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Part II. Permit Requirements

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1.0 DEFINITIONS

“**Act**” or “**CAA**” means the Federal Clean Air Act, 42 U.S.C. Sections 7401 et seq. as amended.

“**Actual emissions**” means the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with the following:

- A. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit’s actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
- B. If there is inadequate information to determine actual historical emissions, the Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

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- C. For any emissions unit at a Title V source, other than an electric utility steam generating unit in paragraph E of this section, that has not begun normal operations on the particular date, actual emissions shall equal the unit’s potential to emit on that date.
- D. For any emissions unit at a non-Title V source that has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.
- E. For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit), actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, if the source owner or operator maintains and submits to the Director, on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emission increase. A longer period, not to exceed ten (10) years, may be required by the Director if the Director determines the longer period to be more representative of normal source post-change operations.

“Administrator” means the Administrator of the United States Environmental Protection Agency (“EPA”).

“Affected source” means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act, 42 U.S.C. §§ 7651 et seq.

“Affected States” are all States:

- A. Whose air quality may be affected and that are contiguous to the Gila River Indian Community in which a Part 70 permit, permit modification or permit renewal is being proposed; or
- B. That are within fifty (50) miles of the permitted source.

“Affected Tribes” are all federally recognized Indian Tribes:

- A. Whose air quality may be affected and that are contiguous to the Gila River Indian Community in which a Part 70 permit, permit modification or permit renewal is being proposed; or
- B. That are within fifty (50) miles of the permitted source.

“Air contaminant” means dust, fume, gas, mist, odor, smoke, vapor, pollen, soot,

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carbon, acid, or particulate matter, or any combination thereof.

“Air pollutant” means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term “air pollutant” is used.

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

- A. The applicable New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants;
- B. The applicable existing source performance standard;
- C. The emissions rate specified in any federally promulgated rule or federally enforceable permit conditions applicable to the Gila River Indian Community lands; and
- D. An emission limit in a permit issued pursuant to this Part II.

“Applicable requirements” means any other requirement established pursuant to this Ordinance or all of the following as they apply to an emissions unit at a Part 70 source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates):

- A. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 C.F.R. Part 52;
- B. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including Parts C or D, of the Act;
- C. Any standard or other requirement under Section 111 of the Act, including Section 111(d);
- D. Any standard or other requirement under Section 112 of the Act, including any requirement concerning accident prevention under Section 112 (r)(7) of the Act;

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- E. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
- F. Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Act;
- G. Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;
- H. Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;
- I. Any standard or other requirement for tank vessels under Section 183(f) of the Act;
- J. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the Act;
- K. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and
- L. Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act.

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

“Best Available Control Technology” or **“BACT”** has the meaning ascribed to that term in 40 C.F.R. § 52.21.

“Best Reasonable and Demonstrated Technology” or **“BRDT”** means an emission limitation or design equipment, work practice or operational standard including a visible emissions standard, based on the maximum degree of reduction of each criteria pollutant or hazardous air pollutant determined on a case-by-case basis or for sources of the same class or category, by a rule adopted by the Director which the Director determines has been achieved on a consistent basis by non-Title V sources with similar operating characteristics taking into account energy, environmental, and economic impact and other costs as well as the feasibility of achieving the emission limitation for a particular source and the existing air quality in the area to be impacted by the source. For regulated emissions of an ultrahazardous air pollutant, the

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emission limitation shall be based on any Maximum Achievable Emission Rate promulgated by EPA for that source or any similar category of sources. In no event will BRDT be less stringent than the most stringent source-category specific emission limitation in Part VII, New Source Performance Standard in Section 7.0 of this Part applicable to the source, or the Maximum Achievable Emission Rate in Section 8.0 of this Part.

“Building, structure, facility, or installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same *Major Group* (i.e. which have the same two-digit code) as described in the *Standard Industrial Classification Manual*, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

“Categorical source” means the following classes of sources:

- A. Coal cleaning plants with thermal dryers;
- B. Kraft pulp mills;
- C. Portland cement plants;
- D. Primary zinc smelters;
- E. Iron and steel mills;
- F. Primary aluminum ore reduction plants;
- G. Primary copper smelters;
- H. Municipal incinerators capable of charging more than fifty (50) tons of refuse per day;
- I. Hydrofluoric, sulfuric, or nitric acid plants;
- J. Petroleum refineries;
- K. Lime plants;
- L. Phosphate rock processing plants;
- M. Coke oven batteries;
- N. Sulfur recovery plants;
- O. Carbon black plants using the furnace process;

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- P. Primary lead smelters;
- Q. Fuel conversion plants;
- R. Sintering plants;
- S. Secondary metal production plants;
- T. Chemical process plants;
- U. Fossil-fuel boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input;
- V. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
- W. Taconite preprocessing plants;
- X. Glass fiber processing plants;
- Y. Charcoal production plants;
- Z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million BTU per hour heat input;
- AA. Any other stationary source category regulated under Section 111 or Section 112 of the Act or for which the Administrator has made an affirmative determination by rule pursuant to Section 301(j) of the Act.

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

- A. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- B. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

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

“Criteria pollutant” means nitrogen oxides, volatile organic compounds, particulate

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matter, PM10, sulfur dioxide, carbon monoxide, or lead.

“Department” means the Gila River Indian Community Department of Environmental Quality (“DEQ”).

“Designated representative or Responsible Official” means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit , and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

“Director” means the Director of the Gila River Indian Community Department of Environmental Quality.

“Draft permit” means the version of a permit for which the Director seeks public comment under Section 3.0 of this Part and under 40 C.F.R. § 70.7(h) and subjects to affected State review under 40 C.F.R. § 70.8.

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

“Emission” means a release into the atmosphere of any regulated pollutant or air contaminant.

“Emission standard” or **“Emission limitation”** means a requirement established by the Director or the Administrator which limits the quantity, rate, or concentration of emission of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

“Emissions allowable under the permit” means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

“Emissions unit” means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulations under the Act.

“Existing source” means any source which commenced operation prior to [date rule promulgated].

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“Facility” means any property, real or personal, which may incorporate one or more plants all being operated or maintained by a person as part of an identifiable business on contiguous or adjacent property which emits a regulated air pollutant.

“Federally enforceable” means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 C.F.R. Parts 60 and 61, requirements within any applicable Tribal Implementation Plan, any permit requirements established pursuant to 40 C.F.R. § 52.21 or under regulations approved pursuant to 40 C.F.R. Part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the Tribal Implementation Plan and expressly requires adherence to any permit issued under such program.

“Final permit” means the version of a Part 70 permit issued by the permitting authority that has completed all review procedures required by 40 C.F.R. §§ 70.7 and 70.8.

“Fixed capital cost” means the capital needed to provide all the depreciable components.

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

“Hazardous air pollutant” or **“HAP”** means an air pollutant listed as hazardous pursuant to Section 112 of the Act.

“Insignificant Activity” means an activity in an emissions unit that is not otherwise subject to any applicable requirement and which belongs to one of the following categories:

- A. Landscaping, building maintenance, or janitorial activities.
- B. Gasoline storage tanks with capacity of 10,000 gallons or less.
- C. Diesel and fuel oil storage tanks with capacity of 40,000 gallons or less.
- D. Batch mixers with rated capacity of five (5) cubic feet or less.
- E. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds whose production rate is two hundred (200) tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.
- F. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood.
- G. Powder coating operations.

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- H. Internal combustion (IC) engine-driven compressors, IC engine-driven electrical generator sets, and IC engine-driven water pumps used only for emergency replacement or standby service if an annual limit on hours of operation of the engine is prescribed by the source’s permit.
- I. Lab equipment used exclusively for chemical and physical analyses.
- J. Any other activity for which there are no specific applicable requirements which does not emit more than 0.3 tons per year of any hazardous air pollutant or more than one ton per year of any criteria pollutant.

“General permit” means a Part 70 permit that meets the requirements of 40 C.F.R. §70.6(d).

“Major modification” means any modification of a major stationary source that is subject to regulation by the Administrator as a major modification under 40 C.F.R. § 52.21 or, for a non-Title V source, meets the requirements of subsection 4.2(A)(3)(c) of this Part.

“Major source” means for purposes of determining the applicability of the Title V permit requirements in Section 3.0:

- A. A major source under Section 112 of the Act. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emissions, ten (10) tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act, twenty-five (25) tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources. For radionuclides, “major source” shall have the meaning specified by the Administrator by rule.
- B. A major stationary source, as defined in Section 302 of the Act, that directly emits or has the potential to emit, one hundred (100) tpy or more of any regulated air pollutant (including any major source of fugitive emissions of any such pollutant as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purpose of Section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

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1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than fifty (50) tons of refuse per day;
9. Hydrofluoric, sulfuric, or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants (furnace process);
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units (BTU) per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plant;
25. Charcoal production plants;
26. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
27. Any other stationary source category, which is being regulated under Section 111 or 112 of the Act and for which EPA has made an affirmative determination by rule under Section 302(j) of the Act.

- C. A source that emits or has the potential to emit five (5) or more tons of lead per year.

“Major source,” for purposes of determining whether a physical change or change in the method of operation constitutes a major modification to a major source or major emitting facility, means:

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- A. Any stationary source located in a nonattainment areas that emits or has the potential to emit one hundred (100) tons per year or more of any criteria air pollutant, except as follows:

POLLUTANT EMITTED	NONATTAINMENT POLLUTANT AND CLASSIFICATION	QUANTITY THRESHOLD TONS/YEAR OR MORE
Carbon monoxide (CO)	CO, Serious, with stationary sources as more than 25% of source inventory	50
Volatile Organic Compounds (VOC)	Ozone, Serious	50
VOC	Ozone, Severe	25
PM10	PM10, Serious	70
NOx	Ozone, Serious	50
NOx	Ozone, Severe	25

- B. Any stationary source located in an attainment or unclassifiable area that emits or has the potential to emit, one hundred (100) tons per year or more of any criteria air pollutant if the source is classified as a Categorical Source, or two hundred fifty (250) tons per year or more of any pollutant subject to regulation under the Act if the source is not classified as a Categorical Source.
- C. Any stationary source that emits or has the potential to emit five (5) or more tons of lead per year.
- D. A major source that is major for VOC shall be considered major for ozone; or
- E. A major source that is major for oxides of nitrogen shall be considered major for ozone in nonattainment areas classified as marginal, moderate, serious, or severe.

“Malfunction” means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal and usual manner, but does not include failures that are caused by poor maintenance, careless operation or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care.

“Maximum Achievable Control Technology” or **“MACT”** means any measure, process, method, system or technique applied to a stationary source under Sections 112(d), (f) or (h) of the Act which provides the maximum degree of reduction in the emission of hazardous air pollutants as follows:

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- A. For new stationary sources, the maximum degree of reduction in emissions must be no less stringent than the control of emissions that is achieved in practice by the best controlled similar stationary source, as determined by the Administrator.
- B. For existing stationary sources, the maximum degree of reduction in emissions must be no less stringent than the requirements set forth in 42 U.S.C. § 7412(d)(3).

“Minor source” means a source that has the potential to emit less than the amount required to make the source a major source for purposes of Title V.

“Minor modification” means any modification that is not a major modification under these definitions.

“Modification” means any physical change in an existing source or change in the method of operation which results or may result in either an increase in potential to emit of any air pollutant subject to regulation under the Act, or the emission of any such air pollutant not previously emitted. For purpose of this definition, the following shall not be regarded as a physical change or a change in the method of operation:

- A. Routine maintenance, repair or replacement with identical or equivalent equipment.
- B. Increased production rate or increased hours of operation where there is not increased fixed capital cost, unless such production and hours are limited by permit conditions.

“Necessary preconstruction approval or permits” means those permits or approvals required under Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable Tribal Implementation Plan.

“New source” means any stationary source which commences construction after [date rule promulgated].

“Operation” or **“method of operation”** means any physical action resulting in a change in the location, form, or physical properties of a material, or any chemical action resulting in a change in the chemical composition or properties of a material.

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly results or may result in emissions of any air pollutant which is subject to regulation under this Ordinance.

“Part 70 permit” means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to 40 C.F.R. Part 70.

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“Part 70 program” means a program approved by the Administrator under 40 C.F.R. Part 70.

“Part 70 source” means any source subject to the permitting requirements of 40 C.F.R. Part 70, as provided in 40 C.F.R. §§ 70.3 (a) and 70.3(b).

“Permit modification” means a revision to a Part 70 permit that meets the requirements of 40 C.F.R. § 70.7(e).

