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Air Pollution Regulations in State Implementation Plans: Kansas

Abcor Inc, Wilmington, MA Walden Div

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Kansas

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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.

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Air Pollution Regulations in State Implementation Plans:

Kansas

by

Walden Division of Abcor, Inc.
Wilmington, Massachusetts

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EPA Project Officer: Bob Schell

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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

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Publication No. EPA-450/3-78-066

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

KANSAS

Submittal Date	Approval Date	Description
4/17/73	11/8/73	Rules 28-19-6→25, 20-24, 30-32, 40-47, 50-53, 55-58
2/6/74	3/2/76 or 4/8/75	Rules 28-19-8, 9, 14, 22, 25, 47

FEDERAL REGULATIONS

Section Number	Description
52.876	Federal Compliance Schedules
52.878	Review of New or Modified Indirect Sources
52.884	Prevention of Significant Deterioration

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STATE AIR POLLUTION REGULATIONS

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(2.0) AIR POLLUTION EMISSION CONTROL REGULATIONS

(2.0) 28-19-6 STATEMENT OF POLICY

It is the intent of these regulations to establish emission reporting requirements, emission control requirements, and requirements for open burning believed necessary to protect human health and safety, prevent injury to plant and animal life and property, and consider and foster the comfort and convenience of the State's inhabitants. The emission limitations established herein are intended to reflect those values which are considered to be attainable with technology available at the time of their adoption; where advances in technology will permit more stringent control, it is the intent of the Kansas State Board of Health that the Director shall encourage those persons responsible for new or altered emission sources to voluntarily provide the highest degree of control that he deems to be technically and economically feasible at the time that such controls are provided. It is also the intent of the Board of Health that where existing installations have been exempted from regulations limiting the amount of emissions of specific contaminants, but are equipped with control devices effecting such emissions, such control devices shall be continually operated so as to maintain the maximum practical degree of efficiency attainable with such equipment. It is further intended in establishing these regulations that reasonable effort will be made to encourage voluntary cooperation by persons or groups, affected by these requirements, and upon failure to obtain and/or maintain such cooperation, such administrative and judicial proceedings as are required to secure compliance with them is to be initiated.

(1.0) 28-19-7 DEFINITIONS

All terms and abbreviations used in emission and open burning control regulations shall have the meanings set forth herein:

Alter shall mean any physical change in, or change in the method of operation of, any machine, equipment, device, or other article, or combination thereof which constitutes a source of pollutant emissions subject to the provisions of these regulations, and which increases the amount of such emissions.

Board shall mean the Kansas State Board of Health.

Contaminant shall mean dust, fumes, smoke or other particulate, vapor, gas, odorous substance or any combination thereof, but not including uncombined water vapor or steam condensate.

Control Device shall mean any equipment, device or other article designed and/or installed for the purpose of reducing or preventing the discharge of contaminant emissions to the air.

Department shall mean the Kansas State Department of Health.

Direct Heating Equipment shall mean any device where fuel is burned in direct contact with, and for the purpose of heating, air which comes in direct contact with the material being processed.

Director shall mean the Director of the Division of Environmental Health of the Kansas State Department of Health and Chief Engineer of the Kansas State Board of Health, or his designated representative.

Emission Source shall mean any machine, equipment, device or other article or operation that directly, or indirectly, releases contaminants into the outdoor atmosphere.

Existing shall mean (1) any processing machine, equipment, device or other article, or combination thereof, or indirect heating equipment, or incinerator completed, under construction, or under purchase contract on the effective date of any applicable regulation, (2) any open burning operation that had been intentionally carried out incidental to activities of the same person legally responsible for such burning on the effective date of the applicable regulation, and on the same premises, either continually or intermittently over a period of at least one calendar year prior to the effective date of the applicable regulation, and (3) any other processing operation or established use of a premise in existence on the effective date of this regulation.

Indirect Heating Equipment shall mean any device where fuel is burned to produce usable heat by transfer through a heat conducting materials barrier or by a heat storage medium to a material to be heated so that the material being heated is not contacted by, and adds no substance to, the products of combustion.

Incinerator shall mean any device or structure used for the destruction, or volume reduction, of garbage, rubbish, or other liquid or solid waste materials by combustion pursuant to disposal or salvaging operations.

Modified Open Burning Operation shall mean an open burning operation in which the contaminants emitted to the ambient air as a result of combustion are reduced and/or controlled through positive regulation of fuel/air ratios, air screens or other control techniques, but excluding combustion devices used solely for the purpose of disposing of flammable gases.

Official Observer shall mean a designated representative of the Department who has been certified by the Department as being trained, and qualified on the basis of actual testing, to determine the degree of opacity of visible plumes by direct visual observation. The testing procedure shall be required to be re-tested at least once every six months in order to maintain their certification.

Opacity shall mean the degree to which an official observer's view of transmitted light is obscured by passing through a contaminant emission

with zero percent opacity being equivalent to perfect transparency and 100 percent opacity being perfectly opaque.

Open Burning Operation shall mean the burning of any materials wherein contaminants resulting from such combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purposes of this definition, a chamber shall be considered enclosed when during the combustion process only such appertures, ducts, stacks, flues or chimneys as are required to supply combustion air to permit the escape of exhaust gases are open.

Particulate shall mean any dispersed matter, solid or liquid, except uncombined water the individual aggregates of which are larger than single small molecules (about .0002μ in diameter), but smaller than 500 microns in diameter.

Person shall mean any inidvidual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state, trust, estate or any other legal entity.

Potential Contaminant Emission Factor shall mean an average value of the amount of contaminants that have been found to be associated with a specific type of processing or burning operation as compared to a given quantity of material processed or some other meaningful parameter. For the purpose of these regulations such factors shall be those published by the Federal air pollution control agency or otherwise recognized by official air pollution control agencies.

Potential Contaminant Emission Rate shall mean the total weight at which a contaminant is, or in the absence of control equipment, would be emitted from an air contaminant source when such source is operating at its maximum capacity. For the purposes of these regulations, it may be determined by: (1) sampling in a flue or duct prior to the inlet of any control device serving the flue or duct, (2) estimating such emissions by performing a "material balance" calculation (difference between processing input weight and output weight of materials), (3) using potential contaminant emission factors as published by the Department, or by any other estimating technique mutually agreeable to the Department and the person responsible for operation of the source.

Premise shall mean any parcel of land including any structures or equipment thereon under one ownership.

Processing shall mean any operation related to the handling, storage, treatment and/or conversion of input materials to produce a salable or usable end product.

Smoke shall mean particulate emissions resulting from incomplete combustion consisting primarily of carbon, ash and other material that form a visible plume in the ambient atmosphere.

Vehicular Source shall mean the propelling motor(s) of every self-propelled device in, upon or by which any person or property is or may be transported or drawn.

Waste(s) shall mean all discarded solid and liquid materials resulting from industrial, commercial and agricultural operations and from community activities not intentionally disposed of by means of water carried systems into the waters of the State.

(13.0) 28-19-8 REPORTING REQUIRED

A. No person shall:

(1) Install or alter any processing machine, equipment, device or other article, or combination thereof, capable of emitting any potential contaminant emissions equal to or in excess of the levels specified in Section D of this regulation.

(2) Install or alter any indirect heating equipment with a rated or operating input capacity equal to or in excess of that listed in Section D of this regulation.

