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Air Pollution Regulations in State Implementation Plans Virgin Islands

Abcor Inc, Wilmington, MA Walden Div

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Virgin Islands

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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:

Virgin Islands

by

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Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
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Publication No. EPA-450/3-78-104

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

VIRGIN ISLANDS

Submittal Date	Approval Date	Description
8/17/72	10/28/72	Section 206-25(a)
2/12/74	9/10/75	Section 206-30, 206-31
1/21/76	9/1/76	Section 204-26
6/3/76	9/1/76	Section 204-26
8/16/76	12/21/76	Section 204-26 excluding subjection (a)(2) which is disapproved for St. Croix. St. Croix must conform with original 1/31/72 submittal of 9:204-26 for the sulfur in fuel content

FEDERAL REGULATIONS

Section Number	Description
52.2775	Review of New Sources and Modifications
52.2779	Prevention of Significant Deterioration

DOCUMENTATION OF CURRENT EPA-APPROVED
STATE AIR POLLUTION REGULATIONS

REVISED STANDARD SUBJECT INDEX

TABLE OF CONTENTS

VIRGIN ISLANDS REGULATIONS

FEDERALLY PROMULGATED REGULATIONS

Chapter 9 - Air Pollution Control
Subchapter 204 - Air Quality Control Regulations

(1.0) Section 204-20 Definition of Terms

The following words and phrases when used in this regulation shall for the purpose of this regulation have the meanings respectively ascribed to them, unless a different meaning is clearly indicated.

(a) Department: The Virgin Islands Department of Health

(b) Fuel-Burning Equipment: Equipment, device, or contrivance and all appurtenances thereto, including ducts, breechings, control equipment, fuel feeding equipment, ash-removal equipment, combustion controls, stacks, chimneys, etc., used principally but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not connected by and adds no substance to the products of combustion. Such equipment typically includes that used for heating water to boiling; raising steam, or super-heating steam; heating air as in a warm air furnace; furnishing process heat that is conducted through process vessel walls; and furnishing process heat indirectly through its transfer by fluids.

(c) Fugitive Dust: Solid airborne particulate matter emitted at or near ground level from any source other than a stack, flue or duct.

(d) Incinerator: All devices intended or used for the destruction of refuse or other combustible refuse by burning.

(e) Open Burning: Any manner of burning or causing rapid oxidation that results in products being discharged into the open air without passing through a properly designed stack, duct, chimney, flue or other control process.

(f) Particulate Matter: Any airborne material except uncombined water which is often, but not always, suspended in air or other gases at atmospheric temperature and pressure.

(g) Process Equipment: Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc., the use of which may cause any discharge of an air contaminant fnto the outdoor atmosphere but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this regulation.

(h) Process Weight Rate: A rate established as follows:

(1) For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous

operation or for a typical portion thereof, divided by the number of hours of such period of portion thereof.

(2) For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

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

(i) Ringelmann Scale: The scale of comparative smoke densities published in the United States Bureau of Mines Circular No.8333.

(j) Smoke: Small gas-borne particles resulting from incomplete combustion of carbonaceous material, in sufficient number to be observable.

(k) Standard Conditions: A gas temperature of 60 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute.

(l) Stack: Stack, chimney, flue, conduit, or opening arranged for the emission of solids, liquids, gases or aerosols into the outdoor atmosphere.

(51.13) Section 204-21 Regulation to Control Open Burning

No person shall permit, cause, suffer or allow open burning except under the following circumstances:

(a) When in the judgement of the Commissioner or his authorized representative, no other method for the disposal of the material exists or can reasonably be obtained.

(b) Where the fire is for recreational, educational, ceremonial or cooking purposes, including barbecues, provided no smoke violation or other nuisance is created.

(c) When authorized by the Commissioner or his designated representative, fires are permitted for the following purposes: elimination of fire hazards, conservation practices, disease control, game management, training and instruction of bona fide fire-fighting and fire rescue personnel, civil defense needs, land clearance for private home construction in rural areas and special circumstances. Such fires may not be authorized wherein the ambient air quality of other property is detrimentally affected.