“Permit revision” means any permit modification or administrative permit amendment.

“Permit authority” means either of the following:

- A. The Administrator, in the case of EPA-implemented programs; or
- B. The tribal air pollution control agency authorized by the Administrator to carry out a permit program under 40 C.F.R. Part 70.

“Person” means any individual, public or private corporation, institution, company, partnership, firm, association or society of persons, trust estate, group, agency, political subdivision or any legal successor, representative, agent or agency of the foregoing.

“Portable source” means any building, structure, facility or installation which emits or may emit any air pollutant and is capable of being operated at more than one location.

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

“Proposed permit” means the version of a permit that the permitting authority proposes to issue and forwards to the Administrator for review in compliance with 40 C.F.R. § 70.8.

“Reconstruction” of sources located in nonattainment areas shall be presumed to have taken place if the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost of a comparable entirely new stationary source, as determined in accordance with the provisions of 40 C.F.R. § 60.15(f)(1) through (3).

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

“Regulated air pollutant” means any of the following:

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- A. Any criteria air pollutant.
- B. Any air contaminant that is subject to a new source performance standard.
- C. Any hazardous or ultrahazardous air pollutant.
- D. Any Class I or II substance listed in Section 602 of the Act.

“Representative actual annual emissions” means the average rate, in tons per year, at which a source is projected to emit a pollutant for the 2-year period after a physical change or change in the method of operation of an emissions unit (or a different consecutive 2-year period within ten (10) years after that change, if the Director determines that the different period is more representative of source operations), considering the effect the change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the Director shall:

- A. Consider all relevant information, including historical operational data, the company’s representations, filings with Gila River Indian Community, state or federal regulatory authorities, and compliance plans under Title IV of the Act; and
- B. Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit’s emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

“Responsible official” means one of the following:

- A. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million;
- B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- C. For a Community or Federal agency: Either a principal executive officer or ranking elected official. For the purposes of this Part, a principal

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executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

- D. For affected sources:
1. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 2. The designated representative for any other purposes under Part 70.

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

“Section 502(b)(10) changes” are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

“Significant” means

- A. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

POLLUTANT	EMISSION RATE
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy
PM10	15 tpy
VOC	40 tpy
Lead	0.6 tpy

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POLLUTANT	EMISSION RATE
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H ₂ S)	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Hazardous air pollutant	3 tpy
Any combination of hazardous air pollutants	5 tpy
Ultrahazardous air pollutants	300 lbs/year
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 ⁻⁶ tpy
Municipal waste combustor metals (measured as particulate matter)	15 tpy
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tpy

- B. For a regulated air pollutant that is not listed in paragraph A of this section, is not a Class I or II substance listed in Section 602 of the Act, and is not a hazardous air pollutant, any emission rate.
- C. Notwithstanding the emission amount listed in paragraph A of this section, any emission rate or any net emission increase associated with a major source or major modification, which would be constructed within ten (10) kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than one (1) g/m³ (24-average).

“Source” means any building, structure, facility, or installation that may cause or contribute to air pollution.

“Start-up” means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.

“Stationary source” means any building, structure, facility, or installation that operates at a fixed location and that emits or may emit any air pollutant subject to regulation under the Act.

“Synthetic minor” means a source which voluntarily proposes in its application and accepts in its permit, emissions limitations, controls, or other requirements which are permanent, quantifiable, and enforceable, which, if the source complies with the requirements of paragraph

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4.2(B) of this section, will enable such source to avoid classification as a source that requires a Title V permit.

“**Title V**” means the permit requirements imposed in Title V of the Act, 42 U.S.C. §§ 7661 et seq.

“**Trade secret**” means information to which all of the following apply:

- A. A person has taken reasonable measures to protect from disclosure and the person intends to continue to take such measures.
- B. The information is not, and has not been, reasonably obtainable without the person’s consent by other persons, other than governmental bodies, by use of legitimate means, other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding.
- C. No ordinance or statute specifically requires disclosure of the information to the public.
- D. The person has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the person’s competitive position.

“**Tribal Entity**” means a tribally owned and operated corporation, business or enterprise that provides funding to the Community Council resulting from profits from operating the entity where at least fifty (50) percent of the profits are shared with the Council for the benefit of Community members.

“**Ultrahazardous air pollutant**” means a hazardous air pollutant listed pursuant to Section 112(r)(3) of the Act.

“**Volatile Organic Compounds**” means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

- A. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-

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143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC 245ca); 1,1,2,3,3-pentafluoropropane (HFC 245ea); 1,1,1,2,3-pentafluoropropane (HFC 245eb); 1,1,1,3,3-pentafluoropropane (HFC 245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃ or HFE-7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅ or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅); methyl acetate, 1,1,1,2,2,3,3,-heptafluoro-3-methoxy-propane (n-C₃F₇ OCH₃, HFE-7000), 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2 (trifluoromethyl) hexane (HFE-7500), 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea), and methyl formate (HCOOCH₃), and perfluorocarbon compounds which fall into these classes:

1. Cyclic, branched, or linear, completely fluorinated alkanes;
 2. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
 3. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
 4. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- B. For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in 40 CFR Part 60, Appendix A, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibility-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the enforcement authority.
- C. As a precondition to excluding these compounds as VOC or at any time thereafter, the enforcement authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the

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satisfaction of the enforcement authority, the amount of negligibly-reactive compounds in the source's emissions.

- D. The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emission limitations or VOC content requirements: t-butyl acetate.

2.0 APPLICABILITY OF PERMIT REQUIREMENTS

2.1 Permits Required. Except as otherwise provided in these parts, no person shall begin actual construction of, continue to operate, or make a modification to any source subject to regulation under these parts without complying with the permit issuance and permit revision procedures of this Part. The procedures and requirements set forth in 40 C.F.R. Part 70, adopted as of July 1, 2006, and no future additions or amendments, shall be incorporated into this Part by reference. Persons subject to this Part shall obtain one of the following permits from the Department:

- A. Title V Permit. A Title V permit or, in the case of an existing permitted source, a significant permit revision shall be required for a person to commence construction or to operate any major source as defined in Section 1.0 of this Part; any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act, any affected source as defined in Section 1.0 of this Part, or any source in a source category designated by the Administrator pursuant to 40 C.F.R. § 70.3, as requiring a Title V permit.
- B. Non-Title V Permit. Unless a Title V permit is required or a person proposes to commence construction of a major modification to a major source, a non-Title V permit shall be required for a person to commence construction of, to operate, or to modify any of the following:
1. Any source other than a major source, including an area source, subject to a standard, limitation, or other requirement under Section 111 of the Act;
 2. Any source other than a major source of HAPs, including an area source, subject to a standard or other requirement pursuant to Section 112 of the Act; or
 3. Any source that emits or has the potential to emit, without control, regulated air pollutants unless that source is otherwise exempt under the provisions of subsection 2.1(C) of this Part.

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- C. *De Minimis* Exemption: *De minimis* facilities are exempt from the permitting requirements of Sections 3.0 through 5.0 of this Part.
1. For purposes of Sections 3.0 through 5.0 of this Part, a *de minimis* facility means a facility that meets all of the following:
 - a. Has actual emissions of one ton per year or less of any single regulated air pollutant except a hazardous air pollutant;
 - b. Has actual emissions of one thousand (1000) pounds per year or less of any single hazardous air pollutant or one ton of any combination of hazardous air pollutants;
 - c. Has actual emissions of three hundred (300) pounds per year or less of any single ultrahazardous air pollutant or any combination of ultrahazardous air pollutants;
 - d. Is not a “major source” as defined by subsection 1.0 of this Part;
 - e. Is not a “major stationary source” as defined by Section 502 of the Act; and
 - f. Is not operated in conjunction with another facility or source that is subject to air quality permitting.
 2. The following sources shall be deemed *de minimis* facilities:
 - a. A source that would be required to obtain a permit solely because it is subject to 40 C.F.R. § 61.145;
 - b. Agricultural equipment used in normal farm operations except equipment classified as a source subject to Section 502 of the Act or 40 C.F.R. Parts 60 or 61;
 - c. Air-conditioning equipment and general combustion equipment, except the following sources to the extent which the described limits are not exceeded:
 - (1) Any source with an aggregated input capacity of less than 2 million BTU per hour calculated by adding only those pieces of equipment over 300,000 BTU per hour with respect to fuel burning equipment fired with natural gas or liquefied petroleum gas;

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- (2) Any oil fueled heat equipment with a maximum rated input capacity or an aggregated input capacity of less than 500,000 BTU (527,200 kilojoules) per hour.
- d. Motor vehicles. As used in this paragraph, a motor vehicle is any self-propelled vehicle designed for transporting persons or property on public highways;
- e. Residential and commercial housekeeping vacuum systems;
- f. Agricultural land use;
- g. Liquid Storage Tanks:
 - (1) Stationary storage tanks with a capacity of 250 gallons (946 liters) or less used for storing organic liquids;
 - (2) Stationary storage tanks used for storing organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or less;
 - (3) Pressure tanks and pressurized vessels used exclusively for the storage of liquefied gases.
- h. Equipment or contrivances used exclusively for the processing of food for human consumption;
- i. Disturbing topsoil of less than twenty-five (25) acres, except as otherwise provided for in Part V, Area Source Emission Limits;
- j. Portable internal combustion engines that, individually, have a rating:
 - (1) Less than 500 horsepower output; or
 - (2) Equal to or greater than 500 horsepower output, but operating less than two hundred (200) hours per calendar year.
- k. Stationary internal combustion engines that, individually, have a rating:

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- (1) Less than 250 horsepower output; or
- (2) Equal to or greater than 250 horsepower output, but operating less than two hundred (200) hours per calendar year.

1. Miscellaneous:

- (1) Diesel contaminated soil remediation projects, where no heat is applied;
- (2) Self-contained, enclosed blast and shot peen equipment where the total internal volume of the blast section is fifty (50) cubic feet or less and where any venting is done via pollution control equipment;
- (3) Those laboratory acids which have both a pH above 1.5 and an aggregate daily emission to ambient air of vapor/mist from all such acids not exceeding three pounds on any single day;
- (4) Brazing or welding equipment;
- (5) Hand soldering equipment;
- (6) A source whose aggregate of all wood working equipment totals fifty (50) horsepower or less;
- (7) Equipment used for buffing, carving, cutting, drilling, surface grinding, machining, planing, routing, sanding, sawing, shredding, or turning of ceramic artwork, precision parts, leather, metals, plastics, rubber, fiberboard, masonry, carbon, graphite or glass;
- (8) Normal landscaping, building maintenance or janitorial activities;
- (9) A source whose aggregate of all miscellaneous equipment, processes or production lines not otherwise identified in this section has total uncontrolled emissions of less than three pounds (1.4 kg) VOC or PM-10 during any day and less than 5.5 pounds (2.5 kg) of any other regulated air pollutant during any day.

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3. *De minimis* facilities that are exempt from the permitting requirements of Sections 3.0 through 5.0 of this Part remain subject to the performance standards and other operating requirements in this Part.

2.2 Schedule for Permit Application Submission.

- A. Existing sources requiring a Title V permit shall submit an application for a permit within one hundred eighty (180) days of receipt of written notice from the Director that a permit is required.
- B. Existing sources requiring a non-Title V permit shall submit an application for a permit within one hundred twenty (120) days of receipt of written notice from the Director that a permit is required.
- C. A new Title V source or any major modification to a major source that is also a Title V source shall file a complete application to obtain the Title V permit or permit revision within twelve (12) months after commencing operation. Any preconstruction conditions imposed by EPA pursuant to Part C or Part D of Subchapter I of the Act shall be incorporated in the permit as an administrative permit revision. Where an existing Title V permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.
- D. A new non-Title V source subject to the BRDT requirements shall submit an application for a permit at least one hundred eighty (180) days prior to the date the source owner or operator proposes to commence construction of the source. A new non-Title V source not subject to the BRDT requirements shall submit an application for a permit at least one hundred twenty (120) days prior to the date the source owner or operator proposes to commence construction of the source.

3.0 TITLE V PERMIT REQUIREMENTS

- 3.1 **Timely and Complete Application.** A source required by subsection 2.2 to obtain a Title V permit shall submit a timely and complete permit application in accordance with the following provisions:

- A. Timely applications:
 1. A timely application for a source applying for a Title V permit for the first time is one that is submitted in accordance with the schedule set forth in subsection 2.2.
 2. For purposes of permit renewal, a timely application is one that is submitted at least six (6) months prior to the date of permit

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expiration, or such other longer time as may be approved by the Director that ensures that the term of the permit will not expire prior to a permit decision. In no event shall this time be greater than eighteen (18) months.