(3) Install or alter any waste incinerator with a rated or operating capacity in excess of that listed in Section D of this regulation, or

(4) Initiate, expand or relocate any open burning operations,

without having first reported on such proposed activity to the Department in the manner prescribed by Section C of this regulation, at least sixty (60) days prior to initiating the activity.

B. No person shall:

(1) Use any processing machine, equipment, device or other article, or combination thereof, capable of emitting any potential contaminant emission equal to, or in excess of those levels specified in Section D of this regulation.

(2) Use any indirect heating equipment with a rated or operating input capacity equal to, or in excess of that listed in Section D of this regulation.

(3) Use any incinerator with a rate or operating capacity in excess of that listed in Section D of this regulation, or

(4) Conduct any open burning operations,

without having reported such use or operation to the Department in the manner prescribed in Section C of this regulation. Provided, however, that the use of such items existing at the time of the ef-

fective date of this regulation or the conducting of existing open burning operations shall not be considered in violation with this reporting requirement until such time as the person responsible for such use or operation is notified in writing by the Department that such use or operation is to be reported. Upon receipt of such notification, the person responsible for such use or operation shall submit the required report to the Department not later than sixty (60) days thereafter.

C. Reports required in Sections A and B of this regulation shall be on forms furnished by the Department and shall include the following information:

(1) The location of the existing, or proposed, facilities, alterations or operations.

(2) A description of the existing, or proposed, facilities, alterations or operations including all processes employed; the nature and amounts of fuel and other materials involved; the probable nature, rate of discharge, and time duration of contaminant emissions; and any such other information as is relevant to air pollution control and available or capable of being assembled in the normal course of operations. Where an affidavit is provided stating that submission of any portion of such information would lead to disclosure of a proprietary process or method of manufacture or production, only such information as is directly related to the determination of process weights involved and the amount, chemical and physical nature, and point of discharge of contaminant emissions to the atmosphere shall be required to be submitted in written form.

(3) The name and mailing address of the person legally responsible for the reported activity.

D. The levels and types of emissions from the following classes of contaminant sources are deemed to be of such a nature that they may individually or cumulatively tend significantly to become injurious to human health and welfare, animal and plant life, or property or that they are potentially capable of unreasonably interfering with the enjoyment of life and property of the inhabitants of this state, and shall therefore by reported as provided for in Sections A and B of this regulation:

(1) All processing machines, equipment, devices or other articles or combinations thereof having a potential contaminant emission rate of:

a. One (1) or more pounds of particulate during any hour of operation

b. Two (2) or more pounds of SO_2 and/or SO_3 during any hour of

operation

c. Fifty (50) or more pounds of Oxides of Nitrogen (calculated as NO_2) during any consecutive 24 hour period

d. Fifty (50) or more pounds of Carbon Monoxide during any consecutive 24 hour period

e. Fifty (50) or more pounds of gaseous Hydrocarbons, excluding Methane, during any consecutive 24 hour period

(2) All fuel burning devices used in indirect heating equipment which:

a. Burn coal and have a rated or input capacity of 350,000 BTU's per hour or more

b. Burn Grade 5 or heavier fuel oil and have a rated or input capacity of 350,000 BTU's per hour or more

c. Burn Grade 4 or lighter fuel oil, other than as a standby fuel when natural gas is not available, and have a rated or input capacity of 1,000,000 BTU's per hour or more

d. Burn gaseous fuels, or Grade 4 and lighter fuel oils on a standby basis, and have a rated or input capacity of 100,000,000 BTU's per hour or more.

(3) All incinerators used to dispose of refuse by burning or for the processing of salvageable materials except that those incinerators installed on residential premises containing five (5) or less dwelling units and carried out incidental to the normal habitation of such dwelling units are deemed to be the control responsibility of local jurisdictions and are exempt from the provisions of Regulations 28-19-8 and 28-19-9.

(4) All open burning operations except that those operations being conducted on residential premises containing five (5) or less dwelling units are deemed to be the control responsibility of local jurisdictions and are exempt from the provisions of Regulations 28-19-8 and 29-19-9.

(5) Any source, except vehicular sources, or operation responsible for the emission of particulate plumes of such opacity so as to render them visible, provided that such emissions are reported to the Department to be interfering with the enjoyment of life and property by two or more unrelated individuals.

(6) Any source or operation that emits any contaminant that may be adjudged to be, or tend to be, significantly injurious to human

health or welfare, animal or plant life, or property or capable of unreasonably interfering with the enjoyment of life or property because of its specific chemical or physical nature or the quantity discharged.

(6.0) 28-19-9 TIME SCHEDULE FOR COMPLIANCE

Except as otherwise noted in specific emission control regulations, comliance with these regulations shall be according to the following schedules:

A. All new installations or altered installations required to be reported under the provisions of Regulation 28-19-8 (A) shall be in compliance with all applicable emission control regulations as of going into operation any time after the effective date of the applicable emission control regulation. Provided, however, such installations may, at the request of the operator and under conditions approved by the Department, be operated for such specified time periods as are required to make necessary adjustments on the equipment before compliance must be demonstrated.

B. All open burning operations initiated, expended or relocated after the effective date of the applicable burning control regulation shall be in compliance with the provisions of these regulations controlling such open burning.

C. All existing installations not in compliance with these regulations on the effective date shall comply with the regulations within one hundred and eighty (180) days after notification that such installation or operation is to be reported under the provisions of Regulation 28-19-8 (B).

D. All open burning operations considered to be existing on January 1, 1971, and which have not previously been required to report under the provisions of Regulation 28-19-8, and which are not exempted under Regulation 28-19-47 shall be required to comply with Regulation 28-19-45 effective January 1, 1974.

(2.0) 28-19-10 CIRCUMVENTION OF CONTROL REGULATIONS

A. No person shall cause or permit the installation or use of any machine, equipment, device or other article, or alter any process in any manner which, without resulting in a reduction of the total amount of contaminants emitted, conceals or dilutes the emissions of contaminants which would otherwise violate provisions of these control regulations.

B. Exception to Section A of this regulation may be granted by the Department, upon request, provided that such action is intended to convert the physical and/or chemical nature of the contaminant emission and that failure to reduce total contaminant emissions results solely from the introduction of contaminants which are not deemed to be detrimental to the public interest.

(7.0) 28-19-11 EXCEPTIONS DUE TO BREAKDOWNS OR SCHEDULED MAINTENANCE

A. Abnormal operating conditions resulting from malfunction breakdown, and or necessary repairs to control or processing equipment and appurtenances which cause emissions in excess of the limitations specified in the emission control regulations shall not be deemed violations provided that:

(1) The person responsible for the operation of the emission source notifies the Department of the occurrence and nature of such malfunctions, breakdown, or repairs, in writing, within ten (10) days of noted occurrence.

(2) The number of occurrences of such breakdowns is not deemed excessive by the Department and appropriate reasonable action is taken to initiate and complete any necessary repairs and place the equipment back in operation as quickly as possible.

B. Emissions in excess of the limitations specified in these emission control regulations resulting from scheduled maintenance of control equipment and appurtenances will be permitted only on the basis of prior approval by the Department and upon demonstration that such maintenance cannot be accomplished by maximum reasonable effort, including off-shift labor where required, during periods of shutdown of any related equipment.