(d) Where no practical alternative exists for safety flares or smokeless flares for the combustion of waste gases, provided other conditions

of the Air Quality Control Act and the regulations set forth persuant to these regulations are met.

The Commissioner or his authorized representative may impose any reasonable conditions which he deems necessary (1) to prevent the creation of excessive smoke, (2) to protect property, or (3) to protect the health, safety or comfort of the public.

(50.1.2) Section 204-22 Regulations to Control Emission of Visible Air Contaminants

(a) Restrictions Applicable to Existing Installations

No person shall discharge into the atmosphere from any single source of emission whatsoever any air contaminant:

(1) Of a shade or density equal to or darker than that designated as No. 2 on the Ringelmann Chart, or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (2) (1) of this regulation.

(b) Restrictions Applicable to New Installations

No person shall discharge into the atmosphere from any single source of emission whatsoever any air contaminant:

(1) Of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart, or

(2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (b) (1) of this regulation.

(c) Exceptions

A person may discharge into the atmosphere from any single source of emission for a period or periods aggregating not more than six minutes in any sixty minutes air contaminants:

(1) Of a shade or density not darker than No. 2 on the Ringelmann Chart, or

(2) Of such opacity as to obscure an observer's view to a degree not greater than does smoke described in subsection (c) (1) of this regulation.

(3) Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of Sections (a) (b) of this regulation, such sections shall not apply.

(d) Method of Measurement

(1) The Ringelmann Chart published and described in the U.S. Bureau of Mines Information Circular 8333 or the U.S. Public Health Service Smoke Inspection Guide as described in the Federal Register, Title 42, Chapter 1, Subchapter F, Part 75, shall be used in grading the shade or opacity of visible air contaminant emissions. The Commissioner may specify other means of measurement which give comparable results or results of greater accuracy. The two publications described in this subsection are hereby made a part of this regulation by reference.

(50.1) Section 204-23 Regulations Governing Emission of Particulate Matter

(51.8) (a) Particulate Emissions from Hot Mix Asphalt Plants

(1) No person shall permit, cause, suffer or allow particulate matter emissions from such plant into the atmosphere in excess of the quantity in Table I. For a process weight between any two consecutive process weights in the table, the emission limitation shall be determined by interpolation. Where the plant has more than 1 stack, the emission total is that from all stacks.

(2) No plant shall operate without a fugitive dust control system and the system shall operate and be maintained so that particulate emission is limited to the stack outlet.

(3) The owner or operator of the plant shall maintain dust control of the plant premises and plant owned, leased, or controlled access roads by paving, oil treatment, or other suitable measures. Good operating practices shall be observed in relation to stockpiling, screen changing, and general maintenance to prevent dust generation and atmospheric entrainment. Good operating practices, including water spraying or other suitable measures, shall be employed to minimize dust generation and an atmospheric entrainment when hot bins are pulled.

(51.5) (b) Particulate Emissions from Fuel-Burning Equipment

(1) No person shall cause, suffer, or allow to be emitted into the outdoor atmosphere from any fuel-burning equipment or premises, or to pass a convenient measuring point near the stack outlet, particulate matter in excess of the quantity set forth in the following table:

Heat input millions of British thermal units per hour	Maximum allowable emission of particulate matter in pounds per hour per million British thermal units of heat input
10 or less	0.60
100	0.352
1,000	0.207
10,000 or more	0.0904

(2) If two or more units connect to a single stack or chimney, each unit shall for the purpose of computing the maximum allowable emission rate be considered a separate entity with the allowable emission rate for the stack or chimney the sum of the individual computations.

(51.9) (c) Particulate Emission from Incinerators

(1) No person shall cause, or permit the emission of particulate matter from the stack or chimney of any existing incinerator in excess of the following:

(A) Incinerators with a maximum refuse burning capacity of 200 or more pounds per hour, 0.2 grain of particulate matter per standard dry cubic foot of exhaust gas.

(B) All other incinerators, 0.3 grain of particulate matter per standard dry cubic foot of exhaust gas.

