ambient air quality monitoring as the Administrator determines may be necessary to establish the effect which emissions of a pollutant, for which a national ambient air quality standard exists, may have or is having on attainment or maintenance of ambient air quality standards in an area affected by such emission.

(c) Where a person is required to monitor under this Section, the operation of monitoring stations shall meet the requirements of Appendix B to Part 58 of 40 CFR.

§1108. Reconstruction. (a) Upon reconstruction a major source or facility located within a major source which, independent of all other facilities located at the

source, would itself be considered a major source for a pollutant, becomes a new major source for that pollutant and as such is subject to the requirements of §1103(b) of this Chapter.

(b) Reconstruction means the replacement of components of such existing facility to such an extent that the fixed capital cost of the new components exceeds fifty (50%) of the fixed capital cost that would be required to construct a comparable entirely new source and all associated equipment.

(c) Fixed Capital Cost means the capital needed to provided all the depreciable components.

(d) If an owner or operator of such existing facility proposes to replace components, and the fixed capital cost of the new components exceeds fifty percent (50%) of the fixed capital cost that would be required to construct a comparable entirely new facility, he shall notify the Administrator of the proposed replacement. The notice must be submitted not less than sixty (60) days before construction of the components is commenced and must include the following information:

- (1) Name and address of the owner or operator.
- (2) The location of the existing facility.
- (3) A brief description of the existing facility and the components which are to be replaced.
- (4) A description of the existing air pollution control equipment and the proposed air pollution control equipment.
- (5) An estimate of the fixed capital cost of the replacement and of constructing a comparable entirely new facility.
- (6) The estimated life of the existing facility after the replacements.
- (7) A discussion of any economic or technical limitations the facility may have in complying with the

applicable standards of performance after the proposed replacement.

(8) The extent to which the proposed replacement would increase allowable emissions level of the existing facility prior to the proposed replacement.

(e) The Administrator will determine, within thirty (30) days of the receipt of the notice required by Paragraph (d) of this Section and any additional information he may reasonably require, whether the proposed replacement constitutes reconstruction.

(f) The Administrator's determination under Paragraph (e) shall be based on:

(1) The fixed capital cost of the replaced components in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility and all associated equipment;

(2) The estimated life of the facility after the replacement compared to the life of a comparable entirely new facility.

(3) The extent to which the components being replaced cause or contribute to the emissions from the facility.

(g) In determining LAER for a reconstructed major source, economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements shall be taken in assessing whether a new source performance standards is applicable to such major source.

§1109. Permit To Operate. (a) Except as provided in this Section, no person shall cause or allow the operation of any new stationary source without first obtaining a Permit to Operate from the Administrator. Application shall be made to the Administrator at least thirty (30) days prior to the anticipated date of operation. When a Permit to Construct is required to commence construction or modification of a stationary source, a Permit to Operate shall not be issued until

such time as the Permit to Construct has been obtained.

(b) No person shall cause or allow the operation of a new or existing stationary source if the Administrator denies or revokes a Permit to Operate for that stationary source.

(c) No Permit to Operate shall be issued to a person unless that person can demonstrate to the Administrator that:

(1) The information submitted within the application for a Permit to Operate shows that the source described in the application can meet the requirements of Section 3.10(a) or (b) (Standards of Approval, Conditional Approval or Denial of Permit Applications).

(2) The person apply for a Permit to Operate demonstrates that a source or modification will not emit pollutants in excess of the applicable hazardous air pollutant standards.

(d) The Administrator may require the applicant to provide additional information or to provide and maintain such ambient air monitoring facilities or ambient air impact modeling as necessary to secure information that will disclose the effect emissions from the source will have on maintenance and attainment of ambient air quality standards. An item of equipment not covered by an operating permit may be operated for purpose of testing, including new source performance testing, only if specific written permission has been obtained from the Administrator designating the dates of such operation for testing.

(e) The application for a Permit to Operate shall be made on forms prescribed by the Administrator, and shall be signed by the applicant. An application shall contain, at a minimum, the information required under §1111 (Permit applications). In addition, the application shall contain such information or data as in necessary to demonstrate compliance with Paragraph (c) of this Section.

(f) Each operating permit issued under these Standards and Regulations shall include the following provisions:

(1) A description of the facility and equipment covered and its location, or for a portable source, the area in which it may operate.

(2) The name and address of the owner or operator of the stationary source.

(3) The date the Permit to Operate is issued and the date it will expire.

(g) A Permit to Operate issued pursuant to this Section shall be valid for five (5) years or such shorter periods of time as the Administrator may specify in the permit as is necessary to accomplish the purpose of the Standards and Regulations. Applications for renewal of a Permit to Operate shall be submitted to the Agency at least sixty (60) days prior to the expiration of the permit.

§1110. Permit Exemptions. Permits to Construct and to Operate shall not be required for:

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

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

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

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

(1) Natural or synthetic gas

(2) Liquified petroleum gas

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

(e) Mobile internal combustion engines.