- B. **Complete Application.** A complete application is one that satisfies all of the following:
1. To be deemed complete, an application must provide all information required pursuant to subsection 3.3, except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under subsection 3.3 must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information is consistent with subsection 3.4 of this Part.
 2. The permitting authority shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within sixty (60) days of receipt of an application, the application shall be deemed complete. If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. For modifications processed through minor permit modification procedures set forth in 40 C.F.R. § 70.7(e)(2) and (3), a completeness determination is not required.
 3. The source’s ability to operate without a permit shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued provided that the applicant submits any requested additional information by the deadline specified by the permitting authority.
- C. **Confidential Information.** In the case where a source has submitted information to the Director under a claim of confidentiality pursuant to Section 10.0 of this Part, the permitting authority may also require the source to submit a copy of such information directly to the Administrator.

3.2 Duty to Supplement or Correct Applications. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect

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submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

3.3 Standard Application Form and Required Information.

- A. The DEQ shall provide a standard permit application form. Information as described below for each emissions unit at a Title V source shall be included in the application. An application may not omit information needed to determine the applicability of, or to impose any applicable requirement, or to evaluate the fee amount required.
- B. The application shall also list activities which are insignificant. The application need not provide emissions data regarding insignificant activities. If the Director determines that an activity listed as insignificant does not meet the requirements of the definition of insignificant activities in Section 1.0 of this Part, the Director shall notify the applicant in writing and specify additional information required.
- C. The standard application form shall include the elements specified below:
 - 1. Identifying information, including company name and address (or plant name and address if different from the company name), owner’s name and agent, and telephone number and names of plant site manager/contact.
 - 2. A description of the source’s processes and products (by Standard Industrial Classification Code) including any associated with an alternate scenario identified by the source.
 - 3. The following emission-related information:
 - a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted.
 - b. Identification and description of all points of emissions described in paragraph (C)(3)(a) of this subsection in sufficient detail to establish the basis for fees and applicability of requirements of the Act.
 - c. Emissions rate in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

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- d. Identification and description of air pollution control equipment and compliance monitoring devices or activities.
 - e. The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.
 - f. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Part 70 source.
 - g. Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the Act).
 - h. Calculations on which the information in paragraphs (C)(3)(a)-(g) of this subsection are based.
4. The following air pollution control requirements:
 - a. Citation and description of all applicable requirements.
 - b. Description of or reference to any applicable test method for determining compliance with each applicable requirement.
 5. Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this Part or to determine the applicability of such requirements.
 6. An explanation of any proposed exemptions from otherwise applicable requirements.
 7. Additional information as determined to be necessary by DEQ to define alternative operating scenarios identified by the source pursuant to 40 C.F.R. § 70.6(a)(9) or to define permit terms and conditions implementing 40 C.F.R. § 70.4 (b)(12) or § 70.6(a)(10).
 8. A compliance plan for all Title V sources that contains the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements;
 - b. A description as follows:

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- (1) Identification of all applicable requirements with which the source is in compliance;
 - (2) Identification of all applicable requirements that will become effective during the permit term; and
 - (3) Identification of all requirements for which the source is not in compliance at the time of permit issuance.
- c. A complete schedule as follows:
- (1) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;
 - (2) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement; and
 - (3) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
- d. A schedule for submission of certified progress reports no less frequently than every six (6) months for sources

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required to have a schedule of compliance to remedy a violation; and

- e. The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

- 9. Requirements for the compliance certification, including the following:
 - a. A certification of compliance with all applicable requirements by a responsible official consistent with subsection 3.4 of this Part and Section 114(a)(3) of the Act;
 - b. A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
 - c. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority; and
 - d. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.
- 10. The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

3.4 Certification of Truth, Accuracy and Completeness. Any application form, report, or compliance certification submitted pursuant to this Part shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

3.5 Permit Content. The permit content shall be that specified in 40 C.F.R. § 70.6.

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- 3.6 Permit Shield.** The permit shield shall be that described in 40 C.F.R. § 70.6(f).
- 3.7 Permit Issuance, Renewal, Reopening and Revision.** The procedures governing permit issuance, renewal, reopening and revision shall be those prescribed by 40 C.F.R. § 70.7 except that all references to “state” shall also include “tribes” or the “Community” as appropriate.
- 3.8 Permit Review.** The procedures for permit review by EPA and affected states in 40 C.F.R. § 70.8, adopted as of July 1, 2006, and no future additions or amendments, shall be incorporated by reference except the affected states shall also include affected tribes.
- 3.9 Preconstruction Review Requirements.** Any new Title V source that is a major source or any major modification to a major source that is also a Title V source shall comply with the preconstruction review requirements of Section 110(a)(2)(D)(i) of the Act by obtaining the appropriate permit and authorizations prior to commencing construction of the new major source or major modification from the Administrator under the provisions of 40 C.F.R. §§ 52.10 or 52.21. An affected facility at a Title V major source that is constructed, reconstructed or modified shall comply with requirements in subsection 7.1(B). A new major source of hazardous air pollutants or a reconstructed or modified source of hazardous air pollutants subject to Section 8.1 and Section 8.2 shall comply with the preconstruction requirements in those sections.

4.0 NON-TITLE V PERMIT REQUIREMENTS.

- 4.1 Non-Title V Permit Categories.** The owner or operator of each source of air contaminants to which this Part applies shall be subject to one of the following provisions in order to meet the permitting requirements for non-Title V sources.
- A. Individual Permit. Except as provided in paragraph C, non-Title V facilities requiring permits under this Section shall obtain individual permits.
- B. Synthetic Minor Individual Permit. The owner or operator of a source that is subject to the Title V permitting requirements in Section 3.0 based solely on its potential to emit may apply for an individual non-Title V permit that would limit the source’s potential to emit to a level below the Title V permit applicability threshold.
- C. General Permit. A general permit shall be required for a person to commence construction of, to operate, or to modify a source that is a

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member of a facility class for which a general permit has been developed by the Department.

4.2 Non-Title V Permit Standards.

- A. Sources that obtain an individual permit shall be subject to the following standards:
 - 1. Any new non-Title V source not identified in paragraph A.2 of this Section 4.2 shall comply with source category specific emission limits and the other requirements applicable to an existing non-Title V source in paragraph (3) of this section.
 - 2. Any new non-Title V source that has the potential to emit equal to or greater than any of the following amounts shall be subject to a case-by-case BRDT determination for the pollutant that exceeds the threshold amount prior to commencing the construction of a source requiring a non-Title V permit:
 - a. Seventy-five (75) tons per year but less than one hundred (100) tons per year for any single criteria pollutant;
 - b. Three (3) tons per year of any single HAP;
 - c. Five (5) tons per year of any combination of HAPs; or
 - d. Three hundred (300) pounds per year of any single or any combination of ultrahazardous air pollutants.
 - 3. For existing non-Title V sources:
 - a. Emission limitations and standards including those operational requirements and limitations that assure compliance with all applicable requirements in effect at the time of permit issuance.
 - b. Monitoring and related recordkeeping and reporting requirements.
 - c. A modification that results in a change in emissions that is described in subsection 5.1(A)(6), (7) or (8) of this Part shall constitute a major modification subject to the requirements of subsection 4.2(B).
 - d. The other permit requirements prescribed by subsection 4.4.

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B. A Major Modification to an Existing Non-Title V Source.

1. Prior to beginning actual construction of a major modification to an existing non-Title V source, the owner or operator of the source shall demonstrate the following to the Director:
 - a. The source will comply with the BRDT requirements for the pollutant that caused the modification to constitute a major modification.
 - b. The source will otherwise comply with the significant permit revision requirements of subsection 5.5.

C. Voluntary Emission Limitations for Synthetic Minor Permits.

1. The owner or operator of a source may voluntarily propose in its permit application to accept emissions limitations, controls, or other requirements that are enforceable as a practical matter in order to avoid classification as a source that requires a Title V permit, or to avoid one or more other applicable requirements. Such emissions limitations, controls, or other requirements shall be at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source.
2. For the purpose of this ordinance, “enforceable as a practical matter” means that specific means to assess compliance with an emissions limitation, control, or other requirement are provided for in the permit in a manner that allows compliance with the limit, standard or trade provision to be readily determined by an inspection of the source records or reports. In addition, for the purposes of this Part, “enforceable as a practical matter” shall include the following criteria:
 - a. The emissions limitations are quantifiable;
 - b. The permit includes a legally enforceable obligation to comply;
 - c. The permit imposes an objective and quantifiable operational or production limit or requires the use of in-place air pollution control equipment;
 - d. The permit limits have short-term averaging times consistent with the averaging times of the applicable requirement;

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- e. The permit conditions are enforceable and are independent of any other applicable limitations; and
- f. The permit conditions contain monitoring, recordkeeping, and reporting requirements sufficient to document compliance with emissions limitations established pursuant to this subsection 4.2.

4.3 Non-Title V Permit Application.

- A. An application for a non-Title V permit shall be prepared on forms prescribed by the Department.
- B. Applications shall be signed by a responsible official or by a person otherwise legally authorized to act on behalf of the applicant.
- C. The applicant shall furnish all information and data required by the Department to evaluate the permit application, including but not limited to site information, process description, the nature and amount of emissions, and when required, the information and data required for a BRDT determination. Additional information that the Department may require in order to determine compliance with these parts shall be furnished upon request. Such information may include but is not limited to plans, drawings, specifications, evidence or documentation. The Director may require the source to model its impact on ambient air quality in accordance with 40 C.F.R. Part 51, Appendix W.
- D. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to proposal of a draft permit.
- E. Any permit application form or report submitted pursuant to this Part shall contain certification by a responsible official of the truth, accuracy, and completeness of the submissions.
- F. The applicant shall include a compliance plan containing a description of the compliance status of the source with respect to all applicable requirements. If the compliance plan declares that a source is not in compliance with an applicable requirement, a narrative of how the source will achieve compliance and a schedule of compliance including an enforceable sequence of actions with milestones shall be submitted.

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- G. An application will not be deemed to be complete until all information and data required to evaluate the application have been submitted to the Department. Within sixty (60) days after the receipt of an application or any supplemental information requested by the Department, the Department shall notify the applicant if and in what respect the application is incomplete. If the Department fails to notify an applicant that the application is incomplete within sixty (60) days of receipt of the application or any supplemental information requested, whichever is later, the application shall be deemed complete.
- H. Within twelve (12) months of receipt of a complete application for a permit, the Director shall propose a permit decision including the language of the draft permit. The Director shall provide notice of the proposed decision as provided in subsection 4.6.

4.4 Non-Title V Permit Content.

- A. Each permit issued under subsection 4.3 of this Part shall include, but not be limited to, the following elements:
1. The date of issuance and a permit term not to exceed five (5) years.
 2. Enforceable emissions limitations or source requirements for any source or emissions unit that assure:
 - a. The ambient air quality standards set forth in Part I, Section 4.0 shall be maintained;
 - b. The public health will be protected;
 - c. Compliance with the applicable requirements of this Part including the BRDT requirements, New Source Performance Standards in Section 7.0 of this Part and National Emissions Standards for Hazardous Air Pollutants in Section 8.0 of this Part; and
 - d. Compliance with all requirements of the Act will be maintained.
 3. Monitoring, testing, reporting, and recordkeeping requirements that assure reasonable information is provided to evaluate compliance consistent with terms and conditions of the permit, the requirements of these parts, any applicable requirements and the Act.