C. Excessive contaminant emissions from fuel burning equipment used for indirect heating purposes resulting from fuel or load changes, start up, soot blowing, cleaning of fires, and rapping of precipitators will not be deemed violations provided that they do not exceed a period or periods aggregating more than five (5) minutes during any consecutive one (1) hour period. Provided, however, that where the operator of such equipment can demonstrate to the satisfaction of the Department that any such specific operational procedures will re-

quire that the allowable time period for excessive emissions be extended beyond five (5) minutes during any one hour, the Department may authorize, upon request of the operator, an adjusted time schedule for permitting such excessive emissions. Such authorization shall require that visible emissions not exceed a shade or density darker than that designated as Ringelmann No. 3 on the Ringelmann Chart; and shall specify an appropriate time and daily frequency schedule for such excessive emissions.

(9.0) 28-19-12 MEASUREMENT OF EMISSIONS

A. The Department may require any person responsible for the operation of an emission source to make or have tests made to determine the rate of contaminant emissions from the source whenever it has reason to believe on the basis of estimates of potential contaminant emission rates from the source and due consideration to probable efficiency of any existing control device, or visible emission determinations made by an official observer, that existing emissions exceed the limitations specified in these control regulations. Such tests may also be required pursuant to verifying that any newly installed control device meets performance specifications. If such a test demonstrates that the applicable emission requirement is met, no more than one (1) such test shall be required during any twelve (12) consecutive calender month period. Provided, however, that should the Department determine that the test did not represent normal operating conditions or emissions additional tests may be required. Such a requirement shall be considered as an order as provided for in K.S.A. 1970 Supp. 65-3011 and subject to all administrative and legal requirements specified therein.

Required tests shall be conducted in accordance with procedures approved by the Director as being in accordance with sound analytical and sampling procedures. Such tests shall be conducted by reputable, qualified individuals, as approved by the Department, and a certified written copy of the test results signed by the person conducting the test shall be provided to the Department.

B. The Department may conduct tests of emissions of contaminants from any source. Upon written request from the Department, the person responsible for the source to be tested shall cooperate with the Department in providing all necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices, as may be reasonably required to conduct the test with due regard being given to expenditures and possible disruption of normal operation of the source. A report concerning the findings of such tests shall be furnished to the person responsible for the source upon request.

C. The Director may require the owner or operator of any emission source which is subject to the provisions of these regulations to install, use, and maintain such stationary monitoring equipment as

is required to demonstrate continuing compliance with any applicable emission limitations, and to maintain records and make reports regarding such measured emissions to the Department in a manner and on a schedule to be determined by the Director.

(2.0) 28-19-13 INTERFERENCE WITH ENJOYMENT OF LIFE AND PROPERTY

Compliance with the provisions of these emission control regulations (including exemptions included therein) notwithstanding, should it be found after public hearing that any specific emission source is, tends to be, will be, or will tend to be significantly injurious to human health or welfare, animal or plant life, or property or is or will be unreasonably interfering with the enjoyment of life and property of any inhabitant of the state, or will interfere with the attainment or maintenance of any National ambient air quality standard an appropriate order may be issued to require such additional prevention, abatement or control of the emission involved as is necessary to effect the purposes of the enabling act.

(10.0) 28-19-14 REVIEW OF NEW OR ALTERED SOURCES

A. This regulation is applicable to any stationary source in the state of Kansas, the construction or alteration of which is commenced after the effective date of this regulation.

B. No owner or operator required to report under Regulation 28-19-8 shall commence construction or alteration without first obtaining approval from the Department.

C. No approval to construct or alter will be granted if it is determinted that the proposed source will prevent the attainment or maintenance of any national ambient air quality standard, or violate the provisions of any applicable emission control regulation.

D. The Department shall respond within 60 days to any report submitted pursuant to Regulation 28-19-8, in writing, of approval, conditional approval, or denial. The reason for denial shall be specified.

E. Approval to construct or alter shall not relieve any owner or operator of the responsibility to comply with all local, state, and Federal regulations.

(2.0) 28-19-15 SEVERABILITY

If any clause, paragraph, subsection or section of these regulations shall be held invalid, it shall be conclusively presumed that the Board would have enacted the remainder of these regulations not directly related to such clause, paragraph, subsection or section.

(28-19-16 through 28-19-19 Reserved for future use)

(50.1.1) PROCESSING OPERATION EMISSIONS

(50.1) 28-19-20 PARTICULATE EMISSION LIMITATIONS

Subject to the provisions of Regulations 28-19-9 and 28-19-11:

A. No person shall cause, suffer, allow or permit the emission of particulate from any processing machine, equipment, device or other articles, or combination thereof, excluding indirect heating equipment and incinerators, in excess of the amounts allowed in Table P-1 during any one hour.

B. For the purposes of this regulation the following definitions shall apply:

(1) Process Weight shall mean the total weight of all materials introduced into a source operation which may constitute, or form, a source of particulate emissions. In the case of direct heating operations solid fuels used shall be included as part of the process weight, but liquid and gaseous fuels and combustion air shall not be included.

(2) Process Weight Rate shall mean the total process weight introduced into the source operation over a specific time period divided by that time period, in hours. For a cyclical or batch operation, the time period shall be that required to complete one operation or an integral number of cycles, and for continuous or long-run steady-state operations it shall be the total operating period or a typical portion thereof.

(3) Source Operation shall mean the last operation preceding the emission of particulate matter, which results in the separation of the particulate emissions from the processed materials or the conversion of the processed materials into the particulate emissions, excluding those operations which are an integral part of the functioning of a control device.

Where the nature of any process or operation or design of any equipment is such as to permit more than one interpretation of these definitions, that interpretation which results in the minimum allowable Emission Rate shall apply.

(2.0) 28-19-21 ADDITIONAL EMISSION RESTRICTIONS

Certain particulate emissions may, because of their chemical and/or physical nature, require emissions rates lower than those provided for in Regulation 28-19-20. In such cases the Department shall notify the person responsible for the emission, in writing, of the reasons for special concern regarding the existing or proposed contaminant emission and specify an alternate emission rate which is not to be exceeded. Such

notification shall be considered an order is provided for in K.S.A. 1970 Supp. 65-3011 and subject to administrative and legal procedures therein.

(50.2) 28-19-22 SULFUR COMPOUND EMISSIONS

A. No person shall cause or permit the emission of sulfur oxides from any primary non-ferrous smelters to exceed the amounts allowed in Table P-2 during any one hour.

TABLE P-2

Non-Ferrous Smelter Allowable Emissions

Type of Smelter	Sulfur Oxide Emissions (lb/hr)
Zinc Smelters	$0.564X^{0.85}$
Lead Smelters	$0.98X^{0.77}$
Where : X = total sulfur fed to smelter in lb/hr	

B. No person shall cause or permit the emission or combustion of any process gas stream that contains H_2S in concentrations greater than 10 grains per 100 cubic feet of gas without removal of the hydrogen sulfide in excess of this concentration. The provisions of this regulation shall not apply to:

(1) The combustion of such fuels for indirect heating purposes

(2) The combustion of such fuels where the gaseous products of combustion are used as raw materials for other processes

(3) The incineration of such gases having a gross heating value of less than 300 BTU per cubic feet at standard conditions and the fuel used to incinerate such waste gases does not contain sulfur or sulfur compounds in excess of the amount specified by this regulation.