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

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

§1111. Permit Applications. (a) Application for a Permit to Construct or Permit to Operate shall be made by the source owner, operator, or other responsible person on forms furnished by the Administrator, and shall be accompanied by two (2) copies of complete plans, descriptions, specifications and major drawings showing the design of the source or modification, stack data, the nature and amount of emissions, and other detailed information necessary to determine how the new source or existing source is designed and in what manner it will be operated and controlled. An application for renewal of a Permit to Operate shall be accompanied by plans, descriptions, specifications and drawings showing any changes in the source's configuration from that which existed on the date of issuance of the most recent operating permit.

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

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

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

(e) Each application shall include information concerning compliance with any conditions on any prior permit.

(f) The Administrator may waive the submission by the applicant of any of the data or information required by this Section if he shall deem such data to be inappropriate or unnecessary.

§1112. Standards For Approval, Conditional Approval or Denial of Permit Applications. (a) **Approval:** The Administrator shall not approve an application for a Permit to Construct or for a Permit to Operate unless the applicant shows to the satisfaction of the Administrator that:

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

(2) The source is designed, built, equipped, operated and maintained in accordance with:

(A) the best available control technology for a major source or major modification of a source under §1106 of this Chapter and for all sources or modifications to sources which are not major for a pollutant(s), or

(B) The lowest achievable emission rate for a major source or major modification of source under §1103 of this Chapter.

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

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

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

(b) **Conditional Approval.** The Administrator may grant conditional approval to construct, modify, or operate if it appears likely from the information submitted in the permit application that the source will satisfy the requirements of §1112(a), but testing, inspection, or sampling is required to verify that the requirements of §1112(a) are met and/or maintained. To aid in this verification, the Administrator may:

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

(A) Sampling ports of a size, number and location as specified by the Administrator.

(B) Safe access to each part.

(C) Instrumentation to monitor and record emission data.

(D) Any other sampling and testing facilities specified by the Administrator.

(2) Require performance testing as outlined in §1116.

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

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

(c) Denial.

(1) The Administrator shall deny an application for a Permit to Construct or for a Permit to Operate if the information submitted shows that the source described in the application cannot meet the requirements of §1112(a) or (b).

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

§1113. Action On Permit Application. (a) Before acting upon an application for a Permit to Construct or for a Permit to Operate, the Administrator may require the applicant to provide additional information, plans or specifications. Such notification will occur within 30 days of the date that the application is received the Administrator.

(b) The Administrator shall make available in at least one location in the air quality control region in which a proposed major source, major modification or complex source would be constructed, a copy of all materials submitted with an application for a Permit to Construct, a copy of a preliminary determination whether the Permit should be approved or disapproved or approved with conditions, a brief summary of the basis for the preliminary determination, and, to the maximum extent practicable, a copy or summary of all other materials to be considered in making a final determination on the application.

(c) The Administrator shall notify the public by advertisement in a newspaper of general circulation of the application for a Permit to Construct a major source, major modification or complex source. Such notification shall include a summary of the application, the Administrator's preliminary determination, and a statement informing the public of the opportunity for written comment and the time frame, which shall not be less than thirty (30) days, within which comments are to be submitted. All written comments submitted within the time specified

in the notice of public comment and all comments received at any public hearings shall be considered in making a final decision on the approvability of the application. All comments shall be made available for public inspection at the location where the Agency made available preconstruction information relating to the proposed source or modification.

(d) A public hearing may be held on any application for a Permit to Construct a major source, major modification, complex source, or any point source as deemed necessary by the Administrator. The Administrator shall forward a copy of all notices, all public comments, and the transcript of all hearings on major sources, major modifications, complex sources or other point sources to the Region IX Office of the United States Environmental Protection Agency.

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

(f) Incomplete applications shall not be acted upon.

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

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

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

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

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

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

(m) Any Permit to Construct or to Operate shall be subject to revision in response to changes in the applicable law, regulations, or other factors affecting the compliance of the source or facility with the standards or conditions of the original permit.

§1114. Permit Conditions. (a) A Permit to Construct or Permit to Operate shall contain such terms and conditions as the Administrator deems necessary to assure a source's compliance with the requirements of the Standards and Regulations and the provisions of this Chapter. The Administrator may include, but is not limited to, permit conditions which require:

(1) Compliance with emission limitations.

(2) Compliance with design, equipment, work practice or operation standards if emission limitations are not feasible.

(3) Record keeping and reporting.

(4) Ambient air quality monitoring.

(5) Emissions monitoring.

(6) Notification to the Administrator of such

events as the commence of construction, initial start up, performance testing or malfunctions.

(7) Preventive maintenance of air pollution control equipment.

(8) Maintenance and calibration of ambient air quality and emissions monitoring equipment.

§1115. Air Quality Models. (a) Where the Administrator requires a person requesting a Permit to Construct or Permit to Operate under this Chapter to perform air quality impact modeling to obtain such permit, the modeling shall be performed in a manner consisted with the "Guideline on Air Quality Models" (hereinafter called the Guideline) issued by the United States Environmental Protection Agency in April 1978.