(2) No incinerator shall be used for the burning of refuse unless such incinerator is a multiple chamber incinerator. Existing incinerators which are not multiple chamber incinerators, may be altered, modified, or rebuilt as may be necessary to meet the requirements of emission limitations after plans and specifications have been approved by the Commissioner or his designated representative.

(50.1.1)(d) Particulate Emissions from Industrial Process Equipment

(1) The maximum allowable emission of particulate matter from any source whatever except fuel-burning equipment, refuse burning equipment and equipment or processes otherwise noted herein, shall be determined from Table II. To use the table, find the process weight per hour in the table, and note the allowable rate of emissions in pounds per hour next to the process weight per hour.

(2) If two or more process units connect to a single stack or chimney, each unit shall for the purpose of computing the maximum allowable emission rate be considered a separate entity with the allowable emission rate for the stack or chimney the sum of the individual computations.

(51.16) Section 204-24 Storage of Petroleum or Other Volatile Products

A person shall not place, store or hold in any stationary tank, reservoir or other container of more than 65,000 gallons capacity any petroleum or volatile product or mixture of products having a vapor pressure 2.0 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:

(a) A floating roof, consisting of a pontoon-type or double-deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline petroleum distillate or other volatile products has a vapor pressure of 12.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas tight except when gauging or sampling is taking place.

(b) A vapor recovery system, consisting of a vapor-gathering system capable of collecting the hydrocarbon vapors or other gases discharged and vapor-disposal system capable of processing such hydrocarbon vapors or other 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.

(c) Other equipment of equal efficiency, provided plans for such equipment are submitted to and approved by the Commissioner or his designated representative.

(50.1) Section 204-25 Preventing Particulate Matter from Becoming Air-Borne

(a) No person shall cause or permit the handling or transporting or storage of any material in a manner which allows or may allow unnecessary amount of particulate matter to become air-borne.

(b) No person shall cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming air-borne.

(c) The Commissioner may require such reasonable measure as may be necessary to prevent particulate matter from becoming air-borne including but not limited to paving or frequent cleaning of roads, driveways and parking lots; application of dust-free surfaces; application of oil or water; and the planting and maintenance of vegetative ground cover.

(50.2) Section 204-26 Sulfur Compounds Emission Control

(a) Sulfur Dioxide

(1) No person shall cause, let, permit, suffer or allow any emission of sulfur oxides which results in ground level concentrations of sulfur oxides at any given point in excess of 0.5 ppm (volume) in any three hour period or average exposure in excess of 0.14 ppm (volume) of sulfur oxide in any 24-hour period. These limitations shall not apply to ground level concentrations occurring on the property from which such emission occurs, provided such property, from the emission point to the point of any such concentration, is controlled by the person responsible for such emission.

(2) No person shall sell, offer for sale, purchase for use in or use in any air contamination source having: (i) a total combined rated heat input capacity greater than 8 million BTU/hr. residual fuel oil with a sulfur content by weight in excess of the value listed in Table 1; (ii) a total combined rated heat input capacity less than or equal to 8 million BTU/hr, residual fuel oil with a sulfur content by weight in excess of 2.0%. For purposes of this paragraph "total combined rated heat input capacity" shall be the sum of the rated heat input capacities of all air contamination sources burning residual fuel oil.

Table 1

Maximum Permitted Sulfur Content
of Residual Fuel Oil Expressed in Percent by Weight

Effective Date	St. Croix	St. Thomas	St. John
As of Effective Date of this Section	0.5	2.0	2.0

No person who, prior to January 1, 1974, burned other than residual fuel oil for combustion purposes shall use residual fuel oil: (i) if such use shall increase the amount of sulfur oxides emitted from the source to the outdoor atmosphere and (ii) if the person has not obtained the written approval of the commissioner.

No person shall sell, offer for sale, purchase for use in or use in any air contamination source fuel other than residual fuel oil if such fuel contains in excess of 1.0% sulfur by weight.

All new sources must meet the EPA requirements for new source performance standards and must comply with nondegradation criteria. The Commissioner may require fuel oil samples or certification of fuel oil being combusted.