C. Installations and equipment existing on January 1, 1972 shall be exempt from the provisions of this regulation.

(50.4) 28-19-23 HYDROCARBON EMISSIONS - STATIONARY SOURCES

A. No person shall place, store, or hold in any stationary tank, reservoir or other container of more than 40,000 gallons capacity any gasoline or any petroleum distillate having a vapor pressure of 3.0 pounds per square inch, absolute, or greater under actual storage conditions unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient to prevent vapor or gas loss to the atmosphere or is designed, and equipped with one of the following vapor loss control devices:

(1) A floating roof, such as a pontoon type, double-deck type roof or internal floating cover, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment shall not be permitted if the gasoline or petroleum distillate has a vapor pressure of 13.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place.

(2) A vapor recovery system, consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged and a vapor disposal system capable of processing such volatile organic vapors and gases so as to prevent their emission to the atmosphere and with all tank gauging and sampling devices gas-tight except when gauging or sampling is taking place.

(3) Other equipment of means of equal efficiency for purposes of air pollution control as may be approved by the Department.

B. No person shall emit to the atmosphere any ethylene waste gas stream of more than 50 pounds per day from any ethylene producing plant or other ethylene emission source unless the waste gas is properly burned at 1300°F for 0.3 seconds or greater in a direct-flame afterburner or equally effective device as approved by the Director.

C. No person shall emit to the atmosphere any hydrocarbon gas stream, excluding methane, of more than 50 pounds per day from a vapor blow down system unless these gases are burned by smokeless flares or an equally effective control device as approved by the Director.

D. Installations and equipment existing on January 1, 1972 shall be exempt from the provisions of this regulation.

(50.5) 28-19-24 CONTROL OF CARBON MONOXIDE EMISSIONS

A. No person shall cause or permit the emission of carbon monoxide gases generated during the operation of a grey iron cupola unless they are burned at 1300°F for 0.3 seconds or greater in a direct-flame after-

burner or equivalent device as approved by the Director.

B. No person shall emit carbon monoxide waste gas stream from any catalyst regeneration of a petroleum cracking system, petroleum fluid coker, or other petroleum process into the atmosphere, unless the waste gas stream is burned at 1300°F for 0.3 seconds or greater in a direct-flame afterburner or equivalent device as approved by the Director.

C. Installations and equipment existing on January 1, 1972 shall be exempt from the provisions of this regulation.

(51.5) INDIRECT HEATING EQUIPMENT EMISSIONS

(2.0) 28-19-30 GENERAL PROVISIONS

A. These regulations apply to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels include those such as coal, coke, lignite, coke breeze, gas, fuel oil, and wood, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

B. The heat content of coal shall be determined according to ASTM method D-271-64 "Laboratory Sampling and Analysis of Coal and Coke" or ASTM method D2015-66 "Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter", their replacements of other recognized method as approved by the Department.

The heat content of oil shall be determined according to ASTM method D-240-64 "Heat of Combustion of Liquid Hydrocarbons by Bomb Calorimeter", or by its replacement, or other recognized method as approved by the Department.

C. For purposes of this regulation the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks. The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premise shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

(2.0) 28-19-31 EMISSION LIMITATIONS

Subject to the provisions of Regulations 28-19-9 and 28-19-11:

A. No person shall cause or permit the emission of particulate matter in excess of that specified in Table II-1 of this regulation

TABLE H-1

Emission Limits for Indirect Heating Equipment

Total Input 10^6 BTU/hr	Allowable* lb/hr/10^6 BTU	Total Input 10^6 BTU/hr	Allowable* lb/hr/10^6 BTU
10 or less	0.60	1,000	0.21
50	0.41	2,000	0.17
100	0.35	5,000	0.14
500	0.24	7,5000	0.13
700	0.22	10,000 or more	0.12

*The allowable emission rate for equipment having intermediate heat input between 10 (10^6)BTU may be determined by the formula:

$$A = \frac{1.026}{I^{.233}}$$

Where: A = the allowable emission rate in lb/hr/10^6 BTU

I = the total heat input in 10^6 BTU/hr

B. No person shall cause or permit visible contaminant emissions from any indirect heating equipment equal to or darker than the following:

(1) Existing Equipment: 40 percent opacity

(2) New Equipment: 20 percent opacity

C. No person responsible for operation of any indirect heating equipment having a heat input of 250 million BTU/hr or greater shall cause or permit the emission of more than 1.5 pounds of sulfur per million BTU

of heat input per hour.

D. No person responsible for operation of any gas or oil-fired indirect heating equipment having a heat input of 250 million BTU/hr or greater shall cause or permit the emission of more than 0.30 pounds of Nitrogen Oxides per million BTU of heat input per hour.

E. No person responsible for operation of any coal fired indirect heating equipment having a heat input of 250 million BTU/hr or greater shall cause or permit the emission of more than 0.90 pounds of Nitrogen Oxides (calculated as NO_2) per million BTU of heat input per hour.

(2.0) (51.5) 28-19-32 EXEMPTIONS - INDIRECT HEATING EQUIPMENT

A. The operator of equipment used for indirect heating in any plant may, at his option and upon approval of the Department, elect to eliminate, for the purpose of determining compliance with the provisions of Regulation 28-19-31 (A) any existing fuel burning units normally scheduled to burn fuels other than natural gas only when natural gas is unavailable provided that air pollution control equipment having a collection efficiency of not less than 80% was installed on such units prior to July 1, 1970. In such cases individual units shall be deemed to comply with the provisions of this regulation provided that it is demonstrated that the average annual particulate emissions from the unit will not exceed the emission limits established in TABLE II-1 for the rated capacity of the unit over the total operating period of that unit during any calendar year, and that average emissions from all fuel burning units on the premise do not exceed the limits for the plant as provided in Regulations 28-19-30 (C) and 28-19-31 (A).

Pursuant to considering such a proposal, the Department shall require each operator to submit, in advance, anticipated operating schedules for all units at the plant for each calendar year. Such schedules are to include anticipated fuel use and related emission estimates establishing compliance with this section, and are to be submitted not later than December 1 of the preceding calendar year. The Department shall also require reports of actual operation and fuel use for all units for the calendar year to be submitted not later than January 31 of the following calendar year. Upon determinations that the allowable emissions under the provisions of this section have been exceeded by more than 10% during any two consecutive calendar years, the Department may elect to disallow this exemption.

B. The operator of equipment used for indirect heating in any plant may, at his option and upon approval of the Department, elect to eliminate for the purpose of determining compliance with the provisions of Regulation 28-19-31 (A) any existing coal burning unit normally anticipated to be operated less than 100 hours during any calendar year provided that such units shall emit no more than 1.2 lbs. of particulate per million BTU per hour of operation and provided that it is

demonstrated that the average annual emissions from all fuel burning units on the premise do not exceed the limits for the plant as provided for in Regulations 28-19-30 (C) and 28-19-31 (A).