(b) Where the person requesting a Permit to Construct or Permit to Operate can demonstrate that an air quality impact model specified in the Guideline is inappropriate, the model may be modified or another model substituted. However, before such modification or substitution can occur, the Administrator must make a written finding that:

(1) No model in the Guideline is appropriate for a particular permit under consideration, or

(2) The data based required for the appropriate model in the Guideline is not available.

(3) A model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline, and written approval has been obtained from the Regional Administrator of the U.S. Environmental Protection Agency or his designee, and

(4) The modification has completed applicable public comment procedures of these Standards and Regulations.

§1116. Performance Testing. (a) The owner or operator of a source or facility, if required by the Administrator, shall conduct performance tests of the

source to determine compliance with applicable Standards and Regulations. Performance tests shall be conducted in accordance with test methods and procedures approved by the Administrator and at the expense of the owner or operator.

(b) Within sixty (60) days after a source or facility subject to the construction and operating permit requirements under this Chapter has achieved its maximum capacity to operate on a sustained basis, but no later than one hundred eighty (180) days after initial start-up of such source or facility; the owner or operator shall conduct performance test(s) and furnish the Administrator a written report of the results of the test(s) within thirty (30) days.

(c) Performance tests shall be conducted under such conditions as the Administrator shall specify to the owner or operator based on representative performance of the source or facility. The owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified by the Administrator.

(d) The owner or operator of a permitted source shall provide the Administrator two (2) weeks prior Notice of the performance test to afford the Administrator the opportunity to have an observer present.

(e) The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:

(1) Sampling ports adequate for test methods applicable to such facility.

(2) Safe sampling platform(s).

(3) Safe access to sampling platform(s).

(4) Utilities for sampling and testing equipment.

(f) Nothing in this section shall be interpreted as to prevent utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.

§1117. Revocation of Permits. (a) A Permit to Construct shall be revoked if the construction or modification is not begun within one (1) year of the date of issuance, or if the work involved in the construction or modification is suspended for one (1) year or more after the date of issuance, unless the applicant secures an extension of the expiration date by written request to the Administrator stating the reasons for the extension. Extensions may be granted in writing for a period of not more than six (6) months.

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

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

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

(e) A Permit to Operate which has been revoked pursuant to these regulations shall be surrendered forthwith to the Administrator.

§1118. Transfer of Permits. (a) A Permit to Construct or a Permit to Operate shall not be transferable, whether by operation of the law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

(b) This regulation shall not apply to mobile or portable machinery or equipment which is transferred from one location to another provided that the owner or operator of such equipment notifies the

Administrator in writing of the transfer at least ten (10) days in advance of such action.

§1119. Reporting Information. No owner or operator shall cause or permit the operation of any source without furnishing such performance test results, information, and records as may be required by the Administrator in the applicable Standards and Regulations.

§1120. Responsibility of the Permit Holder. (a) Approval or conditional approval of a Permit to Construct or Permit to Operate shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions under the Standards and Regulations and any other requirements under territorial or federal law.

(b) At such time that a particular 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 source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the applicable requirements of §1104 through §1107 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

§1121. Reporting Discontinuance or Dismantlement. It shall be required of that person to which a Permit to Operate was issued to report to the Administrator within thirty (30) days of the discontinuance or dismantlement of that article, machine, equipment, or other contrivance for which the Permit to Operate has been issued. The Permit to Operate shall then be surrendered forthwith to the Administrator.

§1122. Posting of Permits. Upon granting an approval for a Permit to Construct or for a permit to Operate, the Administrator shall issue to the applicant a certificate referred to as a Permit to Construct or as a Permit to Operate which shall be posted in a conspicuous place at or near the article, machine, equipment or other contrivance for which the permit was issued.

§1123. Falsifying or Altering Permits. No person shall deface, alter, forge, counterfeit, or falsify a Permit to Construct or Permit to Operate.

§1124.1. Same: Stationary Source Emission Report Procedures. (a) The owner or operator of any stationary source shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emissions limitations or other requirements.

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

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

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

§1124.2. Same: Shutdown of Air Pollution Control Equipment for Maintenance. In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shutdown such equipment shall be reported to the Administrator in writing at least twenty-four (24) hours prior to the planned shutdown. Such prior notice shall include, but is not limited to the following:

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

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

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

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

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

§1124.3. Same: Breakdown of Air Pollution Control Equipment. In the event that any emission source, air pollution control equipment, or related facility malfunctions, breaks down or will be shutdown in such a manner as to cause excess emission of air contaminants, it is in violation of these regulations and subject to prosecution. In order to enable the Administrator to carry out his statutory duties, the owner or operator of the stationary source is required to furnish the Agency with the following information within ten (10) days: (1) identification of emission points; (2) the magnitude of the excess emissions; (3) (3) the identify of the process or control equipment causing excess emission; (4) the cause and nature of excess emissions; and (5) a description of the steps taken by the owner or operator of the subject stationary source to remedy the situation causing the emissions, present a recurrence and limit the excess emissions.