(Note: (2) is disapproved as it applies to St. Croix.)

(3) Notwithstanding the requirements of paragraphs (a) (1) and (a) (2) of this section, no person shall be authorized to burn fuel oil which shall cause the contravention of any National Ambient Air Quality Standard for sulfur oxides or create a violation of the approved control strategy for sulfur oxides, as contained in the Virgin Islands Air Implementation Plan.

(b) Hydrogen Sulfide

(1) No person shall cause or permit the emission of hydrogen sulfide from any premises in such manner and amounts that the concentrations attributable to such emissions in the ambient air at any occupied place beyond the premises on which the source is located exceed 0.03 parts per million by volume for any averaging period of 30 or more minutes on more than two occasions in any five days.

(c) Stack Testing and Monitoring

(1) Any person responsible for the discharge of sulfur compounds in the form of gases, vapors, or liquid particles through a stack or chimney into the outdoor atmosphere shall, when requested by the Department, provide the facilities and necessary equipment for determining the combined quantity of such sulfur compounds being discharged from the stack or chimney and shall conduct stack tests using methods approved by the Department. Such tests may include a determination of the sulfur concentrations, the total gas volume being discharged and the gas temperature and pressure at the sampling point in the stack or chimney. The data shall be reported in a permanent log at such intervals as specified by the Department. The data shall be maintained for a period of not less than one year and shall be available for review by the Department and inspection by members of the public.

(2) The provisions of Section 204-26(c)(1) shall not apply when the total volume of gases discharged from a stack or chimney is less than 1,000 cubic feet per minute at standard conditions.

(3) Whenever the person responsible for the discharge of sulfur compounds can present data to the Department showing that his emissions are well under the allowable emissions or that his process produces predictable concentrations and emission rates, he may apply to the Department for a waiver or modification of the stack testing requirement. For the purpose of this Section, existing data may be offered as substantiating evidence for such waiver or modification. If a waiver or modification is

approved by the Department, the Department shall notify the person of such approval in writing.

(d) Authorized Exceptions

(1) The Commissioner may authorize a source to use fuel oil with a sulfur content higher than that established by Section (a)(2) hereof, pursuant to the exemption provisions of Title 12, Chapter 9, Section 211 of the Virgin Islands Code, or, under the provisions of this subsection. Exceptions may be granted under this subsection in the event --

(A) An industrial process or atmospheric pollution control equipment or both will result in the removal of sulfur compounds from combustion gases emitted by the source, and as a result of such removal, sulfur compound emissions from the source will not exceed those that would result if the fuel required by Section (a)(2) was used without such removal, or

(B) Such source reasonably demonstrates with acceptable computations verified by substantially accurate and reliable measured scientific data, which data is based upon use of the fuel specified in subsection (a)(2) of this section, that use of fuel oil with a higher sulfur content than that established in subsection (a)(2) hereof will not contravene subsection (a)(1) hereof, which demonstration may be based upon the results of changes in operating conditions or changes in configuration.

(2) Such authorization shall be granted by the Commissioner only by means of a permit or compliance plan that specifies the maximum percentage of sulfur in fuel, by weight, and the appropriate operating conditions which are authorized for such source. Such exception shall not be effective until it has been approved by the Administrator of the Environmental Protection Agency.

(A) No fuel oil shall be combusted which is in excess of 2% sulfur content by weight. Twenty four months from the adoption of these regulations the maximum sulfur content by weight of combustible fuel oils shall not exceed 1%. Thirty six months from the adoption of these regulations, the maximum sulfur content by weight of combustible fuel oils shall not exceed 0.5

(50.7) Section 204-27 Air Pollution Nuisances Prohibited

(a) No person shall cause or permit the discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, annoyance to any considerable number of persons or to the public or which endanger the comfort,

repose, health, or safety of any such persons or the public or which cause or have a tendency to cause injury or damage to business or property.

(b) Nothing in any other regulation concerning emission of air contaminants or any other regulations relating to air pollution shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance as described in Section (a) of this regulation.