Pursuant to considering such a proposal, the Department shall require each operator to submit, in advance, anticipated operating schedules for all units at the plant for each calendar year. Such schedules are to include anticipated fuel use and related emission estimates establishing compliance with this section, and are to be submitted not later than December 1 of the preceding calendar year. The Department shall also require reports of actual operation and fuel use for all units for the calendar year to be submitted not later than January 31 of the following calendar year. Upon determinations that the allowable emissions under the provisions of this section have been exceeded by more than 10% during any two consecutive years, the Department may elect to disallow this exemption.

C. Visible contaminant emissions of an opacity exceeding that allowed in Regulation 28-19-31 (B) shall not be considered a violation of that section provided that the person responsible for operation of the indirect heating equipment demonstrates to the satisfaction of the Department that such failure to comply is solely the result of the presence of uncombined water in the plume.

D. Indirect heating equipment which was existing on January 1, 1972 shall be exempt from the provisions of Regulations 28-19-31 (C), 28-19-31 (D) and 28-19-31 (E) except that the provisions of 28-19-31 (C) shall apply to all existing equipment for which the annual emissions of sulfur oxides are determined to be increased by a factor of two (2) or more times the amount of such emissions calculated to be discharged during calendar year 1971 or the first 12 months of operation of any unit placed in operation during that year, provided that equipment which burns fuels other than natural gas less than 2000 hours during any year shall be exempt from the provisions of 28-19-31 (C) during that year.

(51.9) INCINERATOR EMISSIONS

(2.0) 28-19-40 GENERAL PROVISIONS

A. These regulations shall apply to all incinerators and modified open burning operations except those situated on residential premises containing five (5) or less dwelling units and used exclusively for the disposal of waste originating from normal habitation of said dwellings.

B. 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 Department in accordance with good engineering practice. In case of conflict, the findings of the Department shall

govern.

C. No incinerator shall be used for the burning of wastes or the conducting of salvage operations unless such incinerator is a multiple chamber incinerator. For the purpose of this regulation a multiple chamber incinerator is defined as an incinerator consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

Existing incinerators which are not multiple chamber incinerators may be altered, modified or rebuilt as may be necessary to meet this requirement. The Department may approve any other alteration or modification to an existing incinerator if such is found to be equally effective for the purpose of air pollution control as a modification or alteration which would result in a multiple chamber incinerator.

All new incinerators shall be multiple chamber incinerators, provided that the Department shall approve any other kind of incinerator if it can be shown in advance of construction or installation that such other kind of incinerator is equally effective for purposes of air pollution control as an approved multiple chamber incinerator.

D. Instructions for proper operation of each incinerator, including charging procedures, necessary air intake and damper adjustments, use of auxiliary burners, etc. shall be conspicuously posted, and maintained, at the incinerator location. In addition, all new incinerators, or incinerators remodeled to conform with these regulations shall have a plate designating the rated capacity of the incinerator and any auxiliary burners, permanently affixed to the incinerator.

(2.0) 28-19-41 RESTRICTION OF EMISSIONS

Subject to the provisions of Regulations 28-19-9 and 28-19-11:

A. No person may cause or permit the emission of particulate matter from any chimney stack or vent of any incinerator in excess of the following:

(1) Incinerators with a waste burning capacity of less than 200 pounds per hour: 0.3 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to twelve percent (12%) carbon dioxide.

(2) Incinerators with a waste burning capacity of 200 to 20,000 pounds of waste per hour: 0.2 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to twelve percent (12%) carbon dioxide.

(3) Incinerators with a waste burning capacity in excess of 20,000 pounds of waste per hour: 0.1 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to twelve percent (12%) carbon dioxide.

B. No person may cause or permit the emission of visible contaminants from any incinerator of an opacity equal to or greater than 20 percent opacity.

(9.0) 28-19-42 PERFORMANCE TESTING

A. Waste burned in conjunction with the performance tests specified in this regulation shall be a representative sample of the refuse normally generated by the operation which the incinerator is intended to serve.

B. In calculating the amount of particulate matter in stack gas, the loading shall be adjusted to twelve percent (12%) carbon dioxide in the stack gas. The exhaust gases produced in the burning of the liquid or gaseous fuel in the incinerator shall be excluded from the calculation to twelve percent (12%) carbon dioxide. Emissions shall be measured when the incinerator is operating at the burning capacity as defined in Regulation 28-19-40 (B) of this regulation.

C. A performance test to determine compliance with the Ringelmann requirements specified in Regulation 28-19041 (B) of these regulations shall be performed by the Department on each new incinerator, and each existing incinerator modified or rebuilt to conform with this regulation.

D. The performance test specified in Section B of this regulation may be required on any incinerator. The initial performance test shall be performed at the expense of the vendor or operator by an independent testing organization or by any other qualified person subject to the approval of the Department. The performance test may be observed by the Department of its designated representative.

(2.0) 28-19-43 EXCEPTIONS

A. Visible contaminant emissions of an opacity exceeding that allowed in Regulation 28-19-41 (B) of this regulation shall not be considered a violation of that section provided that the person responsible for operation of the incinerator demonstrates to the satisfaction of the Department that such failure to comply is solely the result of the presence of uncombined water in the plume.

(51.13) OPEN BURNING

(51.13) 28-19-45 OPEN BURNING PROHIBITED

Subject to the provisions of Regulation 28-19-9, no person shall cause or permit the following on any premise:

A. Open burning of any wastes.

B. Open burning of any item for the purpose of salvaging operations.

C. On-site open burning of structures, vegetation, or other combustible materials.

(2.0) 28-19-46 RESPONSIBILITY DEFINED

It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted said open burning.

(2.0)
(51.13) 28-19-47 EXEMPTIONS - OPEN BURNING

The requirements of Regulation 28-19-45 shall not apply where:

A. Such open burning is carried out on a residential premise containing five (5) or less dwelling units and is carried out incidental to the normal habitation of said dwelling units, the control of such burning being recognized as the responsibility of local governmental units.

B. The building of open fires is for cooking or ceremonial purposes, on public, or private lands regularly used for recreational purposes.

C. Open burning operations are conducted upon approval by the Department when it is demonstrated that such open burning is necessary and in the public interest. Such approval shall be given for a specific period of time and only under such special conditions as the Department may deem necessary to prevent contaminant emissions which are, or tend to be, injurious to human health, animal or plant life, or property, or capable of unreasonably interfering with the enjoyment of life or property. Such approval shall be revocable upon thirty (30) days notice at the Department's option and shall only be given upon receipt of a request to conduct such open burning which contains the following information:

(1) The name, address and telephone number of the person responsible for the open burning operation.

(2) The exact location and type of open burning operation involved.

(3) The reason why the proposed operation is in the public interest and no alternative method is feasible.

(4) A description of the open burning operation including the estimated amount and nature of material to be burned each time; the proposed frequency, duration and schedule of such burning; the size of the area to which the burning will be confined; and the method of igniting the material.

(5) A sketch indicating the location of the open burning with respect to all public roadways and dwellings within 1500 feet or less of the proposed operation, and the names and mailing addresses of all heads of households occupying such dwellings.

(6) Evidence that such open burning has been approved by any official fire control authority having jurisdiction over the area.

In considering such requests the Department may consider, but need not restrict consideration to, the following activities as being in the public interest:

(1) The use of safety flares for disposal of flammable gases for which there is no other practical means of disposal.

(2) Fires set for demonstration purposes related to the training of government or industrial personnel in fire fighting procedures.

(3) Agricultural burning for the specific purpose of crop management.