Nothing in the regulation relieves the source of its obligation to attain and maintain the national ambient air quality standards nor precludes the Administrator from initiating any appropriate actions under Sections 57106, 57107, and 57108 of the Guam Air Pollution Control Act (Public Law 10-74).

§1125. Sampling and Testing Methods. (a) All sampling and testing shall be made and the results calculated in accordance with procedures approved by the Administrator.

(b) The Administrator may conduct tests of emission of air contaminants from any source. Upon request of the Administrator, the person responsible for the source to be tested shall provide assistance as necessary, including personnel, holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of the emission of air contaminants.

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

§1126. Control of Open Burning. No person shall dispose of combustible refuse by open burning, or cause, suffer, allow, or permit open burning of refuse including grass, weeds, wire, twigs, branches, insulation, vehicle bodies and their contents, paper, garbage, tires, waste materials, tar products, rubber products, oil, and similar smoke producing materials, within the territorial limits of Guam. In areas where no public or commercial refuse collection service is available on the effective date of this regulation, open burning of refuse on residential premises, or refuse originating from dwelling units on premises, shall be allowed provided such burning does not violate any existing laws of the Territory of Guam, until such refuse collection becomes available.

§1126.1. Same: Exceptions. Exceptions herefrom may be allowed upon application and approval by the Administrator provided the burning is not prohibited by, or is conducted in compliance with, other applicable laws, ordinances and regulations. Exception to conduct open burning under the provision of this regulation does not excuse a person from the consequences, damages, or injuries which may result therefrom. The following are exceptions for which application may be made:

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

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

(c) Fires for ceremonial and recreational purposes.

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

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

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

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

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

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

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

(4) The burning shall be performed between 9:00 A.M. (standard time) and one hour before sunset.

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

(6) The piles of materials to be burned shall be of such size that the burning will be completed within the designated time given in §1126.1(g)(4).

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

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

§1126.2. Same: Barbecue Pits, Grills, Etc., Used for Preparation of Food. 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 consumption by individuals, nor shall any permit from the Administrator be required therefor.

§1127. Control of Particulate Emission: Process Industries. (a) No person shall cause, suffer, allow, or permit the emission of particulate matter in any one hour from any process industry in excess of the amount shown in Table I for the process weight rate allocated to such source.

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

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

(d) For purposes of this Regulation, the total process weight from all similar process units at a plant or premises shall be used for determining the maximum allowable emission of particulate matter that passes through a stack or stacks.

TABLE I
PARTICULATE EMISSION ALLOWABLE BASED
ON PROCESS WEIGHT

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

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

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

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

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

Where: E = Emissions in pounds per hour.

P = Process weight rate in tons per hour.

(e) **Fuel Burning Installations.** No source shall cause, suffer, allow, or permit the emission of particulate matter resulting from the combustion of fuel in excess of the quantify set forth in the following table:

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

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

$$Y = 1.02x - 0.231$$

X = Operating rate in million BTU's
per hour.

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

§1128. Control of Fugitive Dust. (a) No person shall cause, suffer, allow, or permit the emission of fugitive dust from any source, which violates the Standards and Regulations.

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

(c)(1) The Administrator may approve alternative controls other than those specified application by the operator, and upon a determination of the adequacy of any such alternate controls.

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

(d) Processing, Handling, Transportation, and Storage:

(1) When dust noxious gas or vapor, odor or any combination thereof escape from the processing, handling or storage of any material in a quantity as to cause a nuisance or to cause or contribute to a violation of any applicable regulation or ambient air quality standard, the Administrator may order that the source of these emissions be tightly enclosed and that the venting of such enclosure be controlled to the extent necessary to meet the Standards and Regulations. Alternate control measures submitted to the Administrator, in compliance with such orders, shall comply with §1128(c)(1).

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

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

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

§1128.1. Same: Construction and Sandblasting Operations. (a) All construction operations including but not limited to the clearing, grading or leveling of land, earthmoving, excavation, demolition, or the movement of trucks or construction equipment over cleared land or temporary access or haul roads shall water all vehicle travel areas or roads at the site for dust suppression a minimum of the beginning of every two (2) operating hours with a minimum watering rate for each application of .5 gallons per

square yard, or by other equivalent methods approved by the Administrator as needed to prevent visible emissions or contribute to the violation of applicable Standards or Regulations.

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

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

§1128.2. Same: Grading and Clearing. (a) Use of vegetation, including planting, mulch or selective retention of natural vegetation, as ground cover, providing windbreaks, sprinkling with water, and covering or compacting the ground surface shall be used to prevent visible emissions or the violation of any ambient air quality Standard or Regulation where topsoil has been disturbed during the clearing of land.

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

§1128.3. Same: Roads and parking Lots. (a) All roads, road shoulders, and areas used for parking specified in this Section, shall be sealed and maintained so as to prevent the exposure of such surfaces to wind, water or vehicular travel erosion:

(1) All public and private roads within the Territory of Guam which average a vehicle load of one hundred and fifty (150) or more vehicle-trips per day.

