

U.S. DEPARTMENT OF COMMERCE
National Technical Information Service

PB-290 301

Air Pollution Regulations in State Implementation Plans: Guam

Abcor Inc, Wilmington, MA Walden Div

Prepared for

Environmental Protection Agency, Research Triangle Park, NC

Aug 78

PB 290301

United States
Environmental Protection
Agency

Office of Air Quality
Planning and Standards
Research Triangle Park NC 27711

EPA-450/3-78-102
August 1978

Air



Air Pollution Regulations in State Implementation Plans: Guam

REPRODUCED BY
**NATIONAL TECHNICAL
INFORMATION SERVICE**
U. S. DEPARTMENT OF COMMERCE
SPRINGFIELD, VA. 22161

TECHNICAL REPORT DATA (Please read instructions on the reverse before completing)		
1. REPORT NO. EPA-450/3-78-102	2.	3. RECIPIENT'S ACCESSION NO. PB 290301
4. TITLE AND SUBTITLE Air Pollution Regulations in State Implementation Plans: Guam	5. REPORT DATE August 1978	6. PERFORMING ORGANIZATION CODE
	8. PERFORMING ORGANIZATION REPORT NO.	
7. AUTHOR(S)	10. PROGRAM ELEMENT NO.	
9. PERFORMING ORGANIZATION NAME AND ADDRESS Walden Division of Abcor, Inc. Wilmington, Mass.	11. CONTRACT/GRANT NO. 68-02-2890	
	13. TYPE OF REPORT AND PERIOD COVERED	
12. SPONSORING AGENCY NAME AND ADDRESS Control Programs Development Division Office of Air Quality Planning and Standards Office of Air, Noise, and Radiation Research Triangle Park, NC 27711	14. SPONSORING AGENCY CODE	
	15. SUPPLEMENTARY NOTES EPA Project Officer: Bob Schell, Control Programs Development Division	
16. ABSTRACT This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the <u>Federal Register</u> and the Federally promulgated regulations for the State, as indicated in the <u>Federal Register</u> . Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.		
17. KEY WORDS AND DOCUMENT ANALYSIS		
a. DESCRIPTORS	b. IDENTIFIERS/OPEN ENDED TERMS	c. COSATI Field/Group
Air pollution Federal Regulations Pollution State Implementation Plans		
18. DISTRIBUTION STATEMENT RELEASE UNLIMITED	19. SECURITY CLASS (This Report) Unclassified	
	20. SECURITY CLASS (This page) Unclassified	22. PRICE PC / MF A03 / A01

EPA-450/3-78-102

Air Pollution Regulations in State Implementation Plans:

Guam

by

Walden Division of Abcor, Inc.
Wilmington, Massachusetts

Contract No. 68-02-2890

EPA Project Officer: Bob Schell

Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

August 1978

ia

This report is issued by the Environmental Protection Agency to report air pollution regulations of interest to a limited number of readers. Copies are available, for a fee, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

This report was furnished to the Environmental Protection Agency by Walden Division of Abcor, Inc., Wilmington, Mass. 01887, in fulfillment of Contract No. 68-02-2890. The contents of this report are reproduced herein as received from Walden Division of Abcor, Inc. The opinions, findings, and conclusions expressed are those of the author and not necessarily those of the Environmental Protection Agency. Mention of company or product names is not to be considered as an endorsement by the Environmental Protection Agency.