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4. A requirement that any revision of an emission limitation, monitoring, testing, reporting, and recordkeeping requirements shall be made consistent with the permit revision requirements applicable to non-Title V sources under Section 5.0 of this Part.
5. A requirement that, upon presentation of credentials and other documents as may be required by law, the owner or operator shall allow the Director or his or her designee or the U.S. EPA to perform the following at a reasonable time of day and in accordance with reasonable safety standards:
 - a. Enter the premises where a permitted source is located or emissions-related activity is conducted, or where records required by a permit term, or condition are kept;
 - b. Have access to and copies made of any records that are required to be maintained by this Part or by the conditions of a permit or permit revision; and
 - c. Inspect any operations, processes, emissions units (including monitoring and air pollution control equipment), or practices regulated or required under a permit or permit revision.
 - d. Sample or monitor substances, parameters or emissions for the purpose of determining compliance with the permit and applicable requirements.
6. A requirement that a responsible official submit to the department no later than March 15, annual written certification that the source is in operation and was in compliance with the permit during the previous calendar year.
7. A requirement that a responsible official shall complete and submit to the Department an annual emissions inventory on a form prescribed by the Director. The emissions inventory is due on March 31 and shall cover emissions from the previous calendar year. The emissions inventory shall be determined using the actual emissions and shall be based on the measured data or emissions factors specified on the emissions inventory form.
8. A severability clause to insure the continued validity of the permit in the event of a successful challenge to any portion of the permit.
9. Provisions stating that:

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- a. The permittee shall comply with all conditions of the permit including all applicable requirements under this Part, and that any permit noncompliance is grounds for enforcement action under Part III (Enforcement Ordinances); for permit termination or revision; or for denial of a permit renewal application.
 - b. In an enforcement action, it shall not be a defense for a permittee that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with conditions of the permit.
 - c. The permit does not convey any property right or any exclusive privilege to the permittee.
10. For a new non-Title V source or a major modification to an existing non-Title V source, a requirement that, within sixty (60) days after a source has achieved the capability to operate at its maximum production rate on a sustained basis but no later than one hundred eighty (180) days after initial startup or the date of permit issuance for an existing source, the owner or operator shall conduct performance tests or such other method of confirming compliance with applicable requirements as shall be specified by the Director and submit to the Director the written results of such tests. Performance tests or other compliance confirmation methodology shall be conducted under such conditions as the Director shall specify based upon representative performance of the source. A performance test shall consist of three separate runs using the applicable test method. The owners or operators of the source shall provide the Department notice at least two (2) weeks prior to performance testing and shall provide:
- a. Sampling ports adequate for the test methods applicable to the source;
 - b. Safe sampling platforms and safe access to such platforms;
 - c. Utilities for sampling and testing equipment.
- B. The Director may waive any requirement or condition prescribed by this Ordinance. Such waiver shall be in writing, shall state the basis for the waiver and shall be subject to public notice and comment as a provision of the proposed permit issuance decision pursuant to subsection 4.3(G).

4.5 Administrative Requirements for Non-Title V Permits.

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- A. Fees Required: Persons subject to the permitting requirements of this Part shall pay the applicable fees required, as set forth in Section 11.0 of this Part.
- B. Permit Term: A non-Title V permit shall remain in effect for no more than five (5) years.
- C. Administrative Permit Amendments: An administrative permit amendment is required for any of the following changes:
 - 1. To correct typographical errors;
 - 2. To identify a change in the name, address, or phone number of any person identified in the permit, or provide a similar minor administrative change at the source;
 - 3. To require more frequent monitoring or reporting by the permittee; and
 - 4. To allow for a change in ownership or operational control of a source with a non-Title V permit, provided that a written agreement containing a specific date for the transfer of permit responsibility and liability between the current and new permittee has been submitted to the Director and the requirements of subsection 4.7 of this Part are met. The written agreement shall contain the information required and be subject to the review process contained in subsection 4.7 of this Part.

4.6 Public Participation.

- A. The Director shall provide the public notice and an opportunity for public comment as provided by this subsection before issuing or renewing a non-Title V permit or issuing a significant permit revision to a non-Title V permit.
- B. The Director shall publish notice of the permit issuance once each week for two (2) consecutive weeks in a newspaper of general circulation in the areas where the source is or will be located. The Director shall mail a copy of the notice to persons on a mailing list developed by the Director and consisting of those persons who have requested in writing to be placed on such a mailing list or whom the Director, in his or her sole discretion, believes are appropriate recipients of such notice.
- C. The notice required by paragraph B of this section shall include the following:

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1. Identification of the affected facility;
 2. Name and address of the permittee or applicant;
 3. Name and address of the permitting authority processing the permit action;
 4. The activity or activities involved in the permit action;
 5. The emissions change involved in any significant permit revision;
 6. The air contaminants to be emitted;
 7. If applicable, that a notice of confidentiality has been filed under Section 10.0 of this Part;
 8. A statement that any person may submit written comments or a written request for a public hearing, or both, on the proposed permit action, along with the deadline for such requests or comments;
 9. The name, address and telephone number of a person from the Department from whom additional information may be obtained; and
 10. Locations where copies of the permit or permit revision application, the proposed permit, and all other materials available to the Director that are relevant to the permit decision may be reviewed, including the Department office, and the times at which they shall be available.
- D. The Director shall hold a public hearing only upon written request. If a public hearing is requested, the Director shall schedule and publish notice, of the date, time and location of such hearing in accordance with paragraph B above. The Director shall give notice of any public hearing at least thirty (30) days in advance of the hearing.
- E. The Director shall provide at least thirty (30) days from the date of its first public notice for public comment. The Director shall keep a record of the commenters and the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the Director's responses shall be made available to the applicant and all commenters.

4.7 Non-Title V Permit Transfers.

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- A. A non-Title V permit may be transferred to another person if the person who holds the permit gives notice to the DEQ in writing at least sixty (60) days before the proposed transfer. The permit transfer notice shall contain the following:
1. The permit number and expiration date.
 2. The name, address and telephone number of the current permit holder.
 3. The name, address and telephone number of the person to receive the permit.
 4. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance.
 5. A description of the equipment to be transferred.
 6. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee.
 7. Provisions for the payment of any fees pursuant to Section 11.0 of this Part that will be due and payable before the effective date of transfer.
 8. Sufficient information about the proposed permit holders technical and financial capabilities of operating the source to allow the DEQ to make the decision to either grant or deny the permit transfer during the 60-day review period, including:
 - a. The qualifications of each person principally responsible for the operation of the source.
 - b. A statement by the chief financial officer of the new permittee that it is financially capable of operating the source in compliance with the law, and the information that provides the basis for that statement.
 - c. A brief description of any action taken against the proposed permit holder for the enforcement of any federal or state law, rule or regulation, or any county, city or local government ordinance relating to the protection of the environment for five (5) years preceding the date of application.

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The Director may deny a permit transfer if it is determined that the new owner or operator's compliance record or financial resources are such as it lacks the capability to comply with the permit.

For purposes of this section, a transfer includes a sale or conveyance to a new corporation or entity or other change in ownership of the current permit holder

4.8 Posting of Permit.

- A. Any person who has been granted a permit shall post such permit or certificate of permit issuance at a location where it will be clearly visible.
- B. A copy of the complete permit shall be kept on the site and available for inspection by a representative of the Department or any person.

5.0 PERMIT REVISIONS AT A NON-TITLE V SOURCE

5.1 Changes Requiring a Permit Revision

- A. The following changes at a source with a non-Title V permit shall require a permit revision:
 - 1. A change that triggers a new applicable requirement or would violate an existing applicable requirement;
 - 2. Establishing of, or change in, a voluntarily accepted emission limitation;
 - 3. A change that will require a case-by-case determination of an emission limitation or other standard, such as BRDT, or a source-specific determination of ambient impacts, or a visibility or increment analysis;
 - 4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under the permit if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
 - 5. A change that will authorize the burning of used oil, used oil fuel, hazardous waste, or hazardous waste fuel, or any other fuel not currently authorized by the permit;
 - 6. A change that results in an increase of the source's potential to emit equal to or greater than twenty-five (25) tons per year of any

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single criteria air pollutant but which does not make the source a major source of that pollutant;

7. A change that results in either the potential emissions of any new HAP of three (3) tons per year or in an increase of the source's potential to emit equal to or greater than three (3) tons per year of any individual HAP or five (5) tons per year of any combination of HAPs already emitted by the source;
 8. Changes that result in the potential emissions of any new ultrahazardous air pollutant equal to or greater than three hundred (300) pounds per year or result in an increase in the source's potential to emit equal to or greater than three hundred (300) pounds per year of any ultrahazardous air pollutant or combination of ultrahazardous air pollutants;
 9. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;
 10. Increasing operating hours or rates of production above the permitted level; and
 11. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:
 - a. From removing equipment that results in a permanent decrease in actual emissions if the source keeps on-site records of the change in a log that is in a form acceptable to the Department and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. From a change in an applicable requirement.
- B. A source with a non-Title V permit may make any physical change or change in the method of operation without revising the source's permit unless the change is specifically prohibited in the source's permit or is a change specifically described in this subsection as requiring a permit revision. A change that does not require a permit revision may still be subject to the other requirements in subsection 5.2.
- C. A significant permit revision shall be subject to the public participation requirements of subsection 4.6 of this part.

5.2 Changes that Do Not Require a Permit Revision at a Non-Title V Source.

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- A. Except for a physical change or change in the method of operation at a non-Title V source requiring a permit revision under Section 5.0, or a change subject to logging or notice requirements under this subsection, a change at a non-Title V source shall not be subject to revision, notice or logging requirements under this Part.
- B. Except as otherwise provided in the conditions applicable to a voluntary accepted emission limit created under subsection 4.2(C), the following changes may be made if the source keeps on site records of the change in accordance with requirements to be prescribed by the Department:
1. Implementing an alternative operating scenario, including raw materials changes;
 2. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;
 3. Engaging in any new insignificant activity;
 4. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Director may require verification of efficiency of the new equipment by performance tests; and
 5. A change that results in a decrease in actual emissions if the source wants to claim credit for the decrease in determining whether the source has a net emissions increase for any purpose. The logged information shall include a description of the change that will produce the decrease in actual emissions. A decrease that has not been logged is creditable only if the decrease is quantifiable, enforceable, and otherwise qualifies as a creditable decrease.
- C. Except as provided in the conditions applicable to a voluntarily accepted emission limitation created under subsection 4.2(C), the following changes may be made if the source provides written notice to the Department in advance of the change as provided below:
1. Replacing an item of air pollution control equipment listed in the permit with one that is not identical but that is substantially similar and has the same or better pollutant removal efficiency: seven (7) days. The Director may require verification of efficiency of the new equipment by performance tests;

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2. A physical change or change in the method of operation that increases actual emissions more than ten (10) tons per year or ten (10) percent of the major source threshold for any criteria pollutant, whichever is less, but does not require a permit revision: seven (7) days;
 3. Replacing an item of air pollution control equipment listed in the permit with one that is not substantially similar but that has the same or better efficiency: thirty (30) days. The Director may require verification of efficiency of the new equipment by performance tests;
 4. A change that would trigger an applicable requirement that already exists in the permit: thirty (30) days unless a different notice period is otherwise required by the applicable requirement.
- D. For each change under paragraph C of this section, the written notice shall be by certified mail or hand delivery and shall be received by the Director within the minimum amount of time in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided with less than required notice, but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible. The written notification shall include:
1. When the proposed change will occur;
 2. A description of the change;
 3. Any change in emissions of regulated air pollutants; and
 4. Any permit term or condition that is no longer applicable as a result of the change.
- E. A source may implement any change in paragraph C without the required notice by applying for a minor permit revision and complying with application requirements for a minor permit revision.
- F. Notwithstanding any other provision of this subsection, the Director may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this subsection over the term of the permit, constitute a change requiring a permit revision under Section 5.0.
- G. If a source change is described under both paragraphs B and C of this section, the source shall comply with paragraph C. If a source change is

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described under both paragraph C and subsection 5.1(B), the source shall comply with subsection 5.1(B).

- H. A copy of all logs required under paragraph (B) shall be filed with the Director within thirty (30) days after each anniversary of the permit issue date. If no changes were made at the source requiring logging, a statement to that effect shall be filed instead.

5.3 Annual Summary Permit Amendments for Non-Title V Sources.

- A. The Director may amend any non-Title V permit annually without reopening the permit in order to incorporate changes reflected in logs or notices filed under subsection 5.2. The amendments shall be effective to the anniversary date of the permit. The Director shall make available to the public for any source:
1. A complete record of logs and notices sent to the Department under subsection 5.2; and
 2. Any amendments or revisions to the source's permit.