(2) The road shoulders of all public and private roads within the Territory of Guam which average a vehicle load of one hundred and fifty (150) or more vehicle-trips per day.

(3) All areas used for parking exceeding two thousand (2,000) square feet.

(b) Earth and other erodible material which has been deposited on a sealed vehicular travel surface by trucking, earthmoving equipment, erosion, or landslide shall be promptly removed.

§1128.4. Same: Compliance Schedule for Sources Not in Compliance With Control of Fugitive Dust and Control of Dust in construction and Sandblasting Operations. The following compliance schedule shall apply to those sources not in compliance with §1128(d)(1), (2); §1128.1(b), (c) of these amended regulations on the date they become effective.

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

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

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

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

§1128.5. Same: Report to Administrator. Not later than five (5) working days after the passing of the date for achieving each incremental milestone noted above, each source subject to this schedule shall report to the Administrator regarding the status of compliance with the schedule. Failure to achieve any portion of this schedule or to report on the status of compliance shall make the source liable to enforcement action immediately.

§1129. Control of Particulate Emission From Incinerator: Design and Operation. (a) This regulation applies to any incinerator used to dispose of refuse by burning or the processing of refuse by burning or the processing of salvageable material by burning. Notwithstanding definitions in other regulations, as used in this regulation, the word

"refuse" includes garbage, rubbish, trade wastes, leaves, salvageable material and agricultural wastes. The word "incinerator", as used in this regulation, includes incinerators, and other devices, structures, or contrivances used to burn refuse or to process refuse by burning.

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

(c) Emission tests shall be conducted at maximum burning capacity of the incinerator.

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

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

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

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

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

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

§1130. Control of Visible Emission of Particulates For Stationary Sources. Visible emission restrictions for stationary sources:

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

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

§1130.1. Same: Fossil Fuel-Fired Generators. Each fossil fuel-fired steam generator, with an annual average capacity factor of greater than thirty (30%) percent, shall conform with the following monitoring requirements when such facility is subject to an emission standard of an applicable plan for the pollutant in question.

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

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

(2) oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity regulations without utilization of particulate matter collection equipment, and where the source has never been found, through any administrative or judicial proceedings, to be in violation of any visible emission standard of the applicable plan.

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

§1131. Control of Odors in Ambient Air (a) No person shall discharge into the atmosphere, or cause to be discharged into the atmosphere, from any source whatsoever any quantity of odorous or gaseous emission, material, or air contaminant of any kind or description, which is injurious or detrimental to repose, health and safety, or which in any way unduly interferes with or prevents the comfortable enjoyment of life or property.

(b) An odor occurrence shall be deemed a violation when a complaint is received and verified by the Administrator. The Administrator shall deem the odor occurrence a violation if he is able to make two odor measurements within one period, these measurements being separated by at least fifteen (15) minutes. An odor measurement shall consist of a detectable odor after the odorous air has been diluted seven volumes of odorfree air as determined by a scentometer as manufactured by the Barney- Cheney Company or any other instrument, device, or technique designated by the Administrator as producing equivalent results.

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

§1132. Air Pollution Emergencies. (a) Notwithstanding any other provision of the air pollution control regulations, this episode regulation is designed to prevent the excessive build-up of air contaminants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these contaminants on the health of the public.

(b) **Episode Criteria:** Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Administrator determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such

levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination the Administrator will be guided by the following criteria:

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

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

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

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

SO₂ and particulate combined--product of SO₂ p.p.m., 24-hour average, and COHs equal to 0.2 or product of SO₂-ug/m³, 24-hour average, and particulate ug./m³, 24-hour average equal to 65x10³.

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

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

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

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

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

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

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

SO₂ and particulate combined---product of SO₂ p.p.m., 24-hour average and COHs equal to 0.8 or product of SO₂

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ug./m³, 24-hour average and particulate ug./m³, 24-hour average equal to 261x10ⁿ.

Oxidant (O_n)---800 ug./m³ (0.4 p.p.m.) ---1-hour average.
NO_x---2,260 ug./m³ (0.4 p.p.m.)---1-hour average; 565 ug./m³ (0.3 p.p.m.), 24-hour average.

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

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

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

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

SO₂ and particulate combined---product of SO₂ p.p.m., 24-hour average and COHs equal to 1.2 or product of SO₂ ug./m³, 24-hour average and particulate ug./m³, 24-hour average equal to 393x10ⁿ.

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

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

NO_x---3,000 ug./m³ (1.6 p.p.m.), 1 hour average; 750 ug./m³ (0.5 p.p.m.), 24-hour average.

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

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

(6) Nothing in this chapter shall be construed to prevent or invalidate the extrapolation of a pollutant concentration based on a shorter sampling period to

an equivalent concentration for the time period specified in the standard when existing atmospheric and wind conditions are not expected to change so as to ameliorate pollution levels. This extrapolation shall be used to forecast the possibility of an episode to initiate corrective action.