D. Fires set for the removal of dangerous or hazardous liquid materials where there is no other practical or lawful method of disposal, provided that such burning must be controlled so as to avoid any traffic or public hazard and provided that approval is obtained from the Department.

E. On-site open burning operations are carried out for the purpose of burning materials associated with land clearing operations, crop or game management practices, or construction projects carried out on the premises, provided that:

(1) Such burning is not specifically prohibited by the Department of Health, its official designated representatives, or other authorities having local jurisdiction in the matter, where it is demonstrated to be in the best interests of public health and welfare.

(2) Such burning is not carried on on any one parcel of land for a time period aggregating more than five days during any calendar year.

(3) Such burning is carried out in accordance with the following guidelines:

a. Nature of Material to be Burned: The burning of heavy smoke producing materials such as heavy oils, tires, tarpaper, etc. is prohibited. The material to be burned should be stockpiled and dried to the extent possible before it is burned. It is also required to be kept free of excess dirt, or other extraneous matter that will inhibit good combustion.

b. Meteorological Conditions: Burning operations shall not be initiated until at least one hour after sunrise. Addition of material to the fire shall be limited to periods at least two hours prior to sunset. Burning shall not be carried out during inclement or foggy conditions or on very cloudy days. Cloudy days will be defined as overcast days (more than 0.7 cloud cover) with a ceiling of less than 2000 feet.

c. Location: The burning shall be carried out at least 1000 feet from any occupied dwelling or public roadway and at least one mile from any airport.

   Conditions of burning within 1000 feet of a roadway which provide potential traffic safety hazards or any other safety hazards must be avoided by appropriate notifications of the Highway Patrol, Sheriff's office or other appropriate authorities.

d. Firebreaks: The burning of vegetation in providing a firebreak in pasture or other crop management may be allowed where necessary during evening or early morning hours in order to take advantage of calm wind conditions.

e. Safety: Burning shall be supervised until the fire is extinguished and must not be in violation of the requirements of any local fire authority having jurisdiction in the area.

(50.1.2) VISIBLE EMISSIONS AND FUGITIVE DUST

(50.1.2) 28-19-50 OPACITY REQUIREMENTS

Subject to the provisions of Regulations 28-19-9 and 28-19-11, no person shall cause or permit visible contaminant emissions from the processing of any materials or other use of any premise which equal or exceed the following opacities, except as otherwise specified in other emission control regulations:

A. Existing processing of materials or other use of premises: 40 percent opacity.

B. Processing of materials or other use of premises not existing on the effective date of this regulation: 20 percent opacity.

(50.1) 28-19-51 GROUND LEVEL PARTICULATE LIMITATIONS

The provisions of other emission control regulations notwithstanding, no person shall cause or permit the handling, transport or storage of any materials or any other use of a premise in a manner which has been demonstrated to allow sufficient quantities of particulate matter to become airborne to cause a ground level particulate concentration at the property line equal to or exceeding 2.0 milligrams per cubic meter above background concentrations for any time period aggregating more than 10 minutes during any hour.

Compliance with this section shall be determined by the Department by means of collecting air samples from one or more locations both upwind and downwind from the source of emissions at any point on, or beyond, the premise property line. Such sampling may be carried out by means of a portable electrostatic precipitator, or any other sampling procedure established by the Department communsurate with good engineering practice.

(2.0) 28-19-52 EXCEPTIONS

Visible contaminant emissions of an opacity exceeding that allowed in Regulation 28-19-50 shall not be considered in violation of that regulation provided that the person responsible for the processing of materials or other use of the premises demonstrates to the satisfaction of the Department that such failure to comply is solely the result of the presence of uncombined water in the plume.

(8.0) AIR POLLUTION EMERGENCIES

(2.0) 28-19-55 GENERAL PROVISIONS

A. These episode regulations are 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. Any other provisions of the air pollution control regulations notwithstanding, they shall apply to all emission sources and premises located in any geographic area for which air pollution emergency status has been established by the Director in accordance with Regulation 28-19-56.

B. For the purposes of this regulation the following definition will apply:

<u>Soiling Index</u> shall be presumed to mean the concentration of particulates as measured by the automatic paper-tape sampler method, "ASTM Standard Method of Test for Particulate Matter in the Atmosphere, Optical Density of Filtered Deposit, D-1704-61" expressed as coefficient of Haze (COH) per 1000 linear feet.

(8.0) 28-19-56 EPISODE CRITERIA

A. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution energency shall be deemed to exist whenever the Director determines that the accumulation of air contaminants at any sampling location 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 Director will be guided by the following criteria:

(1) Air Pollution Forecast: The issuance of a Weather Bureau High Pollution Potential Advisory, or equivalent indication by local Weather Bureau Meteorologist that a stagnant atmospheric condition will exist for the next 36 hours.

(2) Air Pollution Alert: The average SO_2 level for the previous 24 consecutive hours equals 0.3 ppm (800μg/m^3) or the average 2 hour soiling index for the previous 24 consecutive hours equals 3 COH/1000 linear feet, or the suspended particulate level for the previous 24 consecutive hours equals 375 μg/m3, or the product of the average soiling index and the SO_2 concentration (ppm) for the previous 24 consecutive hours equals 0.20, or the product of the average suspended particulate and SO_2 concentration (μg/m^3) for the previous 24 consecutive hours equals 65,000, or the average CO level for the previous 8 consecutive hours equals 15 ppm, or the average Ox level for the preceding 1 hour equals 0.1 ppm, or the average NO_2 concentration for the preceding 1 hour equals 0.6 ppm, or the average NO_2 concentration for the preceding 24 consecutive hours equals 0.15 ppm, and the local meteorologist predicts no major changes in existing adverse meteorological conditions for al least an additional twelve (12) hours.

(3) Air Pollution Warning: The average SO_2 level for the previous 24 consecutive hours equals 0.60 ppm, (1600μg/m^3) or the average 2 hours soiling index for the previous 24 consecutive hours equals 5 COH/1000 linear feet, or the suspended particulate level for the previous 24 consecutive hours equals 624μg/m^3, or the product of the average soiling index and SO_2 concentration (ppm) for the previous 24 consecutive hours equals 0.80, or the product of the average suspended particulate and SO_2 concentration (μg/m^3) for the previous 24 consecutive hours equals 261,000 or the average CO level for the previous 8 consecutive hours equals 30 ppm, or the average Ox level for the preceding 1 hour equals 0.4 ppm, or the average NO_2 concentration for the preceding 1 hour equals 1.2 ppm, or the average NO_2 concentration for the preceding 24 consecutive hours equals 0.3 ppm, and the local meteorologist predicts no major changes in existing adverse meteorological conditions for the next twelve (12) hours.

(4) Air Pollution Emergency: The average SO_2 level for the previous 24 consecutive hours equals 0.8 ppm (2100 g/m^3), or the average 2 hours soiling index for the previous 24 consecutive hours equals 7 COH/1000 linear feet, or the suspended particulate level for the previous 24 consecutive hours equals .875 g/m^3, or the product of the average soiling index and the SO_2 concentration (ppm) for the previous 24 consecutive hours equals 1.2, or the product of the average suspended particulate and the SO_2 concentration (g/m^3) for the previous 24 consecutive hours equals 393,000, or the average CO level for the previous 8 consecutive hours equals 40 ppm, or the average Ox level for the preceding 1 hour equals 0.6 ppm, or the average NO_2 concentration for the preceding 1 hour equals 1.6 ppm, or the average NO_2 concentration for the preceding 24 consecutive hours equals 0.4 ppm, and the local meteorologist predicts no major changes in existing adverse meteorological conditions for at least an additional twelve (12) hours.