5.4 Requirements for a Minor Permit Revision for Changes at a Non-Title V Source.

- A. Minor permit revision procedures shall be used for the following changes at a non-Title V source:
1. A change that triggers a new applicable requirement if all of the following apply:
 - a. The net emissions increase is less than the smaller of twenty-five (25) tons per year or the significant level defined in Section 1.0 of this Part;
 - b. A case-by-case determination of an emission limitation or other standard is not required; and
 - c. The change does not require the source to obtain a Title V permit.
 2. Increasing operating hours or rates of production above the permitted level unless the increase otherwise creates a condition that would require a significant permit revision under Section 5.5 (that is, a minor permit revision is appropriate when the permit does not establish a limit on an increase in operating hours or rates of production);

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3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;
 4. A change that results in emissions subject to monitoring, recordkeeping, or reporting and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit if the revision requires monitoring, recordkeeping and/or reporting that provides the required quantification; or
 5. Replacement of an item of air pollution control equipment listed in the permit with one that has the same or better efficiency. The Director may require performance testing to verify the efficiency of the new control equipment.
- B. An application for minor permit revision shall be on an application form prescribed by the Department and shall include the following:
1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs; and
 2. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures.
- C. Within sixty (60) days of the Director’s receipt of a complete application for a minor revision of a non-Title V permit under this Part, the Director shall do one or more of the following:
1. Issue the permit revision as proposed;
 2. Deny the permit revision;
 3. Determine that the permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures; or
 4. Revise minor permit revision as proposed.
- D. The source may make the change proposed in its minor permit revision application immediately after it files the complete application. After the source makes the change allowed by the preceding sentence, and until the Director takes any of the actions specified in paragraph C of this section, the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During

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this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.

- E. Notwithstanding any other provision of this Section, the Director may require a permit to be revised as a significant permit revision for any change that, when considered together with any other changes submitted by the same source under this Part or over the life of the permit, do not satisfy paragraph A of this section.

5.5 Significant Permit Revision Requirements for Non-Title V Sources.

- A. A non-Title V source shall make the following changes only after its permit is significantly revised in accordance with the requirements of paragraphs B through D of this section:
1. Establishing or revising a voluntarily accepted emission limitation or standard in accordance with subsection 4.2(C);
 2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;
 3. A change to or addition of an emissions unit that will result in an increase in the potential to emit a regulated pollutant equal to or greater than either twenty-five (25) tons per year or the significant level defined in Section 1.0 of this Part, whichever is less;
 4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:
 - a. Removing equipment that results in a permanent decrease in actual emissions. If the source keeps on-site records of the change in a log that satisfies the requirements in subsection 5.2 and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. A change in an applicable requirement.
 5. A change that will cause the source to violate an existing applicable requirement;
 6. A change that will require any of the following:

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- a. A case-by-case determination of an emissions limitation or other standard, including a determination of BRDT;
 - b. A source-specific determination of ambient impacts; or
 - c. A case-by-case determination of monitoring, recordkeeping, and reporting requirements.
7. A change that requires the source to obtain a Title V permit.
- B. A request for a significant permit revision shall be submitted on an application form prescribed by the Department.
 - C. A significant permit revision shall be subject to the public participation requirements of subsection 4.6 of this Part.
 - D. The Director shall act upon an application for a significant permit revision within nine (9) months of receipt of a complete permit application.

5.6 Portable Sources.

A portable source may move from one location within Community land to another or may move outside Community land provided that the owner or operator of such source notifies the Director by certified mail at least ten (10) working days before the transfer. The notification shall include:

- A. A description of the equipment to be moved if it is not the entire source;
- B. A description of both the present location and the new location;
- C. The date on which the source is to be moved; and
- D. The date on which the source will commence operation at the new location.

5.7 Permit Reopenings: Revocation and Reissuance; Termination.

- A. Reopening for Cause.
 - 1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A reopening for cause shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. A permit shall be reopened and revised under any of the following circumstances:

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- a. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of three (3) or more years. Such a reopening shall be completed not later than eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended. Any permit revision required pursuant to this subsection shall comply with provisions for permit renewal.
 - b. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.
 - c. The Director or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or limitations or other terms or conditions of the permit.
 - d. The Director or the Administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.
2. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall, except for reopenings under paragraph (1)(a) of this section, affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
 3. Reopenings under paragraph (A)(1) of this section shall not be initiated before a notice of such intent is provided to the source by the Director at least thirty (30) days in advance of the date that the permit is to be reopened, except that the Director may provide a shorter time period in the case of an emergency.
- B. Within ten (10) days of receipt of notice from the Administrator that cause exists to reopen a Title V permit, the Director shall notify the source. The source shall have thirty (30) days to respond to the Director. Within ninety (90) days of receipt of notice from the Administrator that cause

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exists to reopen a permit, or within any extension to the ninety (90) days granted by EPA, the Director shall forward to the Administrator and the source a proposed determination of termination, revision, or revocation and reissuance of the permit. Within ninety (90) days of receipt of an EPA objection to the Director’s proposal, the Director shall resolve the objection and act on the permit.

- C. The Director may issue a notice of termination of a permit issued pursuant to this Part when either:
 - 1. The Director has reasonable cause to believe that the permit was obtained by fraud or misrepresentation;
 - 2. The person applying for the permit failed to disclose a material act required by the permit application form or the regulation applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted; or
 - 3. The terms and conditions of the permit have been or are being violated.
- D. If the Director issues a notice of termination under this Section, the notice shall be served on the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation and a statement that the permittee may seek an administrative review of the revocation under Part IV.

5.8 Affirmative Defense for Excess Emissions Due to Malfunctions, Startup, and Shutdown.

- A. Applicability.

This subsection establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:

- 1. Promulgated pursuant to Sections 111 or 112 of the Act;
- 2. Promulgated pursuant to Titles IV or VI of the Act;
- 3. Included in a permit to meet the requirements of this Part.

- B. Affirmative Defense for Malfunctions.

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source

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with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of subsection 5.9 of this Part and has demonstrated all of the following:

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;
2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to ensure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;
4. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;
5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards that could be attributed to the emitting source;
8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, and could not have been avoided by better operations and maintenance practices;
9. All emissions monitoring systems were kept in operation, if practicable; and
10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

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C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in paragraph (C)(2) of this section, and unless otherwise provided for in the applicable requirement or a permit issued pursuant to this Part, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of subsection 5.9 of this Part and has demonstrated all of the following:
 - a. The excess emissions could not have been prevented through careful and prudent planning and design;
 - b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;
 - c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
 - d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
 - e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
 - f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards that could be attributed to the emitting source;
 - g. All emissions monitoring systems were kept in operation if at all practicable; and

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- h. The owner or operator’s actions in response to the excess emissions were documented by contemporaneous records.
- 2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to paragraph B of this section.
- D. **Affirmative Defense for Malfunction During Scheduled Maintenance.**
If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to paragraph B of this section.
- E. **Demonstration of Reasonable and Practicable Measures.**
For an affirmative defense under paragraphs B or C of this section, the owner or operator of the source shall demonstrate, through submission of the data and information required by this subsection and subsection 5.9, that all reasonable and practicable measures within the owner or operator’s control were implemented to prevent the occurrence of the excess emissions.

5.9 Reporting Requirements.

- A. The owner or operator of any source shall report to the Director any emissions in excess of the limits established by this Part or the applicable permit. The report shall be in two parts as specified below:
 - 1. Notification by telephone or facsimile within twenty-four (24) hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from paragraph B of this section.
 - 2. Detailed written notification by submission of an excess emissions report within seventy-two (72) hours of the notification under paragraph (1) of this subsection.
- B. The excess emissions report shall contain the following information:
 - 1. The identity of each stack or other emission point where the excess emissions occurred;
 - 2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

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3. The time and duration or expected duration of the excess emissions;
 4. The identity of the equipment from which the excess emissions emanated;
 5. The nature and cause of the emissions;
 6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;
 7. The steps that were or are being taken to limit the excess emissions; and
 8. If the source’s permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.
- C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the emissions as originally reported shall require additional notification pursuant to paragraphs A and B of this section.

6.0 CONTINUOUS SOURCE EMISSIONS MONITORING

6.1 Applicability.

- A. Fossil-fuel fired steam generators, as specified in subsection 6.3(A) shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
- B. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection 6.3(D), shall be monitored for opacity.
- C. Sulfuric acid plants, as specified in subsection 6.3(C), shall be monitored for sulfur dioxide emissions.
- D. Nitric acid plants, as specified in subsection 6.3(B), shall be monitored for nitrogen oxides emissions.

6.2 Standards.

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- A. Every source subject to an existing source performance standard as specified in this section shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this section for the applicable source category.
- B. Emission monitoring shall not be required when the source of emissions is not operating.
- C. Variations.
 - 1. Unless otherwise prohibited by the Act, the Director may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the Director on a case-by-case basis and shall include, as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Section. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.
 - 2. Alternative monitoring requirements may be prescribed when installation of a continuous emission monitoring system or monitoring device would not provide accurate determinations of emissions.
 - 3. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated.
 - 4. Monitoring system malfunction: A temporary exemption from the monitoring and reporting requirements of this Section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and the malfunction meets the requirements of subsections 5.8 and 5.9 of this Part.
- D. Installation and performance testing required under this Section shall be completed and monitoring and recording shall commence within eighteen (18) months of the effective date of this section.

6.3 Minimum Monitoring Requirements.

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- A. Fossil-fuel fired steam generators: Each fossil-fuel fired steam generator, except as provided in the following subsections shall conform with the following monitoring requirements when such facility is subject to an emission standard or limitation for the pollutant in question.
1. A continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this Section by the owner or operator of any such steam generator of greater than 250 million BTU per hour heat input except where:
 - a. Gaseous fuel is the only fuel burned; or
 - b. 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, documented by passing a performance test conducted while fired on oil, without utilization of particulate matter collection equipment.
 2. A continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section shall be installed, calibrated, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on any fossil-fuel fired steam generator of greater than 250 million BTU per hour heat input which has installed sulfur dioxide pollutant control equipment.
 3. A continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this Section shall be installed, calibrated using nitric oxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on fossil-fuel fired steam generators of greater than 1000 million BTU per hour heat input when the facility is located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard, unless the source owner or operator demonstrates during source compliance tests as required by the Department that such a source emits nitrogen oxides at levels thirty (30) percent or more below the emission standard within this Part.
 4. A continuous emission monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this Section shall be installed, calibrated, operated

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and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this Part.

- B. Nitric acid plants: Each nitric acid plant of greater than three hundred (300) tons per day production capacity, the production capacity being expressed as one hundred (100) percent acid located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard, shall install, calibrate using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this Section for each nitric acid producing facility, within such plant.
- C. Sulfuric acid plants: Each sulfuric acid plant of greater than three hundred (300) tons per day production capacity, the production being expressed as one hundred (100) percent acid, shall install, calibrate using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintain and operate a continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section for each sulfuric acid producing facility within such plant.
- D. Fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh-feed capacity shall install, calibrate, maintain and operate a continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section for each regenerator within such refinery.

6.4 Minimum Specifications For Monitoring Equipment.

- A. Owners or operators of monitoring equipment installed to comply with this Section shall demonstrate compliance with the following performance specifications.
 - 1. The performance specifications set forth in Appendix B of 40 C.F.R. Part 60, adopted as of July 1, 2006, and no future additions or amendments, are incorporated herein by reference and shall be used by the Director to determine acceptability of monitoring equipment installed pursuant to this Section. However, where reference is made to the Administrator in Appendix B of 40 C.F.R.

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Part 60, the Director may allow the use of either the state-approved reference method or the federally approved reference method as published in 40 C.F.R. Part 60. The performance specifications to be used with each type of monitoring system are:

- a. Continuous emission monitoring systems for measuring opacity shall comply with performance specification 1.
 - b. Continuous emission monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.
 - c. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.
 - d. Continuous emission monitoring systems for measuring oxygen shall comply with performance specification 3.
 - e. Continuous emission monitoring systems for measuring carbon dioxide shall comply with performance specification 3.
- B. Calibration gases: Span and zero gases shall be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six (6) months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A of 40 C.F.R. Part 60 (Chapter 1) as amended: For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference Method 7; and for carbon dioxide or oxygen, use Reference Method 3. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.
- C. Cycling time: Time includes the total time required to sample, analyze, and record an emission measurement.
1. Continuous emission monitoring systems for measuring opacity shall complete a minimum of one (1) cycle of sampling and analyzing for each successive 6-minute period.
 2. Continuous emission monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

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- D. Monitor location: All continuous emission monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameters (i.e. oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous emission monitoring systems to obtain representative samples are contained in the applicable performance specifications of Appendix B of 40 C.F.R. Part 60.
- E. Combined effluents: When the effluents from two (2) or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one (1) point, separate monitors shall be installed.
- F. Zero and drift: Owners or operators of all continuous emission monitoring systems installed in accordance with the requirements of this Section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in paragraph B as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero and span in accordance with the applicable performance specifications in Appendix B of 40 C.F.R. Part 60 (Chapter 1).
- G. Span: Instrument span should be approximately two hundred (200) percent of the expected instrument data display output corresponding to the emission standards for the source.