§1132.1. Same: Emission Reduction Plan.

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

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

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

§1133. Control Of Sulfur Dioxide Emission. (a)

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

(b) An intermittent control strategy shall be required of any stationary source when winds blow to populated areas.

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

(d) No fossil-fuel fired steam generating unit having commenced construction after August 17, 1971

and of more than 73 megawatts heat input rate (250 million BTU per hour) shall emit gases which contain sulfur dioxide in excess of .80 lb. per million BTU derived from liquid fossil-fuel.

§1134. Motor Vehicle Pollution Control. (a) Importation.

(1) No person shall import any motor vehicle or motor vehicle engine into the Territory of Guam, unless such motor vehicle or motor vehicle engine is in accordance with the Act as amended or be granted an exception under Section (i) or (n).

(2) The importer or consignee shall declare to the Director in duplicate on EPA form 3520-1 (one record for GEPA and one for the Director) the following information:

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

(B) The make, model, and model year of the vehicle or engine.

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

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

(E) A statement that the motor vehicle belongs to one of the categories on EPA form 3520-1 or furnish to the Director a written exception under Section (i) or (n).

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

(4) 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 Department of Health, Education and Welfare or by the USEPA or be granted an exception under Section (i) or (n).

(5) 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.

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

(7) 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 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.

(8) The Director shall allow the importation of a motor vehicles or motor vehicle engines intended solely for export provided the motor vehicle or motor vehicle engines are not allowed to leave the premises of the Port Authority of Guam.

(9) Motor vehicles and motor vehicle engines not subject to the requirements of 14.1 according to the Act and its amendments:

(A) the motor vehicle manufactured before

1968 model year; or

(B) a non-chassis mounted engine to be used in a light-duty motor vehicle; or

(C) the motor vehicle, or motor vehicle engine manufactured before January 1, 1970 for use in a heavy-duty vehicle; or

(D) light-duty non-gasoline fueled vehicle, (if diesel-fueled, only for 1974 and earlier models);

(E) motor cycles manufactured before January 1, 1978; or

(F) racing vehicle not to be operated on public streets or highways; or

(G) motor vehicle which exhibit one of these features conflicting with safe highway use 1) no reverse gear (except motorcycles), 2) no differential gear, 3) tracks instead of tires, 4) being of inordinate size, 5) cannot exceed a maximum speed of 25 miles per hour over level paved surfaces, or 6) has armor or weaponry associated with military combat;

(H) vehicle eligible for one-time personal exemption provided the vehicle is 1) the first nonconforming motor vehicle imported by the individual, 2) fully owned by the importer or consignee (not a business), 3) not for resale for two years, and 4) five 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.

(10) The Administrator shall notify the Department of Revenue and Taxation in writing of motor imported by one-time person 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 years.

(11) The Director 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 Administrator of the U.S. Environmental Protection Agency 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 3) the name of the person responsible for custody of the motor vehicle or motor vehicle engine.

(12) The Director shall allow the importation of a motor vehicle or motor vehicle engine, for which a certificate of 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 engine is equipped with the equipment required in the certification as verified by the Administrator.

(13) 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 area outside North America, (U.S., Mexico, and Canada) or from a country where unleaded gasoline is not widely distributed, under \$300 bond for the purpose of replacing the oxygen sensing device and the catalytic converter.

(14) 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.

(15) 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 of Guam Environmental Protection Agency stating i) identification of the location such vehicle will be stored (not on the premises of any dealer) and ii) the name of the person responsible for custody of the motor vehicle or motor vehicle engine and 2) certifies the person will retrofit the motor vehicle or motor vehicle engine according to the instructions obtained from the manufacturer's US representative.

(16) For conditional entry of motor vehicles under bond, the importer or consignee shall give a bond equal to but not less than one-half 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 these statutes are fulfilled and a written recommendation from the Administrator or his designee is obtained stating that the Director may release the bond.

(17) **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 Chapter, for the production of a declaration from the Administrator that the vehicle is in conformity with Federal emission standards. Within 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 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 5 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.

(18) **Merchandise refused entry.** If a motor vehicle is denied entry under the provision of this

chapter, the Director shall refuse to release the merchandise for entry into Guam and shall give notice of such refusal to the importer.

(19) Disposition of merchandise refused entry into Guam. Motor vehicles or motor vehicle engines denied entry under this Chapter or which are redelivered in accordance and which are not exported under supervision of the Director within 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.

(20) On the effective date Chapter 14, Section 14.1 (Motor Vehicle Pollution Control - Importation), all existing vehicles on Guam will be exempt from these regulations, and bonds held on those vehicles will be released from the Director. Vehicles imported to Guam on or after the effective date of Chapter 14.1 will be required to meet the requirements of these regulations.

(b) 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 requirement of any federal law or regulation.

(c) No person shall operate a motor vehicle or other internal combustion engine originally equipped with air pollution devices or systems as required by any Federal Law or Regulation, unless such devices or systems are in place and in operating condition.