B. The provisions of 28-19-55 (A) notwithstanding, the Director may declare any status prescribed therein on the basis of deterioration of air quality to the criteria levels alone and without the issuance of a High Air Pollution Potential Advisory or equivalent advisory from a local Weather Bureau Meteorologist; if deemed necessary to protect the public health.

C. Once declared, any status established on the basis of this regulation shall remain in effect until the criteria for that level are no longer met. At such time the next lower status will be assumed.

(8.0) 28-19-57 EMISSION REDUCTION REQUIREMENTS

A. Upon the declaration of any Air Pollution Episode Status by the Director the provisions of Sections B, C and D of this regulation shall be considered as an emergency order of the Board issued in accordance with K.S.A. 65-3012 and subject to the provisions therein.

B. During any time designated as an Air Pollution Alert period no person shall operate any contaminant emission sources except in compliance with the requirements of Table E-1.

C. During any time designated as an Air Pollution Warning period no person shall operate any contaminant emission sources except in compliance with the requirements of Tables E-1 and E-2.

D. During any time designated as an Air Pollution Emergency period no person shall operate any contaminant emission source except in compliance with the requirements of Tables E-1, E-2, and E-3.

Table P-1

Process Weight Table

Maximum Allowable Emission Rate

Process Weight Rate lb/hr	Process Weight Rate tons/hr	Rate of Emission lb/hr	Process Weight Rate lb/hr	Process Weight Rate tons/hr	Rate of Emission lb/hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8
6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500	69.0
9,000	4.50	11.2	2,000,000	1,000	77.6
10,000	5.00	12.0	6,000,000	3,000	92.7
12,000	6.00	13.6			

Interpolation of the data in Table P-1 for other process weights shall be accomplished by use of the following equations:

Process weights $\leq$ 30 Ton/hr - $E = (4.1)\ (P^{0.67})$
Process weights $>$ 30 Ton/hr - $E = (55)\ (P^{0.11}) - 40$

Where: E = rate of emissions in lb/hr
P = process weight in Ton/hr

TABLE E-1

Source Restrictions

Air Pollution Alert Status

Source Category	Action Required
1. All private, public and commercial premises	a. There shall be no open burning except as required for immediate disposal of inflammable or otherwise hazardous gases or liquids. b. The use of incinerators for the disposal of any waste material shall be limited to the hours between 12:00 noon and 4:00 P.M. c. Boiler lancing or soot blowing of fuel burning equipment requiring such operations shall be limited to the hours between 12:00 noon and 4:00 P.M.
2. Coal or oil-fired electric power generators facilities	a. Units shall be operated on natural gas when possible. b. Units shall be operated on the lowest sulfur and ash fuels available. c. Substantial utilization shall be made of power generated outside of the area included in episode status declaration.
3. Other coal and oil-fired process steam generating facilities	a. Units shall be operated on natural gas when possible. b. Units shall be operated on lowest sulfur and ash fuels available. c. Steam loads shall be reduced to extent possible consistent with continuing plant operations.
4. Manufacturing, industries required to submit episode plans in accordance with Regulation 28-19-58	Air contaminants emissions from processing operations shall be substantially reduced by curtailing or postponing production and allied operations to the extent possible without causing economic hardships.

TABLE E-2

Source Restrictions

Air Pollution Warning Status

Source Category	Action Required
1. All private, public and commercial premises	The use of incinerators for the disposal of any waste materials shall be prohibited
2. Coal or oil fired power generating facilities	Maximum utilization shall be made of power generated by facilities outside of the area included in the episode status declarations.
3. Other coal and oil-fired process steam generating facilities	Preparation shall be made to immediately take action required under Emergency Status.
4. Manufacturing industries required to submit episode plans in accordance with Regulation 29-19-58	Air contaminant emissions from processing operations shall be reduced to the maximum degree possible by curtailing and postponing production and altered operations to the extent feasible with, if necessary, the assumption of reasonable economic hardships.
5. Transportation	The use of private and commercial motor vehicles should be limited by deferring unnecessary travel and utilizing car pools or mass transportation facilities where possible.

(8.0) 28-19-58 EMERGENCY EPISODE PLANS

A. Any person responsible for the operation of a source of air contamination adjudged to be of major concern with respect to possible implementation of air pollution emergency episode control procedures either because of the nature or the quantity of its emissions shall, at the request of the Department, prepare an emergency episode plan to be implemented in the event that any episode status is declared by the Director. Such plans shall provide for the reduction of emissions of those contaminants for which episode criteria have been established and, consistent with good industrial practice and safe operating procedures, reflect adherence to the requirements established in Tables E-1, E-2, and E-3 of Regulation 28-19-57.

B. All plans requested under the provisions of 28-19-58 (A) shall be submitted to the Department in written form, within 60 days of receipt of such a request; and shall be subject to review and approval by the Department. Such plans shall indicate the sources of contamination to be controlled or eliminated; the manner in which such action will be accomplished; and the approximate amount of specific contaminant emissions that will be eliminated.

C. The Department after reviewing any plan submitted in accordance with this regulation shall approve or disapprove it on the basis of its consistency with the intent of Regulation 28-19-57. If such a plan is disapproved the Department shall state its reasons for disapproval and specify those changes needed to provide an approvable plan. Such action shall be in writing and considered to be issued under the provisions of K.S.A. 65-3011 and subject to the provisions therein.

D. Those plans which are approved under Section C of this Regulation shall be maintained on the premises to which they apply and shall be implemented during those periods for which an episode status has been established. Implementation of such a plan shall be considered as an emergency order of the Engineer of the Board to immediately reduce or discontinue the emission of contaminants in accordance with K.S.A. 65-3012, and subject to the provisions contained therein.

TABLE E-3

Source Restrictions

Air Pollution Emergency Status

Source Category	Action Required
1. All private, public, and commercial premises	The following places of employment shall immediately cease operations (1) Mining and quarrying operations (2) Construction projects except as required to avoid emergent phycal harm (3) All manufacturing operations except those operating under an approved episode plan (4) Wholesale trade establishment (5) Governmental units, except as required to implement the provisions of these regulations and other operations essential to immediate protection of the public welfare and safety (6) Educational institutions (7) Retail trade and service establishments except pharmacies, food stores and other similar operations providing for emergency needs (8) Other commercial service operations such as those engaged in banking, insurance, real estate, advertising, etc. (9) Amusement and recreational facilities
2. Electric power generating facilities	Same as Table E-2

TABLE E-3

Source Restrictions

Air Pollution Emergency Status (Continued)

Source Category	Action Required
3. Process steam generating facilities	Facilities shall be shut down to the maximum extent possible consistent with preventing extensive equipment damage
4. Manufacturing industries required to submit episode plan in accordance with Regulation 28-19-58	Air contaminant emissions from processing operations shall be reduced to the maximum degree possible by ceasing or drastically curtailing all production and allied operations to the extent feasible with due regard to any immediate likelihood of resultant personal injury or substantial equipment damage
5. Transportation	The use of motor vehicles shall be restricted to meeting private and public emergency needs

FEDERALLY PROMULGATED

REGULATIONS

(6.0) 52.876 COMPLIANCE SCHEDULES

B. Federal compliance schedule.

(1) Except as provided in subparagraph (2) of this paragraph, the owner or operator of any stationary source subject to any emission regulation which is part of the approved plan shall be in compliance on or before January 31, 1974.