Publication No. EPA-450/3-78-102

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision

to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET
OF
EPA-APPROVED REGULATION CHANGES
GUAM

<u>Submittal Date</u>	<u>Approval/Disapproval</u> <u>Date</u>	<u>Description</u>
8/14/73	2/25/74	Chapters 1 and 3

FEDERAL REGULATIONS

<u>Section Number</u>	<u>Description</u>
52.2676	Prevention of Significant Deterioration

DOCUMENTATION OF CURRENT EPA-APPROVED
STATE AIR POLLUTION REGULATIONS

REVISED STANDARD SUBJECT INDEX

- 1.0 DEFINITIONS
- 2.0 GENERAL PROVISIONS AND ADMINISTRATIVE PROCEDURES
- 3.0 REGISTRATION CERTIFICATES, OPERATING PERMITS AND APPLICATIONS
- 4.0 AIR QUALITY STANDARDS (PRIMARY AND SECONDARY)
 - 4.1 PARTICULATES
 - 4.2 SULFUR DIOXIDE
 - 4.3 NITRIC OXIDES
 - 4.4 HYDROCARBONS
 - 4.5 CARBON MONOXIDE
 - 4.6 OXIDANTS
 - 4.7 OTHERS
- 5.0 VARIANCES
- 6.0 COMPLIANCE SCHEDULES
- 7.0 EQUIPMENT MALFUNCTION AND MAINTENANCE
- 8.0 EMERGENCY EPISODES
- 9.0 AIR QUALITY SURVEILLANCE AND SOURCE TESTING
- 10.0 NEW SOURCE PERFORMANCE STANDARDS
- 11.0 NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS
- 12.0 MOTOR VEHICLE EMISSIONS AND CONTROLS
- 13.0 RECORD KEEPING AND REPORTING
- 14.0 PUBLIC AVAILABILITY OF DATA
- 15.0 LEGAL AUTHORITY AND ENFORCEMENT
- 16.0 HEARINGS, COMPLAINTS, AND INVESTIGATIONS
- 17.0 PREVENTION OF SIGNIFICANT DETERIORATION
- 18.0 AIR QUALITY MAINTENANCE AREA
- 19.0 - 49.0
RESERVED FOR FUTURE EXPANSION OF COMMON INDEX
- 50.0 POLLUTANT - SPECIFIC REGULATIONS
 - 50.1 PARTICULATES
 - 50.1.1 PROCESS WEIGHT
 - 50.1.2 VISIBLE EMISSIONS
 - 50.1.3 GENERAL

- 50.2 SULFUR COMPOUNDS
- 50.3 NITRIC OXIDES
- 50.4 HYDROCARBONS
- 50.5 CARBON MONOXIDE
- 50.6 ODOROUS POLLUTANTS
- 50.7 OTHERS (Pb, Hg, etc.)
- 51.0 SOURCE CATEGORY SPECIFIC REGULATIONS
 - 51.1 AGRICULTURAL PROCESSES (includes Grain Handling, Orchard Heaters, Rice and Soybean Facilities, Related Topics)
 - 51.2 COAL OPERATIONS (includes Cleaning, Preparation, Coal Refuse Disposal Areas, Coke Ovens, Charcoal Kilns, Related Topics)
 - 51.3 CONSTRUCTION (includes Cement Plants, Materials Handling, Topics Related to Construction Industry)
 - 51.4 FERROUS FOUNDRIES (includes Blast Furnaces, Related Topics)
 - 51.5 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - Particulates (includes Fuel Content and Other Related Topics)
 - 51.6 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - SO₂ (includes Fuel Content and Other Related Topics)
 - 51.7 FUEL BURNING EQUIPMENT (oil, natural gas, coal) - NO₂ (includes Fuel Content and Other Related Topics)
 - 51.8 HOT MIX ASPHALT PLANTS
 - 51.9 INCINERATION
 - 51.10 NITRIC ACID PLANTS
 - 51.11 NON-FERROUS SMELTERS (Zn, Cu, etc.) - Sulfur Dioxide
 - 51.12 NUCLEAR ENERGY FACILITIES (includes Related Topic)
 - 51.13 OPEN BURNING (includes Forest Management, Forest Fire, Fire Fighting Practice, Agricultural Burning and Related Topics)
 - 51.14 PAPER PULP; WOOD PULP AND KRAFT MILLS (includes Related Topics)
 - 51.15 PETROLEUM REFINERIES
 - 51.16 PETROLEUM STORAGE (includes Loading, Unloading, Handling and Related Topics)
 - 51.17 SECONDARY METAL OPERATIONS (includes Aluminum, Steel and Related Topics)
 - 51.18 SULFURIC ACID PLANTS
 - 51.19 SULFURIC RECOVERY OPERATIONS
 - 51.20 WOOD WASTE BURNERS
 - 51.21 MISCELLANEOUS TOPICS