(d) No person shall cause or permit the emission of visible air contaminants from gasoline-powered motor vehicles for longer than five (5) consecutive seconds. [14.4]

(e) No person shall cause or permit the emission of visible air contaminants from diesel powered motor

vehicles of a shade of density equal to or darker than that designated as No. 1, on the Ringelmann Chart, or 20 percent opacity, for longer than five (5) consecutive seconds.

(f) 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 contaminant.

§1134.1. Same: Penalties. (a) The owner of any motor vehicle in violation of this 14.2-14.6 shall be subject to prosecution.

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

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

§1134.2. Same: Waiver. The violator can apply for waiver of prosecution by the Administrator, not to exceed fortyfive (45) days in duration. To be considered for a waiver, the violator shall immediately notify the Administrator of the deficiency, and provide a statement giving all pertinent facts, including the reason for the violation, the attempts made to correct the deficiency, any difficulties encountered correcting the situation, and the estimated date of the correction of the deficiency.

§1135. Standards Of Performance For New Stationary Sources. (a) **General.**

(1) The Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR, Part 60) designated in Part 15.2 are incorporated by reference as they exist on the date of adoption and promulgation by the Board into those Regulations as amended by the word or phrase substitutions given in Part 15.3. References for specific documents containing the complete text of subject regulations are given in Appendix A.

(2) In the event any conflict between the Regulations contained in this Chapter and Regulations

contained in other chapters, the Regulations of Chapter 15 will take precedence for standards of performance for new stationary sources, unless the existing Regulations are more stringent.

(3) **Definition** - For purposes of this Chapter, the definitions listed in Section 60.2 Subpart A, Part 60, Title 40 of the Code of Federal Regulations will apply.

(b) Designated Standards of Performance.

(1) Subpart D - Fossil-Fuel Fired Steam Generator (units of more than 250 million BTU per hour heat input).

(2) Subpart E - Incinerators (units of more than fifty (50) tons per day charging rate).

(3) Subpart F - Portland Cement Plants (kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, conveyor transfer points, bagging and bulk loading and unloading systems).

(4) Subpart G - Nitric Acid Plants (nitric acid production units).

(5) Subpart H - Sulfuric Acid Plants (sulfuric acid production units).

(6) Subpart I - Asphalt Concrete Plants (dryers, systems for screening, handling, storing, and weighing hot aggregate, systems for loading, transferring, and storing mineral filler; systems for mixing asphalt concrete and the loading, transfer and storage systems associated with emission control systems).

(7) Subpart J - Petroleum Refineries (fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator waste heat boilers and fuel gas combustion devices).

(8) Subpart K - STORAGE - Storage vessels for Petroleum Liquids (storage vessels with a capacity greater than 40,000 gallons).

(9) Subpart L - Secondary Lead Smelters (pot furnaces of more than 550 pounds charging capacity, blast (cupola) furnaces and reverberatory furnaces).

(10) Subpart M - Secondary Brass and Bronze Ingot Production Plants (reverberatory and electric furnaces of 2,205 pounds or greater production capacity and blast (cupola) furnaces of 550 pounds per hour or greater production capacity).

(11) Subpart N - Iron and Steel Plants (basic oxygen process furnace).

(12) Subpart O - Sewage Treatment Plants (incinerators which burn the sewage produce by municipal sewage treatment facilities).

(13) Subpart P - Primary Copper Smelters (dryer, roaster, smelting furnace, and copper converter).

(14) Subpart Q - Primary Zinc Smelters (roaster and sintering machine).

(15) Subpart R - Primary Lead Smelters (sintering machine, sintering machine discharge end, blast furnace, dross reverberatory furnace, electric smelting furnace and converter).

(16) Subpart S - Primary Aluminum Reduction Plants (potroom groups and anode bake plants).

(17) Subpart T - Wet Process Phosphoric Acid Plants (any combination of reactors, filters, evaporators, and hotwells).

(18) Subpart U - Superphosphoric Acid Plants (any combination of reactors, filters, evaporators and hotwells).

(19) Subpart V - Diammonium Phosphate Plants (any combination of reactors, granulators, dryers, coolers, screens, and mills).

(20) Subpart W - Triple Superphosphate Plants (any combination of mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills and

facilities which store run-of-pile triple superphosphate).

(21) Subpart X - Granular Triple superphosphate storage facilities (any combination of storage or curing piles, conveyors, elevators, screens and mills).

(22) Subpart Y - Coal Preparation Plants (units which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment, including beakers and crushers), coal storage systems, and coal transfer and loading systems.

(23) Subpart Z - Ferroalloy Production Facilities (electric submerged arc furnaces and dust-handling equipment).

(24) Subpart AA - Electric Arc Furnaces in steel plants (electric arc furnaces and dust-handling equipment).

(25) Subpart BB - Kraft Pulp Mills (any combination of digester systems, brown stock washer systems, multiple-effect evaporator systems, black liquor systems, recovery furnace, smelt dissolving tank, lime kiln, and condensate stripper system).