(12.0) Section 204-28 Internal Combustion Engine Limits

No person shall operate, or cause to be operated, upon any street, highway, public place or private premises within the Virgin Islands, any internal combustion engines, while stationary or moving, which emit from any source of emission whatsoever any air contaminant for a period longer than 10 seconds with the aggregate not to exceed three minutes in any one hour which is:

(a) As dark or darker than in shade as that designated No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a) of this section.

(7.0) Section 204-29 Upset, Breakdown or Scheduled Maintenance

Operation of any equipment or air pollution control devices or apparatus so as to cause emissions of air contaminants in excess of limits set by these regulations which is a direct result of upset conditions or breakdown or is a direct result of the shutdown of such equipment of air pollution control devices or apparatus for scheduled maintenance, is not a violation of these regulations provided:

(a) The occurrence has been reported to the Department at least 24 hours before any scheduled maintenance, and the scheduled maintenance is performed where possible during times specified by the Department as favorable for atmospheric ventilation.

(b) The occurrence has been reported to the Department as soon as reasonably possible in the case of an upset or breakdown, but in no case more than 24 hours after occurrence.

(c) Repairs are made with maximum, reasonable effort, including use of off-shift labor, overtime, or work periods of non-operation.

(d) The emission of air contaminants is minimized as much as possible during the scheduled maintenance, upset or breakdown.

(e) The air contaminant is not of a nature of quantity which would endanger public health or safety.

(f) Upsets or breakdowns do not occur with such frequency that careless, marginal or unsafe operation is indicated.

(2.0) Section 204-30 Circumvention

No person shall build, erect, install or use any article, machine equipment or other contrivance, the sole purpose of which is to dilute or conceal an emission without resulting in a reduction in the total release of air contaminants to the atmosphere. Increase in stack height or construction so as to increase stack exit velocity of gases shall not constitute a violation of this section.

(13.0) Section 204-31 Duty to Report Discontinuance or Dismantlement

It shall be the duty of any person responsible for any discontinued or dismantled fuel-burning, combustion or process equipment or device coming under the jurisdiction of the permits provision of this chapter to report to the Department within thirty (30) days the permanent discontinuance or dismantlement of such equipment or device.

(5.0) Section 204-32 Variance Clauses

Where emission sources in existence prior to adoption of this regulation do not meet the particulate matter emission limitations noted in proceeding sections then a program to the particulate matter emission limitations stipulated shall be developed and offered to the Commissioner by the owner of the equipment causing the emission. This program shall be submitted upon the request of and within such times as shall be reasonably determined by the Commissioner, and after said program has been approved by the Commissioner, the owner of the equipment causing the emission, shall not be in violation of this regulation so long as said program is observed. In evaluating such a program of improvement, the Commissioner shall take into consideration the following factors:

(a) Action taken to control atmospheric pollution within emission limitations in effect prior to this regulation.

(b) Efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this regulation.

(c) Temporary interim control measures intended to minimize existing pollution levels.

(d) The effect the source of emission has on air pollution generally or in the immediate vicinity of the source.

Any variance granted pursuant to the provisions of these regulations shall be granted for such a period of time, not to exceed one year, but such variance may be continued from year to year. When a variance is granted, an acceptable compliance schedule shall be developed including regular progress reports.

TABLE I

Aggregate Process Rate Pounds Per Hour	Stack Emission Rate Pounds Per Hour
10,000	10
20,000	16
30,000	22
40,000	28
50,000	31
100,000	33
200,000	37
300,000	40
400,000	43
500,000	47
600,000	50

TABLE II
ALLOWABLE RATE OF EMISSION BASED ON PROCESS WEIGHT RATE[a]

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	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			

(a) Interpolation of the data in this table for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E=4.10P^{0.67}$ and interpolation and extrapolation of the data for purpose weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation: $E-55.0P^{0.11}-40$, where E=rate of emission of lb/hr and P=process weight in tons/hr.

For those processes whose weight exceeds 200 tons/hr, the maximum allowable emission may exceed that shown in Table II, provided that the concentration of particulate matter in the discharge gases to the atmosphere is less than 0.10 pounds per 1,000 pounds of gases.