TABLE OF CONTENTS

STATE REGULATIONS

<u>Revised Standard Subject Index</u>	<u>Chapter</u>	<u>Title</u>	<u>Page</u>
(1.0)	One	Definitions	1
(4.0)	Two	Ambient Air Quality Standards	3
(3.0)	Three	Permits	5
(13.0)	Four	Monitoring, Records and Reporting	11
(9.0)	Five	Sampling and Testing Methods	12
(51.13)	Six	Control of Open Burning	13
(50.1.1)	Seven	Control of Particulate Emission from Process Industries	15
(50.1.3)	Eight	Control of Fugitive Dust	17
(51.9)	Nine	Control of Particulate Emission from Incinerator: Design and Operation	18
(50.6)	Eleven	Control of Odors in Ambient Air	19
(8.0)	Twelve	Air Pollution Emergencies	20
(50.2)	Thirteen	Control of Sulfur Dioxide Emissions	23

FEDERALLY PROMULGATED REGULATIONS

<u>Revised Standard Subject Index</u>	<u>Section</u>	<u>Title</u>	<u>Page</u>
(17.0)	52.2676	Prevention of Significant Deterioration	25

CHAPTER ONE

(1.0) DEFINITIONS

- 1.1 "Administrator" shall mean the Administrator of the Air Pollution Control Commission or his designee.
- 1.2 "Air contaminant" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, or any combination thereof.
- 1.3 "Air pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, property, or interferes with the enjoyment of life or property.
- 1.4 "Ambient air" means that portion of the atmosphere external to buildings to which the general public has access.
- 1.5 "Existing source" shall mean equipment, machine, devices, articles, contrivances or installations which are in existence on the effective date of these regulations; except any existing equipment, machines, devices, articles, contrivances or installations which are modified after the effective date of these regulations.
- 1.6 "Fuel-burning equipment" shall mean any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.
- 1.7 "Fugitive dust" shall mean solid air-borne particulate matter emitted from any source other than a flue or stack.
- 1.8 "Garbage" shall mean animal and vegetable matter such as that originating in homes, restaurants, and food service and processing establishments.
- 1.9 "Modify" shall mean any physical change in, or change in method of operation of an existing facility which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes.
- 1.10 "Multiple-chamber incinerator" shall mean any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning and consisting of three or more refractory lined combustion furnaces in series which are physically separated by refractory walls and interconnected by gas passage points or ducts and employing adequate design parameters necessary for maximum combination of the material to be burned.
- 1.11 "New source" shall mean equipment, machines, devices, articles, contrivances, or installations built or installed on or after the effective date of these regulations, and installations existing on the effective date

of these regulations which are later modified. Any equipment moved to another premise involving a change of address, or which is purchased and is to be operated by a new owner, or which is to be operated by a lessee after the effective date of these regulations, shall be considered a new source.

1.12 "Odor" shall mean those qualities of matter which make it perceptible to the olfactory senses of man.

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

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

1.15 "Particulate matter" shall mean any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

1.16 "Person" shall mean any individual, corporation, partnership, firm association, trust, estate, public or private institution, group, or agency, political subdivision of this Territory or political subdivision or agency thereof or any legal successor, representative, agent, or agency of the foregoing.

1.17 "Refuse" shall mean any combustible waste material, trade waste or garbage containing carbon in a free or combined state.

1.18 "Ringelmann chart" shall mean the chart, published and described in the U.S. Bureau of Mines Information Circular 8333.