6.5 Minimum Data Requirement.

The following subsections set forth the minimum data reporting requirements for sources employing continuous emission monitoring equipment as specified in this Section. These periodic reports do not relieve the source operator from the reporting requirements of subsection 5.9 of this Part.

- A. The owners or operators of facilities required to install continuous emission monitoring systems shall submit to the Director a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.
- B. For opacity measurement, the summary shall consist of the magnitude in actual percent opacity of all 6-minute opacity averages greater than any

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applicable standards for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four (4) equally spaced, instantaneous opacity measurements per minute. Any time periods exempted shall be deleted before determining any averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.

- C. For gaseous measurements, the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.
- D. The date and time identifying each period during which the continuous emission monitoring system was inoperative, except for zero and span checks, and the nature of system repair or adjustment shall be reported. The Director may require proof of continuous emission monitoring system performance whenever system repairs or adjustments have been made.
- E. When no excess emissions have occurred and the continuous emission monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.
- F. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous emission monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two (2) years from the date of collection of such data or submission of such summaries.

6.6 Data Reduction.

Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.

- A. For fossil-fuel fired steam generators, the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million BTU) where necessary.
 - 1. When the owner or operator of a fossil-fuel fired steam generator elects under subsection 6.3 (A)(4) to measure oxygen in the flue gases, the measurement of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).
 - a. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise

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added to stack gases, the following conversion procedure shall be used.

$$E(Q) = C(ws)F(w) \left[\frac{20.9}{20.9(1 - B(wa)) - \%O_2(ws)} \right]$$

- b. When measurements are on a wet basis and the water vapor content of the stack gas is determined at least once every fifteen (15) minutes the following conversion procedures shall be used.

$$E(Q) = C(ws)F \left[\frac{20.9}{20.9(1 - B(wa)) - \%O_2(ws)} \right]$$

Use of this equation is contingent upon demonstrating the ability to accurately determine B(ws) such that any absolute error in B(ws) will not cause an error or more than +/- 1.5% in the term:

$$\left[\frac{20.9}{20.9(1 - B(wa)) - \%O_2(ws)} \right]$$

- c. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E(Q) = CF \left[\frac{20.9}{20.9 - \%O_2(ws)} \right]$$

2. When the owner or operator elects under subsection 6.3 (A)(4) to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used:

$$E(Q) = CF(c) \left[\frac{100}{\%CO_2} \right]$$

3. The values as used in the equations under paragraph (A)(1) of this section are derived as follows:

$E(Q)$ = pollutant emission, g/million cal (lb/million BTU).

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16×10^{-5} M g/dscm per ppm (2.64×10^{-9} M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole), $M = 64$ for sulfur dioxide and 46 for oxides of nitrogen.

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$C(ws)$ = pollutant concentrations at stack conditions, g/wscm (lb/wscf), determined by multiplying the average concentration (ppm) for each one-hour period by 4.15×10^{-5} M lb/wscm per ppm (2.59×10^{-5} M lb/wscf per ppm) where M = pollutant molecular weight, g/g mole (lb/lb mole). M = 64 for sulfur dioxide and 46 for nitrogen oxides.

%O(2),%CO(2) = Oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under performance specification 3 subsection (D)(1)(d).

F,F(c) = A factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted (F(c)), respectively. Values of F and F(c) are given in 40 C.F.R. § 60.45(f) (Chapter 1).

F(w) = A factor representing a ratio of the volume of wet flue gases generated to the caloric value of the fuel combusted. Values of F(w) are given in Reference Method 19 of the Arizona Testing Manual.

B(wa) = Proportion by volume of water vapor in the ambient air. Approval may be given for determination of B(w)a by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within $\pm 0.7\%$ water vapor. Estimation methods for B(wa) are given in Reference Method 19.

B(ws) = Proportion by volume of water vapor in the stack gas.

B. For sulfuric acid plants, the owner or operator shall:

1. Establish a conversion factor three (3) times daily according to the procedures of 40 C.F.R. § 60.84(b) (Chapter 1);
2. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton); and
3. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.

C. For nitric acid plants, the owner or operator shall:

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1. Establish a conversion factor according to the procedures of 40 C.F.R. § 60.73 (b) (Chapter 1);
 2. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard; and
 3. Report the average nitrogen oxides emissions for each averaging period in excess of applicable emission standard in the quarterly summary.
- D. The Director may allow data reporting or reduction in procedures varying from those set forth in this section if the owner or operator of a source shows to the satisfaction of the Director that his procedures are at least as accurate as those in this section. Such procedures may include, but are not limited to, the following:
1. Alternative procedures for computing emission averages that do not require integration of data.
 2. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

7.0 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

7.1 Standards of Performance for New Stationary Sources.

- A. The provisions of this subsection apply to the owner or operator of any stationary source which contains an affected facility on which construction, reconstruction, or a modification is commenced after the date of publication of any standard applicable to such facility in 40 C.F.R. Part 60. Any such stationary source shall comply with the applicable standard set forth in paragraph B as well as any other applicable Parts of the Gila River Indian Community Air Quality Ordinances.
- B. Except as provided in subsection 7.2, the following subparts of 40 C.F.R. Part 60, New Source Performance Standards (“NSPS”), and all accompanying appendices, adopted as of July 1, 2006, and no future additions or amendments, are incorporated by reference. These standards are on file with the Department and shall be applied by the Department. In the event that the Gila River Indian Community ordinances contain a requirement that is more stringent than an NSPS requirement, the more stringent requirement shall apply.
 1. Subpart A - General Provisions.

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2. Subpart D - Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
3. Subpart Da - Electric Utility Steam Generating Units For Which Construction is Commenced After September 18, 1978.
4. Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.
5. Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.
6. Subpart E - Incinerators.
7. Subpart Ea - Municipal Waste Combustors for which Construction is Commenced after December 20, 1989 and on or before September 20, 1994.
8. Subpart Eb - Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994 or for which Modification or Reconstruction is Commenced After June 19, 1996.
9. Subpart Ec - Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced After June 20, 1996
10. Subpart F - Portland Cement Plants.
11. Subpart G - Nitric Acid Plants.
12. Subpart H - Sulfuric Acid Plants.
13. Subpart I - Hot Mix Asphalt Facilities.
14. Subpart J - Petroleum Refineries.
15. Subpart K - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
16. Subpart Ka - Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.

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17. Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
18. Subpart L - Secondary Lead Smelters.
19. Subpart M - Secondary Brass and Bronze Production Plants.
20. Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
21. Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
22. Subpart O - Sewage Treatment Plants.
23. Subpart P - Primary Copper Smelters.
24. Subpart Q - Primary Zinc Smelters.
25. Subpart R - Primary Lead Smelters.
26. Subpart S - Primary Aluminum Reduction Plants.
27. Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
28. Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
29. Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
30. Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.
31. Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
32. Subpart Y - Coal Preparation Plants.
33. Subpart Z - Ferroalloy Production Facilities.
34. Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.

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35. Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
36. Subpart BB - Kraft Pulp Mills.
37. Subpart CC - Glass Manufacturing Plants.
38. Subpart DD - Grain Elevators.
39. Subpart EE - Surface Coating of Metal Furniture.
40. Subpart GG - Stationary Gas Turbines.
41. Subpart HH - Lime Manufacturing Plants.
42. Subpart KK - Lead-Acid Battery Manufacturing Plants.
43. Subpart LL - Metallic Mineral Processing Plants.
44. Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.
45. Subpart NN - Phosphate Rock Plants.
46. Subpart PP - Ammonium Sulfate Manufacture.
47. Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.
48. Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.
49. Subpart SS - Industrial Surface Coating: Large Appliances.
50. Subpart TT - Metal Coil Surface Coating.
51. Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.
52. Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
53. Subpart WW - Beverage Can Surface Coating Industry.
54. Subpart XX - Bulk Gasoline Terminals.

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55. Subpart AAA - New Residential Wood Heaters.
56. Subpart BBB - Rubber Tire Manufacturing Industry.
57. Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
58. Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.
59. Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.
60. Subpart HHH - Synthetic Fiber Production Facilities.
61. Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
62. Subpart JJJ - Petroleum Dry Cleaners.
63. Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
64. Subpart LLL - Onshore Natural Gas Processing; SO₂ Emissions.
65. Subpart NNN - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
66. Subpart OOO - Nonmetallic Mineral Processing Plants.
67. Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.
68. Subpart QQQ - VOC Emissions From Petroleum Refinery Wastewater Systems.
69. Subpart RRR - Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
70. Subpart SSS - Magnetic Tape Coating Facilities.
71. Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
72. Subpart UUU - Calciners and Dryers in Mineral Industries.

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73. Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.
74. Subpart WWW - Municipal Solid Waste Landfills. Incorporation includes amendments adopted as of August 17, 1998.
75. Subpart AAAA - Standards of Performance for Small Municipal Waste Combustion Units for which Construction is Commenced After August 30, 1999 or for which Modification or Reconstruction is Commenced After June 6, 2001
76. Subpart BBBB - Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999
77. Subpart CCCC - Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced After November 30, 1999 or for which Modification or Reconstruction is Commenced On or After June 1, 2001
78. Subpart DDDD - Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999
79. Subpart HHHH - Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units

7.2 General Provisions.

- A. For any federal standards under 40 C.F.R. Part 60 that have been delegated to the GRIC DEQ, the term “Administrator” means the Director of the Gila River Indian Community Department of Environmental Quality, except that the Director shall not be authorized to make decisions regarding provisions that are not delegated by EPA, such as the authority to approve alternate or equivalent test methods or alternative standards or work practices. If alternate or equivalent test methods or alternative standards or work practices are requested, they shall be authorized by the Regional Administrator of the U.S. Environmental Protection Agency, Region IX.
- B. From the general standards identified in subsection 7.1, delete the following:
 1. 40 C.F.R. §60.4. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Part shall be submitted to the Gila River Indian Community

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Department of Environmental Quality, 35 Pima Street, Sacaton Arizona 85247.

2. 40 C.F.R. §§ 60.5 and 60.6.

C. The Director is not delegated authority to make equivalency determinations or innovative technology waivers as prescribed in Sections 111 (h)(3) and 111 (j) of the Act. If equivalency determinations or innovative technology waivers are requested, they shall be authorized by the Regional Administrator of the U.S. Environmental Protection Agency, Region IX.

8.0 FEDERAL HAZARDOUS AIR POLLUTANTS

8.1 National Emissions Standards for Hazardous Air Pollutants (NESHAPs).

- A. No person may begin actual construction or reconstruction of a major source of a Hazardous Air Pollutant (HAP) unless:
1. The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h) or Section 112(j) in 40 C.F.R. Part 63, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in Subpart A of 40 C.F.R. Part 63; or
 2. The Director has made a final and effective case-by-case determination pursuant to the provisions of 40 C.F.R. § 63.43 such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.
- B. Except as provided in subsection 8.2, the following subparts of 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPs), and all accompanying appendices, adopted as of July 1, 2006, and no future additions or amendments, are incorporated by reference. These standards are on file with the GRIC Department of Environmental Quality and shall be applied by the Department. In the event that the Gila River Indian Community Air Quality Ordinance contains a requirement that is more stringent than a NESHAPS requirement, the more stringent requirement shall apply.
1. Subpart A - General Provisions.
 2. Subpart B – Underground Uranium Mines

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3. Subpart C - Beryllium.
4. Subpart D - Beryllium Rocket Motor Firing.
5. Subpart E - Mercury.
6. Subpart F - Vinyl Chloride.
7. Subpart H - Radionuclides other than Radon from Department of Energy Facilities
8. Subpart I - Federal Facilities other than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H
9. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.
10. Subpart K - Elemental Phosphorus Plants
11. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.
12. Subpart M - Asbestos.
13. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.
14. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.
15. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production.
16. Subpart Q - Radon Emissions from Department of Energy Facilities
17. Subpart R - Radon Emissions from Phosphogypsum Stacks
18. Subpart T - Radon Emissions from the Disposal of Uranium Mill Tailings
19. Subpart V - Equipment Leaks (Fugitive Emission Sources).
20. Subpart W - Radon Emissions from Operating Mill Tailings
21. Subpart Y - Benzene Emissions from Benzene Storage Vessels.