Chapter 9 - Air Pollution Control
Subchapter 206 - Air Pollution Control Regulations

(3.0) Section 206-20 Permits Required

(a) Authority to Construct. Any person building, erecting, altering or replacing any article, machine, equipment or other contrivance, the use of which may cause the issuance of air contaminants or the use of which may eliminante or reduce or control the issuance of air contaminants, shall first obtain authorization for such construction from the Commissioner or his designated representative. An authority to construct shall remain in effect until the permit to operate the equipment for which the application was filed is granted or denied or the application is cancelled.

(b) Permit to Operate. Before any article, machine, equipment or other contrivance described in sub-section (a) of this section may be operated or used, a written permit shall be obtained from the Commissioner or his designated representative. No permit to operate or use shall be granted until the information required is presented and such article, machine, equipment or contrivance is altered, if necessary, and made to conform to the standards set forth in Section 206-25 and elsewhere in these Regulations.

(c) A person who has been granted a permit under the provisions of subsection (a) and (b) of this section, shall firmly affix such permit to operate, an approved facsimile, or other approved identification bearing the permit number upon the article, machine, equipment, or other contrivance in such a manner as to be clearly visible and accessible. In the event that the article, machine, equipment, or other contrivance is so constructed or operated that the permit to operate cannot be so placed, then the permit should be maintained readily available at all times on the operating premises.

(d) A person shall not willfully deface, alter, forge, counterfeit, or falsify a permit to operate any article, machine, equipment, or other contrivance.

(2.0) Section 206-21 Transfer

An authority to construct or permit to operate shall not be transferable, either from one location to another, from one piece of equipment to another, or from one person to another.

(3.0) Section 206-22 Applications

Every application for an authority to construct or permit to operate required under Section 206-20 shall be filed in the manner and form prescribed by the Commissioner or his designated representative, and shall give all the information necessary to make the determination required by Section 206-25 hereof.

(3.0) Section 206-23 Cancellation of Applications

(a) An authority to construct shall expire and the application shall be cancelled two years from the date of issuance of the authority to construct.

(b) An application for permit to operate existing equipment shall be cancelled two years from the date of filing of the application.

(9.0) Section 206-24 Provision of Sampling and Testing Facilities

A person operating or using any article, machine, equipment or other contrivance for which these regulations require a permit shall provide and maintain such sampling and testing facilities as specified in the authority to construct or permit to operate.

(3.0) Section 206-25 Standards for Granting Applications

(a) The Commissioner or his designated representative shall deny an authority to construct or permit to operate, except as provided in section 206-26 of this subchapter, if the applicant does not show that every article, machine, equipment or other contrivance, the use of which may cause the issuance of air contaminants, or the use of which may eliminate or reduce or control issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of this subchapter. In addition no approval to construct or modify a stationary source will be granted unless the applicant shows to the satisfaction of the Commissioner or his designated representative that the stationary source will not prevent or interfere with attainment or maintenance of the National Ambient Air Quality Standards.

(b) Before an authority to construct or a permit to operate is granted, the Commissioner or his designated representative may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants

discharged into the atmosphere from the article, machine, equipment or other contrivance described in the authority to construct or permit to operate. In the event of such a requirement, the Commissioner shall notify the applicant in writing of the required size, number and location of sampling holes; the size and location of the sampling platform; and the utilities for operating the sampling and testing equipment.

(c) In acting upon a Permit to Operate, if the Commissioner finds that the article, machine, equipment or other contrivance has been constructed not in accordance with the Authority to Construct, he shall deny the Permit to Operate. The Commissioner shall not accept any further application for permit to operate the article, machine, equipment or other contrivance so constructed until he finds that the article, machine, equipment or other contrivance has been reconstructed in accordance with the Authority to Construct.