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

CHAPTER TWO

(4.0) AMBIENT AIR QUALITY STANDARDS

2.1 The following air quality standards are the desirable levels of ambient air quality for the Territory of Guam. Based on the present knowledge, these levels are not expected to produce health hazards or impairment, injury to agricultural crops and livestock, damage to or deterioration of property, and hazards to air and ground transportation.

2.2 AMBIENT AIR QUALITY STANDARDS¹

Pollutant	Level not to exceed	Remarks*
Sulfur oxides	60 micrograms/m ³ (0.02 ppm)	a
	260 micrograms/m ³ (0.1 ppm)	b
	1,300 micrograms/m ³ (0.5 ppm)	f
Particulate matter	60 micrograms/m ³	c
	150 micrograms/m ³	b
Carbon monoxide	10 milligrams/m ³ (9 ppm)	d
	40 milligrams/m ³ (35 ppm)	e
Photochemical oxidants	160 micrograms/m ³ (0.08 ppm)	e
Hydrocarbons	160 micrograms/m ³ (0.24 ppm)	f
Nitrogen oxides	100 micrograms/m ³	
	90.05 ppm)	a

* Remarks

a Annual arithmetic mean

b Maximum 24-hour concentration not to be exceeded more than once a year

c Annual geometric mean

d Maximum 8-hour concentration not to be exceeded more than once a year

- e Maximum 1-hour concentration not to be exceeded more than once a year
- f Maximum 3-hour concentration not to be exceeded more than once a year

1

These standards are the same as the existing National Secondary Ambient Air Quality Standards.

2.3 All measurements of air quality are corrected to a reference temperature of 25°C and to a reference pressure of 760 millimeters of mercury (1,013.2 millibar).

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

CHAPTER THREE

(3.0) PERMITS

3.1 Permits Required:

(a) PERMIT to CONSTRUCT

(1) No person shall cause or allow the construction or modification of any stationary source without first obtaining a Permit to Construct from the Administrator as to the location and design of such stationary source to comply with applicable regulations and ambient air quality standards. This permit is for construction or modification only and shall be terminated upon completion of the project.

(b) PERMIT to OPERATE

(1) No person shall cause or allow the operation of a new stationary source without obtaining a permit to operate from the Administrator. Application shall be made to the Administrator at least thirty (30) days prior to the anticipated date of operation.

(2) No person shall cause or allow the use or operation of any existing stationary source without obtaining a permit to operate from the Administrator.

(3) No owner or operator shall cause or allow the operation of a new or existing stationary source if the Administrator denies or revokes a permit to operate.

3.2 Exemptions:

Permits to construct and operate shall not be required for:

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

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

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

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

(1) Natural or synthetic gas

(2) Liquified petroleum gas

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

(e) Mobile internal combustion engines.

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

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

3.21. Possession of approval to construct or modify or a permit to operate shall not relieve any person of the responsibility to comply with the applicable emission limitation or other regulations.

3.3 Applications:

(a) Application for Permit to Construct or Permit to Operate shall be made by the source owner, operator, or other responsible person on forms furnished by the Administrator, and shall be accompanied by two copies of complete data, siting information including vicinity maps and plot plans, the dimensions and boundaries of the buffer zone, plan descriptions, specifications, drawings and other detailed information necessary to determine how the new source or existing source is designed and in what manner it will be operated and controlled.

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

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

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

3.4. Standards for Approval, Conditional Approval, or Denial of Permit Applications:

(a) APPROVAL

The Administrator shall not approve an application for a Permit to Construct or for a Permit to Operate unless the applicant shows, to the satisfaction of the Administrator that:

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

(2) The source is designed, built, equipped, operated and maintained in accordance with the latest available control technology so as to reduce emissions to a level that is within permissible emission and ambient air quality standards.