(c) **Word or Phrase Substitutions.** In all the standards designated in Part 15.2 substitute

(1) GEPA Administrator for Federal EPA Administrator.

(2) GEPA Board or U.S. Environmental Protection Agency (Except in References).

§1136. National Emission Standards For Hazardous Air Pollutants. (a) General.

(1) The Environmental Protection Agency Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR, Part 61) designated in Part 16.2 are incorporated by reference as they exist on the date of adoption and promulgations by the Board into these regulations as amended by the word

or phrase substitutions given in Part 16.3. Reference for specific documents containing the complete text of subject regulations are given in Appendix A.

(2) In the event of any conflict between the Regulations contained in this Chapter and Regulations contained in other chapters, the Regulations of Chapter 16 will take precedence for national emission standards for hazardous air pollutants, unless existing regulations are more stringent.

(3) **Definitions.** For purposes of this Chapter, the definitions listed in Section 61.02 Subpart A, Part 61, Title 40, of the Code of Federal Regulations will apply.

(b) Designated Emission Standards.

(1) Subpart B - Asbestos.

(2) Subpart C -Beryllium.

(3) Subpart D - Beryllium Rocket Motor Firing.

(4) Subpart E - Mercury.

(5) Subpart F - Vinyl Chloride.

(c) **Word or Phrase Substitutions.** In all of the standards designated in Part 16.2, substitute:

(1) GEPA Administrator for Federal EPA Administrator.

(2) GEPA Board for U.S. Environmental Protection Agency (Except in References).

§1137. Appeal Procedures, Circumvention, Severability, and Effective Date. (a) **Appeal.** Any person aggrieved by a decision of the Administrator, may appeal to the Board of Directors of the Agency within thirty (30) days after notification.

(b) **Circumvention.** No person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air contaminant emitted, conceals or

dilutes an emission of air contaminant which would otherwise violate these regulations. This provision does not prohibit recycling, burning as fuel or otherwise further processing a material which would violate an emission regulation of released to the atmosphere, so long as the facility in which that material is used does not violate applicable emission regulations.

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

(d) **Effective Date.** The effective date for new and existing source compliance with each chapter of these Standards and Regulations shall be as listed below:

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

(2) Chapter 2 - Ambient Air Quality Standards - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, October 23, 1981, Effective December 11, 1981.

(3) Chapter 3 - Permits - Adopted, November 18, 1971; Effective, May 21, 1972; Amended, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, November 20, 1974; Effective March 21, 1975; Amended, October 23, 1981; Effective December 11, 1981.

(4) Chapter 4 - Monitoring, Records, and Reporting - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, November 20, 1974; Effective, March 21, 1975; Amended December 18, 1978; Effective February 19, 1979.

(5) Chapter 5 - Sampling and Testing Methods - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, August 8, 1973; Effective, November 1, 1973.

(6) Chapter 6 - Control of Open Burning- Adopted, November 18, 1971; Effective, May 27, 1972; Amended, December 18, 1978; Effective, February 19, 1979.

(7) Chapter 7 - Control of Particulate Emission From process Industries. - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, June 29, 1971; Effective, July 31, 1972; Amended, August 8, 1973; November 1, 1973; Amended, December 18, 1978; Effective, February 19, 1979.

(8) Chapter 8 - Control of Fugitive Dust - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, November 20, 1974; Effective, March 21, 1975.

(9) Chapter 9 - Control of Particulate Emission From Incinerators: Design and Operation - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, August 8, 1973; Effective, November 1, 1973.

(10) Chapter 10 -Control of Visible Emission of Particulates for Stationary Sources - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, December 18, 1978; Effective, February 19, 1979.

(11) Chapter 11 - Control of Odors in Ambient Air - Adopted, November 18, 1971; Effective, May 27, 1972.

(12) Chapter 12 - Air Pollution Emergencies - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; Effective, November 1, 1973.

(13) Chapter 13 - Control of Sulfur Dioxide Emissions - Adopted, November 18, 1971; Effective, May 27, 1972; Amended, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended December 18, 1979; Effective, February 19, 1978.

(14) Chapter 14 - Motor Vehicle Pollution Control - Adopted, June 29, 1972; Effective, July 31, 1972; Amended, August 8, 1973; Effective, November 1, 1973; Amended, December 18, 1978; Effective, February 19, 1979; Amended, November 7, 1986; Effective.

(15) Chapter 15 - Appeal Procedures Circumvention Severability, and Effective Date - Adopted, August 8, 1973; Effective, November 1, 1973; Amended, December 18, 1978; Effective February 19, 1979.

(16) Chapter 16 - Adopted December 18, 1978; Effective February 19, 1979.

(17) Chapter 17 - Adopted December 18, 1978; Effective February 19, 1979; Amended October 23, 1981, Effective December 11, 1981.

APPENDIX A

ENVIRONMENTAL PROTECTION AGENCY
REGULATIONS REFERENCED DOCUMENTS

The Complete text of all EPA Regulations incorporated into these Regulations is located in the following documents:

40 CFR AND 40 CFR 61,
revised as of July 1, 1977.