(2.0) Section 206-26 Conditional Approval

(a) The Commissioner may issue an authority to construct or a permit to operate, subject to conditions which will bring the operation of any article, machine, equipment or other contrivance within the standards of Section 206-25, in which case the conditions shall be specified in writing. Commencing work under such an authority to construct or operation under such a permit to operate shall be deemed acceptance of all the conditions so specified. The Commissioner shall issue an authority to construct or a permit to operate with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment or other contrivance can operate within the standards of Section 206-25 under the revised conditions.

(3.0) Section 206-27 Denial of Applications

In the event of denial of an authority to construct or permit to operate, the Commissioner shall notify the applicant in writing of the reasons therefore. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the person served or affidavit of the person making the service. The Commissioner shall not accept a further application unless the applicant has complied with the objections specified by the Commissioner as for his reasons for denial of the authority to construct or the permit to operate.

(2.0) Section 206-28 Further Information

Before acting on an application for authority to construct or permit to operate, the Commissioner may require the applicant to furnish further information or further plans or specifications.

(2.0) Section 206-29 Appeals

Within 10 days after notice, by the Commissioner, of denial or conditional

approval of an authority to construct or permit to operate, the applicant may petition the Advisory Commission, in writing, for a public hearing.

(10.0) Section 206-30 Review of New Sources and Modifications

(a) This requirement is applicable to any stationary source subject to review under Section 206-20, Chapter 19, Title 12, Virgin Islands Code, the construction or modification of which is commenced after the effective date of this paragraph.

(b) No owner or operator shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the Commissioner of the location of such source.

(1) Application for approval to construct or modify shall be made on forms furnished by the Commissioner, or by other means prescribed by the Commissioner.

(2) A separate application is required, for each source.

(3) Each application shall be signed by the applicant.

(4) Each application shall be accompanied by site information, stack data, and the nature and amount of emissions. Such information shall be suffieient to enable the Commissioner to make any determination pursuant to sub-paragraph (c) of this paragraph.

(5) Any additional information, plans, specifications, evidence, or documentation that the Commissioner may require shall be furnished upon request.

(c) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Commissioner that the source will not prevent or interfere with attainment or maintenance of any national standard.

(d) The Commissioner will act within 60 days on an application and will notify the applicant in writing of his approval or denial of the application. The Commissioner will set forth his reasons for any denial.

(e) The Commissioner may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(f) Approval to construct or modify shall not be required for:

(1) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shut off.

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

(3) Fuel burning equipment, other than smokehouse generators, which use gas as a fuel for space heating, air conditioning, or heating water; is used in a private dwelling; or has a heat input of not more than 350,000 B.T.U. per hour (88.2 million gm-cal/hr.).

(4) Mobile internal combustion engines.

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

(g) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

(10.0) Section 206-31 Review of New or Modified Indirect Sources

(a) Definitions:

(1) "Indirect source" means a facility, building, structure, or installation, or combination thereof, which causes emissions to be generated through associated mobile source activity.

(2) "Modification" means any change to an indirect source which increases the vehicle capacity of such facility.

(b) The requirements of this paragraph are applicable to the following indirect sources in the Virgin Islands, the construction or modification of which is commenced after the effective date of this paragraph:

(1) Any new facility with an associated parking area with a capacity of 700 or more cars.

(2) Any modified facility which:

(A) Increases parking capacity from less than 700 cars to 700 or more cars, or

(B) Increases existing parking capacity which is in excess of 700 cars by more than 25 percent, or more than 700 cars, whichever is less.

(3) Airports served by regularly scheduled airlines.

(4) Roads with a maximum expected traffic volume within ten years of completion of:

(A) 1440 vehicles in eight hours, or

(B) 700 vehicles in one hour.

(c) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after the effective date of this paragraph without first obtaining approval from the Commissioner of the location and design of such source.

(1) Application for approval to construct or modify shall be made on forms furnished by the Department of Health, or by other means prescribed by the Commissioner, and shall include the following information:

(A) The name and address of the owner and/or operator.

(B) The location of the facility.

(C) The total vehicle capacity before and after the construction or modification of the facility.

(D) The normal hours of operation of the facility and the enterprises and activities which it serves.

(E) The number of people using or engaging in any enterprises or activities which the facility will serve.