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

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

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

(b) CONDITIONAL APPROVAL

The Administrator may grant conditional approval to construct, modify, or operate if it appears likely from the information submitted in the permit application, the source will satisfy the requirements of Section 3.4 (a), but testing, inspection or sampling is required to verify that the requirements of Section 3.4 (a) are met and/or maintained. To aid in this verification, the Administrator may:

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

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

(b) Safe access to each port.

(c) Instrumentation to monitor and record emission data.

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

(2) Require performance testing as outlined in Section 3.6.

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

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

(c) DENIAL

(1) The Administrator shall deny an application for a Permit to Construct or for a Permit to Operate if: The information submitted shows that the source described in the application cannot meet the requirements of Section 3, 4 (a) or (b).

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

3.5 Action on Applications:

(a) Before acting on an application for a Permit to Construct or for a Permit to Operate the Administrator may require the applicant to furnish additional information, plans or specifications.

(b) All complex sources require official notice of an application for a Permit to Construct to afford opportunity for public comment. In addition, a public hearing may be held on any application for a Permit to Construct a complex or point source if requested by the Administrator. Notices shall be by prominent advertisement and shall specify a location at which the information submitted by the applicant, and the Agency's analysis and proposed approval or disapproval is available for public inspection. The notice shall allow at least a thirty (30) day period for submittal of public comment. The Administrator shall forward a copy of all notices, all public comments, and the transcript of all hearings on complex or point sources to the Region IX Office of the United States Environmental Protection Agency.

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

(d) Incomplete applications shall not be acted upon.

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

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

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

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

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

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

3.6 Performance Testing:

If required by the Administrator, the source owner or operator shall conduct performance tests in order to determine compliance with applicable Standards and Regulations in accordance with test methods approved by the Administrator, the tests being made at the expense of the applicant. The Administrator may monitor performance tests conducted by the applicant and may conduct additional performance tests.

3.7 Revoking of Permits:

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

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

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

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

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

3.8 Transfer of Permits:

A Permit to Construct or a Permit to Operate shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

3.9 Reporting Information:

No owner or operator shall cause or permit the operation of any source without furnishing such performance tests results, information, and records as may be required by the Administrator in the applicable regulations.

3.10 Responsibility of the Permit Holder:

Possession of a Permit to Construct or a Permit to Operate shall not relieve any person of the responsibility to comply with the applicable emission limitations, permit conditions, air quality standards, or other regulations.

3.11 Reporting Discontinuance or Dismantlement:

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

3.12 Posting of Permits:

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

3.13 Falsifying or Altering Permits:

No person shall deface, alter, forge, counterfeit, or falsify a Permit to Construct or a Permit to Operate.

CHAPTER FOUR

(13.0) MONITORING, RECORDS, AND REPORTING.

4.1 The Administrator may require the owner or operator of any air contaminant source to install, use, and maintain such monitoring equipment, sample such emissions in accordance with methods as the Administrator shall prescribe, establish and maintain such records, and make such periodic emission reports as required in Section 4.2.

4.2 Records and reports as the Administrator shall prescribe on air contaminants or fuel shall be recorded, compiled, and submitted on forms furnished by the Administrator. Reports will be required no more frequently than monthly.

4.3 In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the Administrator at least twenty-four (24) hours prior to the planned shutdown. Such prior notice shall include but is not limited to, the following:

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

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

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

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

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

4.4 In the event that any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air contaminants in violation of this chapter, the person responsible for such equipment shall immediately notify the Administrator of such failure or breakdown and provide a statement giving all pertinent facts, including the estimated duration of the breakdown. The Administrator shall be notified when the condition causing the failure or breakdown has been corrected and the equipment is again in operation.

CHAPTER FIVE

(9.0) SAMPLING AND TESTING METHODS.

5.1 All sampling and testing shall be made and the result calculated in accordance with procedures approved by the Administrator.

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

CHAPTER SIX

(51.13) CONTROL OF OPEN BURNING

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

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

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

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

(c) Fires for ceremonial and recreational purposes.