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22. Subpart BB - Benzene Emissions from Benzene Transfer Operations.
 23. Subpart FF - Benzene Waste Operations.
- C. Except as provided in subsection 8.2, the following subparts of 40 C.F.R., Part 63, NESHAPs for Source Categories, and all accompanying appendices, adopted as of July 1, 2006, and no future additions or amendments, are incorporated by reference. These standards are on file with the GRIC Department of Environmental Quality and shall be applied by the Department. In the event that a Gila River Indian Community Air Quality Ordinance contains a requirement that is more stringent than a NESHAPS requirement, the more stringent requirement shall apply.
1. Subpart A - General Provisions.
 2. Subpart B - Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j).
 3. Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants.
 4. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
 5. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
 6. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
 7. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulations for Equipment Leaks.
 8. Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
 9. Subpart L - National Emission Standards for Coke Oven Batteries.
 10. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

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11. Subpart N - National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
12. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.
13. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
14. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
15. Subpart S - National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
16. Subpart T - National Emission Standards for Halogenated Solvent Cleaning.
17. Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions : Group I Polymers and Resins.
18. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
19. Subpart X - National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
20. Subpart Y - National Emission Standards for Marine Tank Vessel Loading Operations
21. Subpart AA - National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants
22. Subpart BB - National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants
23. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
24. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

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25. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.
26. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.
27. Subpart HH - National Emission Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities
28. Subpart II - National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)
29. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.
30. Subpart KK - National Emission Standards for Printing and Publishing Industry.
31. Subpart LL - National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
32. Subpart MM - National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Source at Kraft, Soda, Sulfite and Stand-alone Semicheical Pulp Mills
33. Subpart OO - National Emission Standards for Tanks B Level 1.
34. Subpart PP - National Emission Standards for Containers.
35. Subpart QQ - National Emission Standards for Surface Impoundments.
36. Subpart RR - National Emission Standards for Individual Drain Systems.
37. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
38. Subpart TT - National Emission Standards for Equipment Leaks-- Control Level 1
39. Subpart UU - National Emission Standards for Equipment Leaks -- Control Level 2 Standards

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40. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators.
41. Subpart WW - National Emission Standards for Storage Vessels (Tanks)—Control Level 2
42. Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations
43. Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
44. Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling--HCL Process Facilities and Hydrochloric Acid Regeneration Plants
45. Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production
46. Subpart EEE - National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
47. Subpart GGG - National Emission Standards for Pharmaceuticals Production
48. Subpart HHH - National Emission Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities
49. Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
50. Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
51. Subpart LLL - National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry
52. Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
53. Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiber Glass Manufacturing

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54. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins
55. Subpart PPP - National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production
56. Subpart QQQ - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting
57. Subpart RRR - National Emissions Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
58. Subpart TTT-- National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting
59. Subpart UUU - National Emission Standards for Hazardous Air Pollutants for Petroluem Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
60. Subpart VVV - National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
61. Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese
62. Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
63. Subpart CCCC - National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast
64. Subpart DDDD - National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products
65. Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
66. Subpart FFFF - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing
67. Subpart GGGG - National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production
68. Subpart HHHH - National Emission Standards for Hazardous Air Pollutants for Wet-formed Fiberglass Mat Production

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69. Subpart IIII - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-duty Trucks
70. Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating
71. Subpart KKKK - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans
72. Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products
73. Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances
74. Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles
75. Subpart PPPP - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products
76. Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products
77. Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture
78. Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil
79. Subpart TTTT - National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations
80. Subpart UUUU - National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing
81. Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing
82. Subpart WWWW - National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production
83. Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing

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84. Subpart YYYY - National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines
85. Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
86. Subpart AAAAA - National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants
87. Subpart BBBBB - National Emission Standards for Hazardous Air Pollutants for semiconductor Manufacturing
88. Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
89. Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters
90. Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries
91. Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities
92. Subpart GGGGG - National Emission Standards for Hazardous Air Pollutants: Site Remediation
93. Subpart HHHHH - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing
94. Subpart IIIII - National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants
95. Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing
96. Subpart KKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing
97. Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

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- 98. Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations
- 99. Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
- 100. Subpart PTTTT - National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands
- 101. Subpart QTTTT - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities
- 102. Subpart RTTTT - National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing
- 103. Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing
- 104. Subpart TTTTT - National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining

8.2 General Provisions.

- A. For any federal standards under 40 C.F.R. Parts 61 or 63 that have been delegated to the GRIC DEQ, the term “Administrator” means the Director of the Gila River Indian Community Department of Environmental Quality, except that the Director shall not be authorized to make decisions regarding provisions that are not delegated by EPA, such as the authority to approve alternate or equivalent test methods or alternative standards or work practices, except as specifically provided in Part 63, Subpart B. If alternate or equivalent test methods or alternative standards or work practices are requested, they shall be authorized by the Regional Administrator of the U.S. Environmental Protection Agency, Region IX.
- B. From the general standards identified in subsection 8.2.A, delete 40 C.F.R. § 61.04. All requests, reports, applications, submittals, and other communications to the Director pursuant to this section shall be submitted to the Gila River Indian Community Department of Environmental Quality, 35 Pima Street, Sacaton, Arizona 85247. A copy of any notifications and reports required by federal standards in 40 C.F.R. Parts 61 or 63 that have not been delegated to GRIC DEQ must be sent to EPA.
- C. The Director shall not be delegated authority to deal with equivalency determinations that are nontransferable through Section 112(e)(3) of the Act.

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9.0 STACK HEIGHT LIMITATION

- A. The limitations set forth herein shall not apply to stacks or dispersion techniques used by the owner or operator prior to December 31, 1970, for which the owner or operator had:
1. Begun, or caused to begin, a continuous program of physical on site construction of the stack;
 2. Entered into building agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time; or
 3. Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act which commenced operation before July 1, 1975, with stacks constructed under a construction contract awarded before February 8, 1974.
- B. Good engineering practice (GEP) Stack height is calculated as the greater of the following four (4) numbers in subsections (1) through (4):
1. 213.25 feet (65 meters);
 2. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 C.F.R. Parts 51 and 52, $H_g = 2.5H$;
 3. For all other stacks, $H_g = H + 1.5L$, where H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = height of nearby structure measured from the ground-level elevation at the base of the stack;

L = lesser dimension (height or projected width) of nearby structure; provided that the EPA or the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or
 4. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain obstacles;

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5. For a specific structure or terrain feature, “nearby” shall be:
 - a. For purposes of applying the formulae in paragraphs (B)(2) and (3) of this section, that distance up to five (5) times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (1/2 mile);
 - b. For conducting demonstrations under paragraph (B)(4) of this section, a distance not greater than 0.8 km (1/2 mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height (H+) of the feature, not to exceed two (2) miles if such feature achieved a height (H+) 0.8 km from the stack. The height shall be at least forty (40) percent of the GEP stack height determined by the formula provided in paragraph (B)(3), or eighty-five (85) feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.

6. “Excessive concentrations” means, for the purpose of determining good engineering practice stack height under paragraph (B)(4) of this section:
 - a. For sources seeking credit for stack height exceeding that established under paragraphs (B)(2) and (3) of this section, a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the requirements for permits or permit revisions under this Part II, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects. The allowable emission rate to be used in making demonstrations under paragraph (B)(4) of this section shall be prescribed by the new source performance

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standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;

- b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under paragraphs (B)(2) and (3) of this section, either:
 - (1) A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in paragraph (B)(6)(a) of this section, except that emission rate specified by any applicable Air Quality Management Program requirement shall be used; or
 - (2) The actual presence of a local nuisance caused by the existing stack, as determined by the Director.
- c. For sources seeking credit after January 12, 1979, for a stack height determined under paragraphs (B)(2) and (3) of this section, where the Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in paragraphs (B)(2) and (3) of this section, a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least forty (40) percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.
- C. The degree of emission limitation required of any source after the respective date given in paragraph A of this section for control of any pollutant shall not be affected by so much of any sources stack height that exceeds good engineering practice or by any other dispersion technique.
- D. The good engineering practice (GEP) stack height for any source seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards can be adjusted by

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determining the stack height necessary to predict the same maximum air pollutant concentration on any elevated terrain feature as the maximum concentration associated with the emission limit which results from modeling the source using the GEP stack height as determined herein and assuming the elevated terrain features to be equal in elevation to the GEP stack height. If this adjusted GEP stack height is greater than the source proposes to use, the source's emission limitation and air quality impact shall be determined using the proposed stack height and the actual terrain heights.

- E. Before the Director issues a permit or permit revision under this Part to a source based on a good engineering practice stack height that exceeds the height allowed by paragraph B of this section, the Director shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of this Part II.

10.0 CONFIDENTIALITY OF INFORMATION

10.1 Confidentiality of Records.

- A. **Public Information.** Any records, reports or information obtained from any person under this chapter, including reports or information obtained or prepared by the Gila River Indian Community Department of Environmental Quality, shall be available to the public, except that the information or any part of the information shall be considered confidential upon the showing of either of the following:
 - 1. A showing, satisfactory to the Director of the Department of Environmental Quality, by any person that the information or a part of the information if made public would divulge the trade secrets of the person.
 - 2. A determination by the GRIC attorney that the disclosure of the information or a particular part of the information would be detrimental to an ongoing criminal investigation or to an ongoing or contemplated civil enforcement action under this Ordinance in Tribal Court.
- B. **Notice of Confidentiality.**
 - 1. A notice of confidentiality submitted pursuant to paragraph (A)(1) of this section shall:

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- a. Precisely identify the information in the documents submitted which is considered confidential.
 - b. Contain sufficient supporting information to allow the Director to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person’s competitive position.
2. Within thirty (30) days of receipt of a notice of confidentiality that complies with paragraph A of this section, the Director shall make a determination as to whether the information satisfies the requirements for trade secret or competitive position pursuant to paragraph (A)(1) and so notify the applicant in writing. If the Director agrees with the applicant that the information covered by the notice of confidentiality satisfies the requirements in paragraph (A) (1), the Director shall include a notice in the file for the permit or permit application that certain information has been considered confidential. The Director’s determination of confidentiality shall be final and not appealable.
- C. Additional Information Available to the Public.
1. Notwithstanding paragraphs (A)(1) and (2) of this section, the following information shall be available to the public:
 - a. The name and address of any permit applicant or permittee.
 - b. The chemical constituents, concentrations and amounts of any emission of any air contaminant.
 - c. The existence or level of concentration of an air pollutant in the environment.
 2. Notwithstanding paragraph A of this section, the Director may disclose, with an accompanying confidentiality notice, any records, reports or information obtained by the Director or the Department of Environmental Quality to:
 - a. Other Community employees concerned with administering this section or if the records, reports or information is relevant to any administrative or judicial proceeding under this Part.
 - b. Employees of the United States Environmental Protection Agency if the information is necessary or required to

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administer and implement or comply with federal statutes or regulations.

11.0 PERMIT FEES

- 11.1 Applicability.** Every person owning/operating equipment or engaged in activities that may cause or contribute to air pollution is subject to the prescribed fees in this ordinance.

Exemptions: Tribal entities as defined in Part II, Section 1.0, shall be exempt from paying the non-Title V permit fee required by this section. This exemption does not apply to Title V permit fees nor does it relieve a “Tribal Entity” from complying with any requirement otherwise applicable to sources under this Part or Parts III, IV or V.

- 11.2 Definitions.** In addition to the definitions set forth in Part II, Section 1.0, the following definitions shall apply:

“**Annual Administrative Fee**” means a fee paid annually by the source to recover the average cost of services required to administer the permit and conduct inspections.

“**Billable Permit Action**” means the review, issuance or denial of a new permit, significant permit revisions, or minor permit revisions, or the renewal of an existing permit.

“**Itemized Invoice**” means a breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive (technical) review, and public involvement activities, and within each category, a further breakdown by employee title.

11.3 Permit Fee Standards.

A. Title V Permits.

1. **Applicability.** The permit fees imposed by this section shall apply to the following sources:
 - a. Any source whose emission inventory for the preceding calendar year shows that the source is in fact a “major source,” as defined in Part II, Section 1.0; and
 - b. Any source deemed subject to a requirement to obtain a permit under Title V of the Act.

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2. The owner or operator of a source required to have a Title V permit shall pay a permit fee at a rate prescribed in subsection 11.3 of this Part or at a rate sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the GRIC air quality permit program in accordance with Section 502(b)(3) of the Act.
3. Fees for Billable Permit Actions. The owner or operator of a Title V source shall pay \$66.00 per hour, adjusted annually in accordance with subsection 11.8, for all permit processing time required for a billable permit action. The fee shall be paid as follows:
 - a. A complete application shall be submitted with the application fee listed in Table 1.1 below.