(F) The maximum number of motor vehicles expected to use the facility on a one-hour and eight-hour basis.

(G) A projection of the geographic areas in the community from which people and motor vehicle will be drawn to the facility. Such projections shall include data concerning the availability of public transit from such areas.

(H) Maximum measured or estimated ambient air quality data for carbon monoxide for one and eight-hour periods.

(I) An estimate of maximum emissions of carbon monoxide resulting from mobile source activity on the premises, calculated for one eight-hour period.

(J) An estimate of the maximum one and eight-hour concentrations or carbon monoxide occurring pursuant to sub-division (1) (I) of this sub-paragraph.

(2) A separate application is required for each indirect source.

(3) Each application shall be signed by the owner or operator, which signature shall constitute an agreement that the applicant will

assume responsibility for the construction, modification or operation of the source in accordance with applicable rules and regulations, and the design submitted in the application.

(4) Any additional information, plans, specification, evidence or documentation that the Commissioner may require shall be furnished upon request.

(d) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Commissioner that:

(1) The source will be operated without causing a violation of the control strategy which is part of the applicable plan.

(2) The emissions resulting from the mobile source activity associated with the facility will not prevent or interfere with the attainment or maintenance of the national ambient air quality standard for carbon monoxide.

(e) Within 30 days after receipt of an application, the Commissioner of Health will notify the public by prominent advertisement in the Local News Media, of the opportunity for public comment on the information submitted by the owner or operator.

(1) Such information, including the Commissioner of Health's analysis of the effect of the facility on air quality and the Commissioner's proposed approval or disapproval, will be available in at least one location in the region affected.

(2) Public comments submitted within 30 days of the date such information is made available will be considered by the Commissioner in making his final decision on the application.

(3) The Commissioner will make final decision on the application within 30 days after the close of the public comment period. The Commissioner will notify the applicant in writing of his approval, conditional approval, or denial of the application, and will set forth his reasons for conditional approval or denial.

(f) The Commissioner may impose any reasonable conditions on an approval, including conditions requiring the source owner or operator to conduct ambient air quality monitoring in the vicinity of the site of the source for a reasonable period prior to commencement of construction or modification, and/or for any specified period after the facility has commenced operation.

(g) 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 plan.

FEDERALLY PROMULGATED

REGULATIONS

(10.0) 52.2775 Review of New Sources and Modifications

(a) Regulation for review of new sources and modifications

(1) This requirement is applicable to any stationary source subject to review under section 206-30 of Chapter 9, Title 12 of the Virgin Islands' Code or 40 CFR 52.2775 (f).

(2) Within 30 days after receipt of an application, the Commissioner of the Department of Conservation and Cultural Affairs, will notify the public, by prominent advertisement in the local news media, of the opportunity for public comment on the information submitted by the owner of operator.

(A) Such information, together with the Commissioner's analysis of the effect of the construction or modification on air quality including the Commissioner's proposed approval or disapproval, will be available in at least one location in the affected region.

(B) Written public comments submitted within 30 days of the date such information is made available will be considered by the Commissioner in making his final decision on the application.

(C) The Commissioner will make a final decision on the application within 30 days after the close of the public comment period. The Commissioner will notify the applicant in writing of his approval, conditional approval, or disapproval of the application and will set forth his reasons for conditional approval or disapproval.

(D) A copy of the notice required by paragraph (h)(2) of this section shall also be sent to the Administrator through the appropriate regional office, and to all other State and local air pollution control agencies having jurisdiction in the region in which such new or modified installation will be located. The notice shall also be sent to any other agency in the region having responsibility for implementing the procedures required under this section.

(37 FR 10905, May 31, 1972, as amended at 40 FR 42013, Sept. 10, 1975)

(17.0) 52.2779 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)	Area Designations: 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) Review of new sources

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

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

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

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

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

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

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be 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.

(39 FR 42514, Dec. 5, 1974; 40 FR 2802, Jan. 16, 1975, as amended at 40 FR 24535, June 9, 1975; 40 FR 25005, June 12, 2975; 40 FR 42012, Sept. 10, 1975)