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

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

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

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

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

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

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

6.3 Nothing in this Section shall be construed to prohibit or make unlawful the construction and use of barbecue pits, grills, or outdoor fire places for the preparation of food for consumption by individuals, nor shall any permit from the Administrator be required therefor.

CHAPTER SEVEN

(50.1.1) CONTROL OF PARTICULATE EMISSION FROM PROCESS INDUSTRIES

7.1 This regulation applies to any operation, process, or activity except the burning of fuel where the products of combustion do not directly contact process materials, except refuse burning and process burning of salvageable materials.

7.2 No person shall cause, suffer, allow, or permit the emission of particulate matter in any one hour from any source in excess of the amount shown in Table I for the process weight rate allocated to such source.

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

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

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

7.6 Exceptions. A temporary operational breakdown or cleaning of air pollution control equipment for any process is permitted provided the owner or operator immediately advises the Administrator of the circumstances and outlines and acceptable corrective program. In any event, no operation that may cause an immediate public health hazard can be deemed an exception from this regulation.

TABLE I
PARTICULATE EMISSION ALLOWABLE BASED ON PROCESS WEIGHT

Process Weight Rate Lb/Hr	Rate of Emission Lb/Hr	Process Weight Rate Lb/Hr	Rate of Emission Lb/Hr
50	.24	3400	5.44
100	.46	3500	5.52
150	.66	3600	5.61
200	.85	3700	5.69
250	1.03	3800	5.77
300	1.20	3900	5.85
350	1.35	4000	5.93
400	1.50	4100	6.01
450	1.63	4200	6.08
500	1.77	4300	6.15
550	1.89	4400	6.22
600	2.01	4500	6.30
650	2.12	4600	6.37
700	2.24	4700	6.45
750	2.34	4800	6.52
800	2.43	4900	6.60
850	2.53	5000	6.67
900	2.62	5500	7.03
950	2.72	6000	7.37
1000	2.80	6500	7.71
1100	2.97	7000	8.05
1200	3.12	7500	8.39
1300	3.26	8000	8.71
1400	3.40	8500	9.03
1500	3.54	9000	9.36
1600	3.66	9500	9.67
1700	3.79	10000	10.00
1800	3.91	11000	10.63
1900	4.03	12000	11.28
2000	4.14	13000	11.89
2100	4.24	14000	12.50
2200	4.34	15000	13.13
2300	4.44	16000	13.74
2400	4.55	17000	14.36
2500	4.64	18000	14.97
2600	4.74	19000	15.58
2700	4.84	20000	16.19
2800	4.92	30000	22.22
2900	5.02	40000	28.30
3000	5.10	50000	34.30
3100	5.18	60000	40.00
3200	5.27		
3300	5.36		

CHAPTER EIGHT

(50.1.3) CONTROL OF FUGITIVE DUST

8.1 No person shall cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to, the following:

(a) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(b) Application of asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can create airborne dusts;

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

(d) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;

(e) Conduct of agricultural practices such as filling of land, application of fertilizers, etc. in such manner as to not create a nuisance to others residing in the area.

(f) The paving of roadways and their maintenance in a clean condition.

(g) The prompt removal of earth or other material which has been transported to a paved street by trucking, earth moving equipment, erosion, landslide.

8.2 No person shall cause or permit the discharge of visible emissions beyond the lot line of the property on which the emissions originate.

8.3 When dust, fumes, gases, mist, odorous matter, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance or to violate any regulation, the Administrator may order that the building or equipment in which processing, handling and storage are done, be tightly closed and ventilated in such a way that all air and gases and air or gas-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

CHAPTER NINE

(51.9) CONTROL OF PARTICULATE EMISSION FROM INCINERATOR: DESIGN AND OPERATION

9.1 This regulation applies to any incinerator used to dispose of refuse by burning or the processing of salvageable material by burning. Notwithstanding definitions in other regulations, as used in this regulation the word "refuse" includes garbage, rubbish, trade wastes, leaves, salvageable material and agricultural wastes. The word "incinerator", as used in this regulation, includes incinerators, and other devices, structures, or contrivances used to burn refuse or to process refuse by burning.