Table 1.1

Type of Title V Application	Application Fee
New permit application	\$7,000
Significant permit revision application that is a result of a major modification	\$7,000
Other significant permit revision applications	\$1,000
Minor permit revision application	\$150
Permit renewal application	\$3,500

- b. At any time after submittal of the application, the Director may request additional application fees based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.
- c. When permit processing is completed for a facility, the Director shall send an itemized invoice. The invoice shall indicate the total actual cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.
- d. The maximum fee for processing permit applications listed in subsection 11.3(A)(1) is \$40,000. For a minor permit revision, the maximum permit processing fee shall be \$10,000.
- e. The Director shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.

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4. Annual Administrative Fees. The owner or operator of a Title V source shall pay an annual administrative fee plus an emissions-based fee or a fee at a rate sufficient to cover all reasonable (direct and indirect) cost required to develop and administer this permit program in accordance with Section 502(b)(3) of the Act. The following fees shall be paid unless specified otherwise by the Director:
- a. The applicable annual administrative fee from Table 1.2 below, as adjusted annually under subsection 11.8. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

Table 1.2

Source Category Title V	Annual Administrative Fee
Aerospace	\$12,900
Cement Plants	\$39,500
Combustion/Boilers	\$9,600
Compressor Stations	\$8,700
Electronics	\$12,700
Expandable Foam	\$9,200
Foundries	\$12,100
Landfills	\$9,900
Lime plants	\$37,000
Gold Mines	\$9,300
Mobile Home Manufacturing	\$9,200
Paper Coaters	\$9,600
Petroleum Products Terminals	\$14,100
Polymetric Fabric Coaters	\$12,700
Reinforced Plastics	\$9,600
Semiconductor Fabrication	\$16,700
Utilities - Natural Gas	\$11,200
Utilities – Fossil Fuel Except Natural Gas	\$20,200
Vitamin/Pharmaceutical Manufacturing	\$9,800
Wood Furniture	\$9,600
Others	\$9,900
Others with Continuous Emissions Monitoring	\$12,700

- b. An emissions-based fee of \$11.75 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year as calculated in accordance with

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subsection 11.4. The fee is adjusted annually in accordance with subsection 11.8.

B. Non-Title V Permit Fees.

1. **Applicability.** The owner or operator of a source required to have a non-Title V permit under Part II, Section 4.0 shall pay fees according to the following provisions.
2. **Fees for Billable Permit Actions.** Except for the renewal of an existing permit, the owner or operator of a non-Title V source listed in Table A or Table B of Appendix A shall pay to the Director \$66.00 per hour, adjusted annually under subsection 11.8 of this Part, for all permit processing time required for a billable permit action. The owner or operator of a non-Title V source listed in Table C, D, or E of Appendix A shall pay the applicable fees from the table below for a billable permit action. The fee shall be paid as follows:
 - a. An application shall be submitted with the applicable fee from Table 1.3 below.

Table 1.3

Type of Non-Title V Application	Application Fee
New Permit Application	\$350
Non-minor permit revision application	\$350
Minor permit revision application	\$150
Permit renewal application	Not required

- b. At any time after the submittal of an application for a facility listed in Table A or Table B, the Director may request an additional application fee based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.
- c. When permit processing is completed for a facility listed in Table A or Table B and final costs are greater than the fee submitted with the application under subsection 11.3(B)(1) above, the Director shall send an itemized invoice. The invoice shall indicate the total cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.

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- d. The maximum fee for processing permit applications listed in subsection 11.3(B) is \$25,000. For a minor permit revision, the maximum permit processing fee shall not exceed \$10,000.
 - e. The Director shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.
3. Annual Administrative Fee.
- a. The owner or operator of an existing non-Title V source shall pay the applicable annual administrative fee from Table 1.4 below, as adjusted annually under Section 11.8. The annual administrative fee covers the cost of renewing a non-Title V permit. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

Table 1.4

Non-Title V Source Type	Annual Administrative Fee
Source listed in Table A	\$3,100
Source listed in Table B	\$1,300
Sources listed in Table C	\$360
Sources listed in Tables D and E	\$200

11.4 Calculation and Payment Of Emission Fees.

For purposes of Section 11.0, actual emissions means the actual quantity of regulated pollutants emitted, including fugitive emissions, over the calendar year ending immediately prior to the date on which the annual fee is calculated, or any other period determined by the Director to be representative of normal source operations, determined as follows:

- A. Emissions quantities reported pursuant to Section 3.0 and 4.0 of Part II, GRIC Permit Requirements, or pursuant to a Department approved emissions inventory, shall be used for purposes of calculating the permit fees.
- B. Actual emissions shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.

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- C. The first annual permit fee for new Title V sources that have not been required to report emission quantities shall be based on the Department approved emissions estimate listed in the permit application.
- D. The following emissions of regulated pollutants shall be excluded from a source's actual emissions for purposes of setting fees:
 1. Emissions of a regulated pollutant from the source in excess of 4,000 tons per year.
 2. Emissions of any regulated pollutant that is already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀.
 3. Carbon monoxide.
 4. Any pollutant that is a regulated pollutant solely because it is a Class I or II substance subject to a standard promulgated under Title VI of the Act.
 5. Any pollutant that is a regulated air pollutant solely because it is subject to a standard under Section 112(r) of the Act.
 6. Emissions from insignificant activities excluded from the permit for the source.

11.5 Permit Fee Accounts.

Permit fees received shall be deposited in separate expenditure accounts for Title V and non-Title V permits, respectively. Money in the accounts shall only be spent to administer and enforce the program for Title V and non-Title V permits separately.

11.6 Accelerated Application Processing Fee.

An applicant for a Title V or non-Title V permit or any revisions to such permits may request that the Director provide accelerated processing of the application by providing the Director written notice sixty (60) days in advance of filing the application. Any such request shall be accompanied by the standard application fees as described in this section plus an additional fifty (50) percent surcharge, which shall be nonrefundable if the Director decides to provide the accelerated processing as described below:

- A. When an applicant has requested accelerated permit processing, the Director may request an additional surcharge fee based on the estimated cost of accelerating the processing of the application, or, to the extent practicable, may seek to process the permit or permit revision in accordance with the following schedule:

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1. For applications for initial Title V and non-Title V permits or significant permit revisions, final action on the permit or permit revision shall be taken within one hundred twenty (120) days after receiving notice that the application is complete.
 2. For minor permit revisions, final action on the permit shall be taken within sixty (60) days after receiving an application.
- B. Before issuing a permit or approving a permit revision pursuant to this section, the applicant shall pay to the Department all permit processing and other fees due, and in addition, the difference between the actual cost of accelerating the permit application and the fifty (50) percent surcharge submitted. Nothing in this section shall affect the public participation requirements contained in subsection 4.6, GRIC Permit Requirements.
- C. None of the surcharges for accelerated permit processing shall be applied toward the applicable maximum permit fee.

11.7 Earthmoving Permit Fee.

A person applying for an Earthmoving Permit shall pay a project fee as set forth in the following fee schedule, based on the total surface area that is disturbed:

<u>Total Surface Area Disturbed</u>	<u>Fee</u>
1 acre to 10 acres	\$75.00
10 acres or greater	\$36.00 per acre plus \$110.00

Example: 10 acres = 10 x \$36.00 + \$110 = \$470

11.8 Annual Fee Adjustment.

- A. The Director shall annually review the Department's cost accounting and make changes as required to assure continued compliance with Title V fee requirements.
- B. In the event that prior to January 1 of any year the Director does not revise the fees or hourly rates set or referenced by this ordinance on the basis of the preceding cost accounting, then those fees and rates shall be automatically adjusted as of that January to reflect the increase, if any, by which the Consumer Price Index for the most recent year exceeds the Consumer Price Index for the previous year. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers, published by the U.S. Department of Labor, as of the close of the twelve (12) month period ending on August 31 of each year.

11.9 Late Fees.

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The Director shall assess the following fees in addition to all other applicable fees:

- A. Title V and Non-Title V Permit Fees. An applicant for a required permit for a source that has been constructed without such permit and who has received a Notice of Violation shall pay a late fee of \$70.00.
- B. Earth Moving Permit Fees. Any person who is conducting earthmoving activity without an Earth Moving Permit and has received a Notice of Violation for operating the earth moving equipment without an Earth Moving Permit shall pay a late fee of \$70.00.
- C. Delinquency Fee. An applicant or permittee who fails to pay any required fee(s) by thirty (30) days after invoice due date shall pay a delinquency fee of \$35.00 or a delinquency fee of \$70.00 if delinquent over sixty (60) days from the invoice due date. Applicants and permittees will be notified by mail of any permit delinquency fees that are due and payable.

Appendix A

Table A
Aircraft Manufacturing
Chemical Manufacturing, Dry
Chemical Manufacturing, Liquid
Circuit Board Manufacturing \geq 5 Tons per Year VOC
Coating Line, Can/Coil/Fabric/Film/Glass/Paper
Ethylene Oxide Sterilization
Gypsum, Calcining
Hot Mix Asphalt Plant
Incinerator, Medical Waste
Incinerator, Hazardous Material
Insulation Manufacturing
Jet Engine Manufacturing
Non-Major Title V Source
Pesticide/Herbicide Production
Petroleum Loading Racks and Storage Tanks at Bulk Terminals
Pharmaceutical Manufacturing
Polymeric Foam Products
Printing Facilities \geq 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility with Controls
Rendering
Rubber Products Manufacturing
Semiconductor Manufacturing
Solid Waste Landfill

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Source Subject to BACT Determination
Source Subject to a MACT, NESHAPS or NSPS standard under Section 111 or 112 of the Act
Source with 3 or more processes from Table B
Tennis Ball Manufacturing
Vegetable Oil Extraction
Table B
Aerospace products Manufacturing & Rework not subject to MACT
Aggregate Production/Crushing, All
Aggregate Screening
Animal Feed Processing
Auto Body Shredding
Bakery with oven of 25 tons per year of Potential Uncontrolled VOC emissions or facility with controls
Chemical /Fertilizer Storage, mixing, Packaging and Handling
Concrete Batching
Concrete product Manufacturing
Cotton Gin
Cotton Seed Processing
Crematory
Cultured marble
Fiberglass Product Manufacturing
Flour Milling
Foundry
Furnace, Metals
Furnace, Burn-off
Furnace, Electric-Arc
Furnace, Other
Gas Turbine, Non-Utility
Grain Cleaning/Processing
Grain Storage
Incinerator, Non-hazardous Material
Internal Combustion Engine, Cogeneration
Pipeline Transmission Facility
Plating Tanks, Electrolytic or Electrowinning
Soil Treatment/Remediation
Soil Solvent Extraction System with Package Thermal/Catalytic oxidizer/Carbon Adsorption
Solvent Degreasing/Cleaning System, Solvent Use >3 gallons per day
Solvent Reclaiming

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Source with 3 or more processes from Table C
Stage I Vapor Recovery, Bulk Plants with Loading Racks
Stripping Operation, Equipment or Furniture Refurbishment
Stripping Operation, Liquid Chemical
Groundwater/Wastewater Remediation
Wood Coating operation subject to RACT including Furniture/Millwork Sources larger than 10 TPY VOC
Table C
Abrasive Blasting
Asphalt Day Tanker/Kettle
Cement products packaging
Circuit board Assembly
Circuit board manufacturing <5 tons per year of VOC
Dry Cleaning
Emergency Internal Combustion Engine
Incinerator, Paper and Cardboard products
Miscellaneous Solvent Use
Packaging, Mixing & handling, Granular or powdered Material other than Cement or Grain
Petroleum Storage, Non-retail Dispensing Operations exempted from Stage I Vapor Recovery
Plastic or Metal Extrusion
Plating, Electroless
Powder Coating
Printing facilities without Control and < 25 tons per year of Potential Uncontrolled VOC Emissions
Solvent Cleaning, < 3 Gallons per Day
Spray Coating
Bulk Plant Loading Facilities
Storage Tank, Non-Petroleum Volatile Organic Compounds
Vehicle Refinishing
Wood Furniture/Millwork/Small Source less than 10 TPY VOC
Table D
Service Station and larger Non-resale Dispensing Operations
Table E
Fuel Burning Equipment
Any Air Pollution Source Deemed by the Director to Require a Permit