(i) Any owner or operator in compliance with any such applicable regulation on the effective date of this paragraph shall certify such compliance to the Administrator no later than December 31, 1972.

(ii) Any owner or operator who achieves compliance with any such applicable regulation after the effective date of this paragraph shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(2) An owner or operator of a stationary source subject to any emission regulation approved by the Administrator may no later than December 31, 1972, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with such regulation as expeditiously as practicable, but no later than July 31, 1975. The compliance schedule shall provide for periodic increments of progress towards compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: Letting of necessary contracts for construction or process changes, if applicable; initiation of construction; completion and startup of control systems; performance tests; and submittal of performance test analysis and results.

(3) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

(4) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

(10.0) 52.878 Review of New or Modified Indirect Sources

(b) Regulation for Review of New or Modified Indirect Sources

(1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(a) Highways and roads.

(b) Parking facilities.

(c) Retail, commercial and industrial facilities.

(d) Recreation, amusement, sports and entertainment facilities.

(e) Airports.

(f) Office and Government buildings.

(g) Apartment and condominium buildings.

(h) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vi) The phrase "to commence modification" means to engage in a continuous program of on-site modification, including site clearance, grading, dredging, or land filling in preparation for specific modification of the indirect source.

(vii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program as set forth in 23 CFR 770.201 (38 FR 31677).

(viii) The term "highway project" means all or a portion of a highway section which would result in a specific construction contract.

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such areas as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical Area," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In an SMSA:

(a) Any new parking facility or other new indirect source with an associated parking area, which has a new parking capacity of 1,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(c) Any new highway project with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(d) Any modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(a) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(b) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, and which are not part of a program of construction or modification in planned incremental phases approved by the Administrator, all such increments commenced after December 31, 1974, or after the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any draft or final environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321). If not included in such environmental impact statement, the Administrator may request the following information:

(i) For all indirect sources subject to this paragraph, other than highway projects:

(a) The name and address of the applicant.

(b) A map showing the location of the site of indirect source and the topography of the area.

(c) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

(d) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.

(e) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source.

(f) An estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified pursuant to subdivision (i) (e) of this subparagraph located within one-fourth mile of all boundaries of the site.

(g) Availability of existing and projected mass transit to service the site.

(h) Where approval is sought for indirect sources to be constructed in incremental phases, the information required by this subparagraph (3) shall be submitted for each phase of the construction project.

(i) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

(a) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth and tenth years after the date of expected completion.

(b) A description of the commercial, industrial, residential and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.

(c) Expected passenger loadings at the airport.

(d) The information required under subdivisions (i) (a) through (i) of this subparagraph.

(iii) For highway projects:

(a) A description of the average and maximum traffic volumes for one, eight, and 24-hour time periods expected within 10 years of date of expected completion.

(b) An estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project.

(c) A map showing the location of the highway project, including the location of buildings along the right-of-way.

(d) A description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(e) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway projects subject to the provisions of paragraph (b) (6) (iii) of this section, the air quality monitoring requirements of paragraph (b) (3) (i) (i) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway projects and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The Administrator shall make the determination pursuant to paragraph (b) (4) (i) (b) of this section by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected to be attracted by the indirect source. Such determination may be made by using traffic flow characteristic guidelines

published by the Environmental Protection Agency which relate traffic demand and capacity considerations to ambient carbon monoxide impact, by use of appropriate atmospheric diffusion models (examples of which are referenced in Appendix O to Part 51 of this chapter), and/or by any other reliable analytic method. The applicant may (but need not) submit with his application, the results of an appropriate diffusion model and/or any other reliable analytic method, along with the technical data and information supporting such results. Any such results and supporting data submitted by the applicant shall be considered by the Administrator in making his determination pursuant to paragraph (b) (4) (i) (b) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall base his decision on the approval or disapproval of an application on the considerations to be published as an Appendix to this Part.

(ii) For highway projects and parking facilities specified under paragraph (b) (2) of this section which are associated with airports, the requirements and procedures specified in paragraphs (b) (4) and (6) (i) and (ii) of this section shall be met.

(6) (i) For all highway projects subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The determination pursuant to paragraph (b) (6) (i) (b) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the ten year period following the expected date of completion according to the procedures specified in paragraph (b) (4) (ii) of this section.

(iii) For new highway projects subject to this paragraph with an anticipated average daily traffic volume of 50,000 or more vehicles within ten years of construction, or modifications to highway projects subject to this paragraph which will increase average daily traffic volume by 25,000

or more vehicles within ten years after modification, the Administrator's decision on the approval or disapproval of an application shall be based on the considerations to be published as an Appendix to this Part in addition to the requirements of paragraph (b) (6) (i) of this section.

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites", shall mean such locations where people might reasonably be exposed for time periods consistent with the national ambient air quality standards for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application or addition thereto, 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 (b) (8) (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 indirect source should be approved, approved with conditions in accordance with paragraphs (b) (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the proposed indirect 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 a newspaper of general circulation in each region in which the proposed indirect 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 indirect 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 location where the indirect 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 for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(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 indirect 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 indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b) (8) (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.

(9) (i) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section. Such conditions may include, but not be limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for employees and patrons of the source; and

(c) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(ii) The Administrator may specify that any items of information provided in an application for approval related to the operation of an indirect source which may affect the source's air quality impact shall be considered permit conditions.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by reducing the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct an indirect source in accordance with the application as approved by the Administrator; any owner or operator who fails to construct and operate an indirect source in accordance with conditions imposed by the Administrator under paragraph (b) (9) of this section; any owner or operator who modifies an indirect source in violation of conditions imposed by the Administrator under paragraph (b) (10) of this section; or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under section 304 of the Act. Subsequent modification to an approved indirect source may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) and (10) of this section and would not be subject to the modification criteria set forth in paragraph (b) (2) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of such approval. The Administrator may extend such time period upon satisfactory showing that an extension is justified. The applicant may apply for such an extension at the time of initial application or at any time thereafter.

(13) 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.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph 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 the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use and transportation planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

(15) In any area in which a "management of parking supply" regulation which has been promulgated by the Administrator is in effect, indirect sources which are subject to review under the terms of such a regulation shall not be required to seek review under this paragraph but instead shall be required to seek review pursuant to such management of parking supply regulation. For purposes of this paragraph, a "management of parking supply" regulation shall be any regulation promulgated by the Administrator as part of a transportation control plan pursuant to the Clean Air Act which requires that any new or modified facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

(37 FR 10846, May 31, 1972 as amended at 40 FR 28065, July 3, 1975; 40 FR 40160, Sept. 2, 1975)

(17.0) 52.884 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:

Pollutant	Area Designations 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 substate 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) <u>Review of new sources</u>

(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) <u>Procedures for public participation</u>

(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) <u>Delegation of authority</u>

(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 redelegated, 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.

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