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

9.3 Emission tests shall be conducted at maximum burning capacity of the incinerator.

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

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

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

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

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

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

CHAPTER ELEVEN

(50.6) CONTROL OF ODORS IN AMBIENT AIR.

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

11.2 An odor occurrence shall be deemed a violation when a complaint is received and verified by the Administrator. The Administrator shall deem the odor occurrence a violation if he is able to make two odor measurements within one hour period, these measurements being separated by at least 15 minutes. An odor measurement shall consist of a detectable odor after the odorous air has been diluted with eight volumes of odor-free air.

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

CHAPTER TWELVE

(8.0) AIR POLLUTION EMERGENCIES

12.1 Notwithstanding any other provision of the air pollution control regulations, this episode regulation is designed to prevent the excessive buildup of air contaminants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these contaminants on the public health.

12.2 Episode criteria. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Administrator determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the Administrator will be guided by the following criteria:

(a) Air pollution forecast by the Weather Bureau that a stagnant atmospheric condition is in effect.

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

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

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

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

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

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

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

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

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

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

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

SO₂ and particulate combined -- product of SO₂ p.p.m., 24-hour average and COHs equal to 0.8, or product of SO₂ ug./m³, 24-hour average and particulate ug./m³, 24-hour average equal to 261 x 10³.

CO -- 34 mg./m³ (30 p.p.m.), 8-hour average.

Oxidant (O₃) -- 800 ug./m³ (0.4 p.p.m.), 1-hour average.

NO₂--2,260 ug/m³ (1.2 p.p.m.)- 1-hour average; 565 ug/m³ (0.3 p.p.m.) 24-hour average.

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

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

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

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

SO₂ and particulate combined -- product of SO₂ p.p.m., 24-hour average and COHs equal to 1.2 or product of SO₂ ug./m³, 24-hour average and particulate ug./m³, 24-hour average equal to 393 x 10³.

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

Oxidant (O₃) -- 1,200 ug./m³ (0.6 p.p.m.), 1-hour average.

NO₂ -- 3,000 ug./m³ (1.6 p.p.m.), 1-hour average; 750 ug./m³ (0.4 p.p.m.), 24-hour average.

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

(e) "Termination": Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time the next lower status will be assumed.

12.3 Declaration of air pollution emergency. Air pollution emergency shall be declared by the Director of Public Health and Social Services and carried out pursuant to Public Law 10-74, Section 9960.12:

Section 9960.12. Emergency Procedures.

(a) Any other provisions of law to the contrary notwithstanding, if the Director of Public Health and Social Services finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the Director, with the concurrence of the Governor, shall order persons causing or contributing to

the air pollution to reduce or discontinue immediately the emission of air contaminants, and such order shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the Air Pollution Control Commission. Not more than twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the Air Pollution Control Commission shall affirm, modify or set aside the order of the Director.

(b) In the absence of a generalized condition of air pollution of the type referred to in Subsection (a), but if the Director finds that emissions from the operations of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of Section 9960.11 of this Act. In such event, the requirements for hearing and affirmation, modification or setting aside of orders set forth in subsection (a) shall apply.

(c) Nothing in this section shall be construed to limit any power the Governor or any other officer may have to declare an emergency and such power is conferred by statute or constitutional provision or inheres in the officer.

12.4 Emission Reduction Plan. The Administrator shall take any of the procedures listed below or any others as he deems it necessary to reduce air pollution at the alert, warning or emergency levels:

(a) There shall be no open burning by any persons of free wastes, vegetation, refuse, or debris in any form.

(b) The use of incinerators for the disposal of any form of solid or liquid waste shall be limited to the hours as specified by the Administrator, or prohibited depending on the concentration level of pollutants.

(c) Persons operating motor vehicles should eliminate all unnecessary operations.

(d) Electric power generating plants and any other oil-fired industrial establishments shall use fuels having low ash and sulfur content of 1 percent or less.

(e) After consultation with Director of Public Health and Social Services and subsequent concurrence of the Governor, the Administrator may cease operation of any establishment in question including schools, offices, commercial and manufacturing establishments and prohibit the use of motor vehicles except in emergencies with the approval of Director of Public Safety.

CHAPTER THIRTEEN

(50.2) CONTROL OF SULFUR DIOXIDE EMISSIONS

13.1 After three (3) years from the effective date of this regulation, no person shall cause or permit the emission of sulfur dioxide from any stationary source in excess of 2.81 pounds of sulfur dioxide per million Btu's of heat input to the installation.

13.2 After five (5) years from the effective date of this regulation, no person shall cause or permit the emission of sulfur dioxide from any stationary source in excess of 1.94 pounds of sulfur dioxide per million Btu's of heat input to the installation.

13.3 If compliance with these standards is to be accomplished by means of controlled sulfur content of fuel, the owner or operator of the source must provide certification that the fuel meets the applicable specifications.

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

**FEDERALLY PROMULGATED
REGULATIONS**

(17.0) 52.2676 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

- (1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.
- (2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.
- (3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.
- (4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
- (5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
- (6) "Construction" means fabrication, erection or installation of a stationary source.
- (7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

- (1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

- (2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Area Designations		
Pollutant	Class I (ug/m ³)	Class II (ug/m ³)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

- (ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.
- (iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.
- (3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.
- (ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:
- (a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and
- (b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

- (c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and
 - (d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.
 - (e) The redesignation is proposed after consultation with the elected leadership of local and other sub-state general purpose governments in the area covered by the proposed redesignation.
- (iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:
- (a) The redesignation is consistent with adjacent State and privately owned land, and
 - (b) Such redesignation is proposed after consultation with the Federal Land Manager.
- (iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:
- (a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,
 - (b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.
- (v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed

under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

- (a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,
 - (b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.
- (vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:
- (a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.
 - (b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.
 - (c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

- (d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.
- (e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.
- (f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.
- (vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

- (1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

- (i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.
 - (ii) Coal Cleaning Plants.
 - (iii) Kraft Pulp Mills.
 - (iv) Portland Cement Plants.
 - (v) Primary Zinc Smelters.
 - (vi) Iron and Steel Mills.
 - (vii) Primary Aluminum Ore Reduction Plants.
 - (viii) Primary Copper Smelters.
 - (ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.
 - (x) Sulfuric Acid Plants.
 - (xi) Petroleum Refineries.
 - (xii) Lime Plants.
 - (xiii) Phosphate Rock Processing Plants.
 - (xiv) By-Product Coke Oven Batteries.
 - (xv) Sulfur Recovery Plants.
 - (xvi) Carbon Black Plants (furnace process).
 - (xvii) Primary Lead Smelters.
 - (xviii) Fuel Conversion Plants.
 - (xix) Ferroalloy production facilities commencing construction after October 5, 1975.
- (2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

- (i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (iii) of this section which has occurred since January 1, 1975.
 - (ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.
 - (iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.
- (3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

- (4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.
 - (ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.
 - (iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.
- (5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

- (1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.
- (ii) Within 30 days after receipt of a complete application, the Administrator shall:

- (a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.
 - (b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and
 - (c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.
- (iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.
- (iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.
- (v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

- (vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.
 - (2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.
 - (3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.
 - (4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.
- (f) Delegation of authority
- (1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.
 - (2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:
 - (i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.
 - (ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

- (3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.
- (4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be re-delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(39 FR 42514, Dec. 5, 1974; 40 FR 2802, Jan. 16, 1975, as amended at 40 FR 24535, June 9, 1975; 40 FR 25005, June 12, 1975; 40 FR 42012, Sept. 10, 1975)